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REVELATION & SCIENCE

IN THE 21ST CENTURY

Editors

Dr. Esam Eltigani Mohamed Ibrahim
Dr. Raudlotul Firdaus Fatah Yasin

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Raudlotul Firdaus Fatah Yasin

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Department of Quran and Sunnah Studies
Kulliyyah of Islamic Revealed Knowledge and Human Sciences (KIRKHS)
International Islamic University Malaysia (IIUM)
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Malaysia

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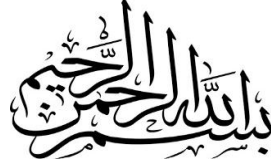
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Synopsys

FORWARD



The revelation (the Qur'an and Sunnah) and the creation (al-kawn) are both sources for man to identify, understand, and confirm the Message of Allah, the Creator, the Sustainer, the Cherisher, the Provider, the Controller of the universe. The revelation is accurately available in words; and the creation exists in precise form. There is no conflict between the revelation and creation; they are both rather complementary to each other. There should not be even an iota of doubt that the Qur'an and Sunnah invite man to read the Nature with a view to developing science which in turn must reconfirm the authenticity and sanctity of the Message handed over to man through the Last Prophet (s.a.w.).

It was out of this fact that the Department of Qur'an and Sunnah Studies, Kulliyyah of IRK & HS, IIUM mooted the idea of inviting learned scholars, specialists, and experts in both Islamic Studies and Natural Sciences to share and exchange views on multi-dimensional link between the Revelation and the Creation from a platform of International Conference. The response from various quarters of intelligentsia was quite overwhelming. Out of so many English and Malay papers on the Conference theme some were very interesting and enlightening. These extraordinarily informative researches deserve preservation in the form of intellectually memorable volume.

The commitment of the Department of Qur'an and Sunnah Studies, IIUM espoused by the Saudi Scientific Society for the Holy Qur'an and its Sciences (*Tybian*), Al-Qaradawi Center for Islamic Moderation and Renewal, Qatar Faculty of Islamic Studies, Hamad Bin Khalifa University affirms that the elaborate and conscious study of the Qur'an and Sunnah will ensure ever-relevance of Islam to the revolutionary growth pace of Science and Technology.

I hope and pray that this volume proves academically significant for both intellectuals and commoners. I would like to thank all those who selflessly devoted their time and energy to this intellectual task. May Allah equip them all with more insights and renewed vigor to serve Islam better in the modern scientific age!

Sincerely,
Chief Editor & Conference Director (ICQS2),
Dr. Esam Eltigani
Department of Quran and Sunnah Studies
Kulliyyah of Islamic Revealed Knowledge and Human Sciences (KIRKHS)
International Islamic University Malaysia (IIUM)

A REVIEW ON THE APPLICATIONS OF RUKHSOH IN MEDICAL PRACTICE.

Che Anuar Che Mohamad¹, Rosazra Roslan², Mohd Ariff Sharifudin³,
Mai Nurul Ashikin Taib⁴

Abstract

Rukhsoh (permit) is a concessionary law and is the technical opposite of *azimah* (decidedness) in Islamic jurisprudence. It is considered an important flexible rule that Muslim physicians need to understand in order to develop solutions for hardships and difficulties in performing practical acts of worship. However, discussions regarding this matter in both classical and current literatures of Islamic jurisprudence are generally limited and poorly structured. This review attempts to deliver a structured account on the principles and applications of *rukhsoh* in medical issues related to practical acts of worship. This review comprises two parts of discussion. The first section begins with a general discussion of *rukhsoh* i.e. concept of *rukhsoh* in Islamic jurisprudence followed with a discussion on the types of *rukhsoh* and their determining factors. The general principles in applying the concept of *rukhsoh* in *ibaadah* and daily life will also be outlined and discussed. The second part delves into specific discussions, which focus on selected common practical issues, which necessitates the application of *rukhsoh*. The discussions will revolve around the specific medical conditions, which jeopardise patients' ability to conduct their act of worship and how the *rukhsoh* would come into place.

Keywords: *Rukhsoh*, Islamic jurisprudence, medical practice.

Introduction

Islam is a religion of ease where the basics are simple to understand. It is a practical religion with forms of worship that are relatively easy to perform regardless of intellectual capabilities. One of the features of this beautiful religion is that its rulings are not contrary to human nature. There are various Qur'ānic verses mentioning the concept of ease in practising Islam. Allah says:

Allah intends for you ease and does not intend for you hardship [2:185]

It is also related from Abu Hurairah that the prophet (PBUH) said, "The deen is ease, whoever makes the deen too hard for himself will be overpowered, so direct yourselves to what is right, follow the middle course, accept the good news for the reward of the good action, seek help [to reach your goal through constant worship] in the morning, evening and some of the night." (Al Bukhari: 39). In a commentary of this hadith by Ibn Abi Jamrah, he highlighted that the word ease in this hadith could refer to the fact that Islam only obligates its followers that which is within their capacity to perform. Muslims are only charged with obligations for which they are intellectually and physically capable to perform. Moreover, certain unlawful things have been made lawful in times of necessity. This fact demonstrates that Islam upholds the notion of avoiding hardship whilst promoting ease to its followers. Imam Bukhari dedicated a chapter called "The chapter of the religion being easy" in his famous collection of authentic hadiths where he lists relevant hadiths to support this feature of Islam.

¹ Department of Basic Medical Sciences, Kulliyah of Pharmacy, International Islamic University Malaysia, Kuantan, MALAYSIA.

² Department of Basic Medical Sciences, Kulliyah of Pharmacy, International Islamic University Malaysia, Kuantan, MALAYSIA.

³ Department of Orthopaedics, Traumatology and Rehabilitation, Kulliyah of Medicine, International Islamic University Malaysia, Kuantan, MALAYSIA.

⁴ Department of Paediatric, Kulliyah of Medicine, International Islamic University Malaysia, Kuantan, MALAYSIA.

This concept of ease is further discussed by Muslim jurists in Islamic jurisprudence under the theme of flexible rules. There are different forms of flexible rules in Islamic jurisprudence including *dharurah* (the rule of necessity) and *rukhsah* (concessionary law). These two terms have been used interchangeably. *Dharura* and *rukhsah* rules are closely related, as both aim to remove difficulties from the concerned Muslims. However, there are differences between these two concepts whereby some jurists stipulated the rule of *rukhsah* is *mubah* (indifferent) whereby no obligation is imposed¹. This would mean that in a *rukhsah* case, a Muslim could either adhere to the *azimah* (original rule) or choose the *rukhsah*. According to some, *rukhsah* can be applied to eliminate difficulties that are not severe or the necessity is not urgent. This concept of *rukhsah* encompasses all cases of need or necessity². In this review, we concentrate on the concept of *rukhsah*, as its broad definition would allow for a wider application in current medical practice.

The concept and type of *rukhsah* in Islamic jurisprudence

Linguistically, *rukhsah* is an Arabic word that means relaxation and facility³. In literature on Islamic jurisprudence, *rukhsah* has been defined as matters that are originally prohibited that are made lawful to ease hardship despite a legal proof indicating its prohibition⁴. A more comprehensive and precise definition of *rukhsah* is provided by al-Mutairi in his thesis, that “*Rukhsah* is rules that have been facilitated for competent people (*mukallafin*) who have valid excuse but which remain unlawful for those who have no such excuse, and matters whose non-performance has been allowed when normally they would be obligatory without the existence of a valid excuse.”⁵

Type of *rukhsah*

The scholars have divided *rukhsah* into different types based on different classifications. Among those various classifications, the classification according to its cause is considered the most appropriate in defining the basis of *rukhsah* and more encompassing of its branches, thus making it more relevant for the physicians and scientist alike⁶. Based on this classification, Sheikh Ahmad Azzu has listed several different types of *rukhsah* as summarised below:

1. *Rukhsah* caused by absolute necessity (*Dharurah*): a situation, which compels the use of a forbidden thing in order to preserve the fundamental, needs of human beings and is highly necessary even if that leads to committing forbidden things or leaving a compulsory duty.
2. *Rukhsah* caused by needs (*Hajah*): the kind of need which necessitates lessening and simplification and general relief for all Muslims or some of them, in order to attain their goals and preserve their benefits, on condition that the need does not reach the level of *dharurah*, which are of two kinds:
 - a. General Need e.g. permission to look at a woman for purposed of marriage or medical treatment and other like cases.

¹ Abu Ishaq Ibrahim bin Musa al-Shatibi, *al-Muwafaqat fi Usul-Ahkam*, Beirut: Dar al Fikr , 1990, Vol. I, pp. 210-215.

² Yasmin Hanani Mohd Safian, *Necessity (Darura) in Islamic Law* (PhD Thesis), Exeter, University of Exeter, 2010, pp. 68-69.

³ Ibn Manzūr, Abū al-Fadl Jamal al-Din Muhammad b. Mukkarram al-Ansari *Lisan al-'Arab.*, (Egypt: Cairo, 1300 A. H.).

⁴ Mansour Z. Al-Mutairi, *Necessity in Islamic Law*, 1997, pp 243.

⁵ Ibid.

⁶ Sheikh Ahmad Azzu Inayah Ad Dimasyqi, *Ar Rukhasul Fiqhiyyah Fi Dhau'i al-Kitab Wa Sunnah*, Dar al Kutb, 2003, 43.

- b. Specific Need e.g. permission for transgression against others by beating and scolding for a father, a husband, and guardian.
3. *Rukhsah* caused by journeys: including breaking the fast, wiping over the *khuff* (socks), missing Juma'ah, Eid, congregational prayers, *Tayammum*, etc.
4. *Rukhsah* caused by forgetfulness: including speaking in *Salat*, eating or drinking forgetfully during fasting, permissibility of eating the meat slaughtered without invoking the Name of Allah, forgetfully, etc.
5. *Rukhsah* caused by ignorance: including ignorance about food or drinks being impure, killing a Muslim in the ranks of the unbelievers, a judge relying upon fake witnesses in his judgement, etc.
6. *Rukhsah* caused by compulsion: including being compelled to destroy another person's property or to take wine or stealing etc.
7. *Rukhsah* caused by defects, such as
 - a. Shortage of money leading to waiving of Zakat, Hajj, Jihad etc.
 - b. Bodily Defect: including
 - i. Sickness that permits *tayammum*, Shortening and combining prayers, exposing the *Aurah* for a physician, etc.
 - ii. Lunacy: which leads to waiving of *Salat*, fasting, and *Hajj*, nullifies contracts entered by the person, and waives any physical punishments, etc.
 - iii. Childhood: which waives any compulsory religious duties, permits him to enter a gathering of women, is not punished by *qisas* even if he kills, etc.
8. *Rukhsah* caused by a frequently occurring situation (*Umum al Balwa*), which is almost impossible to avoid such as the prohibition of cutting the grass of Mecca except *Izkhir* (palm leaves), and permission to sprinkle water on a cloth when a baby-boy urinates before it has started eating¹.

From the lists above, the *rukhsah* caused by *dharurah*, *hajjah*, and defects are the types that are more relevant to issues in medical practice. This will be discussed in greater detail in section 5.0.

General Principles/Guidelines in applying the *rukhsah*

Although certain scholars encourage the application of *rukhsah* based on evidence from Hadith, its application is bound by certain guidelines which must be observed. Firstly, the existence of the difficulty which compels the move to *rukhsah*, which is something that varies from one person to another. In general, the difficulty which compels resorting to *rukhsah* is an extraordinary difficulty, not a common difficulty associated with compulsory duties. Secondly, the *rukhsah* is within the permissible scope of Islamic law, such as a person being on a journey not aimed at disobedience to Allah, like going for Jihad or Hajj or seeking knowledge and lawful business. However, if he were on a sinful journey such as highway robbery or unlawful trade like selling wine, then he should not apply the *rukhsah* according to the majority of the scholars.

Apart from that, the reason for the application of the *rukhsah* must be certain or close to certain, not doubtful, because rules are not based on doubts. The reason for the application of the *rukhsah* has already occurred rather than expected to occur, so a woman who normally observes her menses on a particular day and hence decided not to fast on that day, is considered wrong because the actual cause that would allow *rukhsah* has not yet taken place. According to some scholars, the application of *rukhsah* should be limited within the point covered by the *Nass* (legal text) but there is some degree of disagreement among the scholars on this principle. Those scholars that support this view proposed that any practice of *rukhsah*

¹ Sheikh Ahmad Azzu Inayah Ad Dimashqi, *Ar Rukhasul Fiqhiyyah Fi Dhau'i al-Kitab Wa Sunnah*, Dar al-Kutb, 2003, 43-57.

must have a legal proof (*daleel*) supporting it from among the four basic proofs, not just the mere existence of an excuse.

Besides, the person applying the *rukhsah* must be fully aware of its pre-conditions and limitations as defined by the jurists, and should restrict himself to them. It is also not allowed for a compelled person to apply *rukhsah* unless he is particularly compelled to do so, i.e. he does not find any other alternative means of saving himself from the harm, and he firmly believes that doing so will save him from the impending destruction. It is not permissible to pervasively seek after the *rukhsah* i.e. to take from each *mazhab* whatever is permissible based on lust and jest, as this is a form of following one's desires forbidden by Allah. Otherwise, forbidden optional actions of the heart do not come under *rukhsah* at any instance, such as *kufir* (disbelief) of the heart under duress, or not detesting an evil act in the heart when one is unable to remove it with his hands¹.

Application of *Rukhsah* in Medical Practice

The following discussions will explore the application of relevant principle of *rukhsah* on specific medical issues and practices. This is because each medical related issue tends to be unique and depend on various factors, which need to be taken into consideration. Therefore, the combination of the theoretical guidelines and specific medical issues is inevitable in order to provide an adequate understanding of the complex issues of *rukhsah* in medical practice. These are few examples of medical issues that directly affect Muslims' daily obligations causing misunderstanding among Muslims. There are several reasons for such misunderstanding such as the insufficiency of the available information to provide adequate understanding. Other than that, the research is still ongoing in certain contemporary medical issues thus making it difficult for scholars to form an established Islamic view or ruling. Furthermore, inadequate and inefficient communication between contemporary Muslim scholars and medical practitioners has lead to immature and poor views and guidelines from both parties that further complicate and confuse the public.

1.1) *Rukhsah* in purity and cleanliness (*taharah*)

The issue of maintaining purity and cleanliness is the most common obstacle encountered by a sick person that restrict him/her from performing his/her routine practice of worship. This issue could be regarded as a fundamental issue and has been widely discussed in Islamic classical and modern literature. While the issue mainly affects patients, the treating doctors also need to be equipped with a clear and precise understanding, including knowledge of the supporting and opposing view in order to properly counsel and guide their patient. Principally, a sick person is not completely exempted from keeping his body and clothes as clean as possible and perform other acts of cleanliness as mentioned in the hadith:

“There are ten qualities of fitrah: trimming the moustache, sparing the beard, siwak (brushing the teeth), rinsing the mouth and inhaling water (to clean the nose), clipping the nails, washing the finger knuckles, plucking the armpit hair, shaving the pubic hair, washing the private part with water, and circumcision”. (Muslim, Abu Dawud and others).

A genuinely sick or disabled person should at his best capacity attempt to remove all *najasah* from his body and clothes. Whenever necessary, he or she should be aided by those who nurse him. However, if some *najasah* cannot be removed after the necessary measures have already being taken, he should proceed to perform other acts of worship that would otherwise require him to be in the state of cleanliness. The patient is considered qualified for a *rukhsah* due to the sickness which associated with reasonable hardship to achieve the level of cleanliness commonly expected of a healthy person. Thus, he is exempted from the general rule of

¹ Ibid, 67-70.

cleanliness that could cause him a debilitating difficulty and prevent him from performing related worship such as prayer. The severity of a sick or disabled patient could range from complete inability to perform the *wudhu'* (ablution) or *ghusl* due to certain conditions like quadriplegia (paralysis of four limbs), or partial inability due to the presence of a cast or wound dressing (*jabirah*) that covering a part of the injured region of the body that needs to be washed for *wudhu'* or *ghusl*. We will focus on two common surgical and orthopaedic conditions that lead to partial inability to completely perform *wudhu'* and *ghusl*. The first condition is the surgical wound or fracture that require the affected region to be covered with cast or splint or wound dressing. All these three terms would have certain differences but could all be categorised under *jabirah*. There is disagreement between the scholars whether to manage like a *khuf* i.e. wiped over the covered surface or be ignored and not included in the washing process. The second opinion seems to be the stronger opinion and is supported by both authentic evidences and some prominent scholars like Sheikh Muhammad Nasiruddin al-Albani (*rahimahullah*). Sheikh al-Albani mentioned that not all hadiths that relate the rulings of wiping over the *jabirah* are extremely weak thus could be accepted as a valid opinion¹. Sheikh al-Albani further quoted the word of Ibnu Hazm in his book, *Tamam ul Minnah*:

“...by the texts of the Quran and Sunnah, anything that a person cannot do is waived for him. The opinion that require him a substitute for it would be a legislation, and a legislation may only be imposed by the Quran or Sunnah. There is no text in the Quran or Sunnah requiring substituting wiping on *jabirah* for the parts that cannot be washed. Therefore, this opinion is invalid.”

The opinion of not wiping over *jabirah* but rather washing whatever accessible is also more in harmony with the spirit of *rukhsah* due to the illness and would facilitate the affected patient to perform *wudhu'* and *ghusl* without significant hardship or damaging the *jabirah*. Moreover, in the management of a wide variety of musculoskeletal conditions including fracture, the *jabirah* is usually made from plaster of paris or fibreglass which need to be kept dry at all times in order to maintain the immobilization of the injured parts². Any contact with water could jeopardise the integrity of the cast which originally being moulds to immobilize the affected part in order to hasten the healing process. In the case of surgical wound as a result of surgical procedure or injury, the wound cover are usually comprise of bandage (a woven cotton or synthetic material) and a more specialized inner dressing materials like adhesive film, alginate etc. depending on the nature and the thickness of the wound. A wiping over the wound dressing could predispose to contaminations thus halt the healing process of the wound. We believe this chosen opinion i.e. not wiping over the *jabirah*, would ease the affected patients to achieve the state of cleanliness and subsequently allow them to proceed to perform another act of worship like the five times daily prayer without having to face significant difficulty. This would then prevent the common problem of abandoning five times daily prayer among the patient as a common excuse given is their failure to achieve the state of cleanliness i.e. failure to perform *wudhu'* or *ghusl* as adequately in accordance to the classical understanding of fiqh which not necessarily based on authentic and valid evidences³.

The second condition commonly affecting the patient's ability to achieve the state of cleanliness is the creation of abdominal stoma due to surgical conditions like colorectal cancer or other diseases like diverticulitis and ileus. Stoma is an artificially created hole in the abdomen that directly connected the large intestine to the external bag in order to allow the faeces to leave and become collected in the bag. The patients with stoma experience

¹ Sheikh M. Nasiruddin al-Albani, *Tamam ul Minnah*, 133-135.

² Annes *et al.*, Splints and Casts: Indications and Methods, *Am Fam Physician*. 2009 Sep 1;80(5):491-499.

³ Based on unpublished observation of all authors throughout our many years of experiences in clinical setting in various government hospitals. A detail survey regarding this matter will be carried out in few selected hospitals soon, insya Allah.

difficulties to perform their religious duties, particularly to perform *wudhu'*, *ghusl* and prayer which resulting in involuntary abandonment of prayers and spiritual discomfort¹. One of the reasons which lead to the abandonment prayer is the belief that their prayer will not be accepted due to uncontrolled faecal flow². A study by Herek indicated that patients tend to refrain from performing religious duties probably due to inability to obtain sufficient information including religious views i.e. *rukhsah* which exempt them from performing certain compulsory due to the inevitable obstacles³ such as the opinion which allows them to ignore the area of stoma during their *ghusl* or they could resort to perform *tayammum* instead of washing their body with water.

Nevertheless, we acknowledge the validity of other scholarly arguments which differ with our chosen opinion i.e. of ignoring or leaving the injured area which covered by certain materials instead of wiping with water as above and this require further discussion and healthy debate from both scholars and medical practitioner in order to reach to a well supported consensus.

1.2) *Rukhsah* in treating the opposite sex

The issue of treating the patients of opposite sex is another debatable issue that has been widely discussed in the Islamic literature and till today created heated arguments among Muslims. While there are some scholars against the examinations of patients by members of the opposite sex, the majority consider it permissible in situations of necessity where no individuals from the same sex are available to give the same level of care i.e. in terms of expertise and energy. This is based on the practice of female companions who treated wounded men in the battle with the Prophet (PBUH), as reported by Ar Rabi' Bint Muawwath:

“We (women) used to go for fighting with the prophet (PBUH). We would give water to the army, serve them, and bring them back the wounded and dead to Madinah.” (Bukhari, Ahmad and others)

Depending on the severity of the diseases suffered by the patients, the permission to treat a member of the opposite sex could be categorised under *rukhsah* due to absolute necessity, general need or medical diseases which lifted the prohibition of intermingling, touching and staring between members of two sexes. However, the permission is within the limits of necessity and should not be abused or extended beyond that⁴. The Islamic Fiqh Consortium decided that the individuals treating female must be following the priority list where the doctor should first be a Muslim female, followed by a non-Muslim female, then a trustworthy Muslim male doctor and finally a non-Muslim doctor, depending on the availability⁵. Additionally, there should be a presence of a *mahram* or trustworthy women to prevent the *khulwah*. Otherwise, the women patient should not go to the next category before exhausting the possibilities of the first category i.e. Muslim female doctor. However, on the occasion that the female or male patient request to be examined by a doctor of the same sex, we should attempt to fulfil their request to respect their personal preference and cater for their psychological comfort, as long as it does not jeopardise the treatment process. For instance, in our local clinical setting, we may be able to entertain the request of female patients suffering from breast cancer to be managed by female surgeons as this type of case tends to be presented as non-emergency situation. However, we may struggle to fulfil the demand of

¹ Herek *et al.*, (2003) The effect on the worship of the stoma. *Stoma Journal*. 1:22-24.

² Cavdar, The efficiency of patient education in providing adaptation to colostomy in patients with colostomy, unpublished doctoral dissertation, Istanbul University, Istanbul, Turkey (1999).

³ Herek *et al.*, (2003) The effect on the worship of the stoma. *Stoma Journal*. 1:22-24.

⁴ Al-Fatawa Shariyyah Fi-Masa'il At-Tibbiyyah (1997), Abdullah Jibreen, Dar as Sumay'I, Riyadh, 82.

⁵ Decisions of the Islamic Fiqh Consortium of Makkah, Majallat Majma' il-Fiqh il-Islami, vol.2, part 1, 327 &335, 1986.

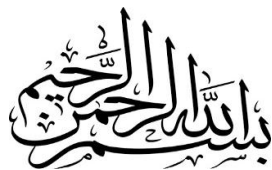
management by female obstetrician only in the life and death situation involving patient with pre-eclampsia or post-partum haemorrhage. In this emergency, the preservation of the patient's life is considered the top priority in accordance with the shari'ah where the priority should be given to fighting a harm, which threatens safety of the of the five essentials: faith, life, intellect, property and lineage.

The above discussions on two scenarios have given a clear picture on how *rukhsah* come into place and the validity of choosing the originally prohibited actions when one finds it advantageous to the healing process or treatment procedure. The application of the above *rukhsah* is strictly allowed as long as the criteria are met. This concept demonstrated the practicality of Islam as religion that appeal to our human nature both in a healthy and diseased state. Finally, the higher value of *rukhsah* in medical practice is to preserve both human's physical and spiritual health by avoiding conflict between adherence to the shari'ah rules and treatment plan.

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SYNOPSIS



The Revelation (the Qur'an and Sunnah) and the Creation (al-kawn) are both sources for man to identify, understand, and confirm the Message of Allah, the Creator, the Sustainer, the Cherisher, the Provider, the Controller of the universe. The Revelation is accurately available in words; and the Creation exists in precise form. There is no conflict between the Revelation and the Creation; they are both rather complementary to each other. There should not be even an iota of doubt that the Qur'an and Sunnah invite man to read the Nature with a view to developing science which in turn must reconfirm the authenticity and sanctity of the Message handed over to man through the Last Prophet (s.a.w.) in the form of Revelation. Research papers included in this volume represent respective authors' sincere and serious endeavor to show the relevance of both Message in the revelation and that in the Creation to human life in its multi-faceted form.

Dr. Esam Eltigani
Chief Editor & Conference Director (ICQS2),
Department of Qur'an and Sunnah Studies,
Kulliyah of Islamic Revealed knowledge and Human Sciences,
International Islamic University Malaysia



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