Review Essay: Timur Kuran's *The Long Divergence: How Islamic Law Held Back the Middle East*[1]

Salim Rashid
Universiti Utara Malaysia

1. Introduction

This book examines an important question: Why did the Ottomans fall behind Europe? For posing this question, Timur Kuran is to be thanked. There are often deeper historical forces working behind those that come to our notice, and scholars who engage in revealing these forces perform a vital service. Sometimes those who raise such riveting questions also claim to have found answers, if not, *the* answer. Having long argued that Christianity is the backbone of European economic growth, I am partial both to the question raised and to the nature of the answer offered. However, I cannot join the many readers who feel that Kuran has succeeded in clarifying this important issue. This review will attempt to explain why. I will ignore the problems involved in framing such a large historical question and go directly to questions arising from the text as written.

Kuran's message appears early on: "The Middle East fell behind the West because it was late in adopting key institutions of the modern economy. These include laws, regulations, and organizational forms that enabled economic activities now taken for granted. . . . In a nutshell, that is the thesis of this book" (p. 5). This position is elaborated on in Chapters 1-8. In those chapters, Kuran argues that Islam did inhibit economic development and retard the material prosperity of the Middle East because adherence to Islamic law prevented adaptive change. Chapters 9-13 deal with aspects of Ottoman economic life, which are of independent economic interest, but have little to contribute to the principal thesis on the economic

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[1] Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (Princeton, NJ: Princeton University Press, 2011). References to this book appear in the text with page numbers in parentheses.

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effects of Islamic law. The conclusion returns somewhat hysterically to the harmful effects of Islam on economic development, repeating claims made earlier in an attempt to give them logical form.

The theme of the second half of the book, which deals with the superior economic condition of non-Muslims under the Ottomans, is a distraction. If we are to explain the affluence of minorities in the last century of the Ottoman Empire, it suffices to note the preference of the Europeans, already decisively dominant by the late-eighteenth century, for Jews and Christians as their primary contacts in Ottoman areas. Without some quantitative measure of this preference, all the rest of Kuran's argument is probably window dressing.[2] Thus, in what follows, I will focus on Chapters 1-8.

Ignoring Chapters 9-13, or over 100 pages of text, requires some elaboration. Consider Kuran's treatment of a relevant issue: the role of collective action in European economic success (p. 270). Why were Muslim merchants unable to discern their collective economic interest, and does this failure derive from the fact that they were Muslim? This is an interesting sociological question, at the heart of problems dealing with the interplay between politics and economics. One cannot, in explaining European dominance, minimize the importance of Europeans' capacity to act in unison when their collective interests were involved. For example, J. H. Boeke, perhaps the originator of the concept of "dual economy" for analyzing problems of economic development, notes the contrasting attitudes to individual and collective action between East and West as a profound divide in mindset.[3] Kuran provides us with three models of collective action used by the Europeans—State help (Venice and Genoa), State Charter (English East India Company), and the Hanseatic League mode of inter-city cooperation—and wonders why the Ottomans could not find some way to engage in such collective action (Chapter 13). Instead of providing documents, edicts, sermons, and so on to show us that the Ottomans either did not realize the need for collective action

[2] Kuran justifies the latter third of the book by pointing out that in 1844 Christians and Jews were at least 45% of the Ottoman Empire (p. 21). However, as all subsequent references are to the major urban centers, particularly in Western Turkey, and not to Bulgaria or Moldovia, this seems a misleading figure.

[3] J. H. Boeke, *Economics and Economic Policy of Dual Societies* (New York: Institute of Pacific Relations, 1953).

or, after realizing it, were incapable of organizing such action, we are treated to some paragraphs of game-theory jargon, followed by this conclusion:

> The challenge is to ensure the cooperation of individual merchants. In a period of collective retaliation the host society's reservation prices are especially high, as are any given trader's gains from breaking ranks. Therefore, rulers can weaken the embargo through selective incentives. The merchant guild arose precisely because multilateral enforcement readily broke down in the absence of a coordinated response. (p. 271)

Are the claims in this quotation true? I do not know. I am sure that covering specific facts with abstract language does not help me to understand a deep problem. It is indicative of Kuran's frame of mind that he presents it as a decisive summation.

As Kuran's presentation raises more questions than it answers, he would have done well to state his framework as a way to approach a series of unanswered questions, rather than suggesting that he has answered more than he in fact has.[4] Criticism can be directed at Kuran's historical knowledge, which I am not competent to do. As Kuran himself tells us in the Preface, "Some historians, *including ones whose historical works proved indispensable to the research reported here*, may find the generalizations unsettling. I ask them to recognize that this book's purpose is different from that of most history books" (p. x, emphasis added). That is a separate inquiry for the relevant historians. My criticism will largely be internal, directed at the logic of those facts that Kuran does present. I will first summarize Chapters 1-8 and then criticize the logic of Kuran's argument. This will be followed by questions about those historical events that Kuran mentions but does not include in his explanation of Ottoman failure, as well as the presentation of a few facts that Kuran does not mention at all. While Kuran refers to Islamic law in general, his argument does not treat the Moghuls, the Fatimids, or the Safavids, so it is permissible to use

[4] A number of scholars, such as S. M. Ghazanfar, have been trying to expound the richness of earlier Muslim economists, while others, such as S. M. Ebrahim, Monzer Khaf, and Abbas Mirakhor, have been exploring the potential of Islamic Finance. Unfortunately, none finds a place in Kuran's references.

"Ottoman" and "Middle Eastern" interchangeably in this context. I will frequently use "Muslim law" instead of "Islamic law," because Muslim law is unambiguously the law that Muslims felt they were subject to, while Islamic law implies that the law in question is theologically binding—a difficult proposition to prove in many cases.

2. Kuran as Judge

Unfortunately, one has to begin with some irritating side issues. As these deal with Kuran's personal attitudes, most reviewers have avoided discussing them at any length. This may be a mistake. Bias does not destroy or even negate scholarship, *provided* the bias is recognized. Why would one be interested in a subject if one did not have some attraction or revulsion toward it in the first place? Even if one began one's research out of curiosity, how often does this continue unless we find a moral interest in continuing with the study? One would hope that a book about religious law, claiming to be an academic examination, would be able to make an argument without smirking. If Kuran himself is not prejudiced, he must be employing a ghostwriter who is.

Consider Kuran's presentation of the Hajj (the primary pilgrimage of Islam) as "the backdrop for a trade fair" (p. 46). Later, he calls the Hajj a "pagan ritual" (p. 62). The Ka'aba in Mecca (the site of the Hajj) is believed by Muslims to be a building consecrated by Abraham to God. It is because the spot was holy that pilgrims traveled to Mecca. The crowds that arrived attracted traders. Eventually, the fairs at Mecca may have attracted as many as the pilgrimage itself. The Hajj was not the "backdrop," but just the opposite. Indeed, the trade that occurred at Mecca was explicitly referred to in the Quran and provides the first known example of the "Invisible Hand."[5] Why Kuran would fail even to state the Muslim view before writing so confidently in a contrary vein remains a question.

The slipshod manner in which such topics are discussed is illustrated again by Kuran's reference to punishment for practicing *riba* (often translated as "interest"): "Islam does not prescribe a punishment on earth for dealing in interest" (p. 148). What then is one to make of the Quranic verse which tells people to give up *riba* or face war?[6] Perhaps Kuran will take the position that war is conflict, not

[5] Salim Rashid, "Sura Quraysh," *American Journal of Islamic Social Science* 5, no. 1 (1988), pp. 129-34.

[6] Quran, 2:278.

punishment. However, he does not do so here. This controversial claim about no punishment for *riba* thus does not sit well with a stance he takes early in the book. When answering critics who say that criticizing the Islamic economic system will fan the flames of anti-Islamic prejudice, Kuran maintains: "The prevalence of anti-Islamic prejudice is no reason to limit balanced and dispassionate thinking about Islamic history" (p. xi). This is a good point. The problem here is the implied presumption that it is Kuran who has the balanced and dispassionate mind. If Kuran did not wish to attack, he could simply have avoided all of the above sentences. They are unnecessary to his main theme.

3. Kuran's Argument Summarized

Kuran is clear about his message: "The Middle East fell behind the West because it was late in adopting key institutions of the modern economy" (p. 5). The institutions that Kuran considers critical are the formation of large capitalist associations, such as joint-stock companies, the recognition of companies as legal entities, and the concomitant introduction of impersonal exchange. Muslim law impeded the formation of such essential features of a modern economy by its inability to consider the corporation as a legal person. These large concentrations were further inhibited by Muslim inheritance laws, which spread the wealth of the deceased. When concentrations did occur, as in the *waqf* (trust), these were inimical to progress since the founders' wishes bound all future generations. Muslim law was the backbone of each of the above problems, so it is Muslim law that one has to point to when assigning blame. In what follows, I try to follow Kuran's order as far as possible, but have occasionally altered the sequence for clarity.

Kuran rejects as explanatory those psychological interpretations based on attitudes such as fatalism and conservatism, by noting that conservatism and fatalism exist even today: "By themselves, universal and permanent social traits cannot explain variations across societies" (p. 10). Furthermore, the explanation is inadequate because it ignores the facts that Islamic law was adaptive and dynamic in the eighth and ninth centuries and that Muslim empires were more prosperous than Western ones until the sixteenth century. Such "psychological" explanations are the methodological enemy for Kuran, for if they are admitted, then his emphasis upon law and institutions is undermined. Kuran recognizes that no one factor is determining, but if we take locomotives and stock markets as concrete illustrations of European superiority, then locomotives can be imported but stock markets cannot. Hence, it is justified for him to focus on organizational changes (pp. 15-16). Forms of government are also organizations, and transplanting good governance is just as difficult, but Kuran feels that there are, nonetheless, three reasons for focusing on private organizations:

(1) Historians have already focused upon the State.
(2) The State was flexible, but private organizations were not.
(3) Private organizations determine the State's capabilities.

He thus argues, "The heart of the agenda is to examine the dynamics of private economic organization in the premodern Middle East" (p. 24).

The intuition that Islam in general and Islamic law in particular, was the source of backwardness has "a basis in fact." Three reasons are given to justify the intuition (p. 25):

(1) Certain key institutions derive from holy law.
(2) Religion is very important for individual identity.
(3) Governments upheld Islamic institutions.

In case one is tempted to think that these private organizations deal with second-order effects which can be ignored, Kuran responds that second-order effects "are often more significant" for economic development than are first-order effects. He considers it a fallacy that a "major phenomenon . . . must have major causes." Since small differences can have a major impact, "we must look for social mechanisms that made certain factors self-amplifying, triggered chain reactions, and fostered rigidities" (p. 32).

Islam initially favored commerce: "Early Muslim jurists gave various preexisting commercial rules an Islamic identity by recasting them as moral principles deriving from the Quran. They also undertook successive refinements, usually to accommodate the needs of merchants" (p. 49). Early Islam was thus ready to adapt to mercantile needs, but this adaptability changed over time and later caused stagnation. On the other hand, key Western institutions possessed dynamic virtues and were "self-undermining and ultimately self-transforming" (p. 36). The jargon would have us say that Muslims found a stable equilibrium which became inappropriate, but Europe devised an unstable one which always outperformed all rivals. There are those who consider such language "clarifying."

The main features of Muslim law that hurt the economy were partnerships, inheritance, credit (*riba*), and trusts (*waqf*). Let us turn to each in turn.

a. Partnerships

Kuran notes how three of the four major schools of Muslim law allowed partnerships with non-Muslims, then points out that this did not make Middle Eastern commerce "impersonal" because people chose partners from their networks (p. 50). Muslim partnerships were simple and temporary, and they were dissolved at the death of any partner (p. 59). If the original enterprise was to continue, the partnership would have to be reconstituted (p. 64). Muslim partnerships could be terminated unilaterally and were automatically terminated by death; hence, partnerships were quite risky. Investors used many merchants to diversify their risk. Kuran sounds aghast to find that "[s]cholars describe contracts found in records . . . with reference to legal treatises of a millennium earlier" (p. 67). The data show that commercial occupations did not change over centuries in the Middle East, suggesting stagnation, and that not even one large unit of financial mobilization by natives was to be found (pp. 68 and 71). The West, by contrast, was dynamic because of its private sector, and its large, overseas trading companies were important to this dynamism.

b. Inheritance and enterprise size

Not only were Muslim companies smaller, but Muslim inheritance laws contributed to wealth fragmentation because they divided the wealth between all heirs (p. 81). Furthermore, as prospective shares changed with births and deaths, this uncertainty reduced enterprise (p. 81). Any heir could demand a share of every asset, which added to transaction costs (pp. 88-89). Fragmenting of wealth not only made for smaller estates, but it also implied "less experimentation involving partnerships." The small size of Muslim enterprises meant that they had no need for accounting (p. 92). By contrast, the serial commenda of Europe gave a long-run identity to their enterprises (p. 90). Until the eighteenth century, the European market was not as important as the Asian one for the Ottomans, but Kuran wonders why the Ottomans did not pursue marginal gains in Europe? Kuran refers to K. N. Chaudhuri's view that merchants lacked political power and to Mehmet Genc that helping merchants was alien to Ottoman thought.[7]

[7] See K. N. Chaudhuri, *Trade and Civilization in the Indian Ocean*

c. Waqf as corporation/trust

Muslim law could have incorporated the corporation using Roman precedent and its own principles, but did not (pp. 104-09 and 125). Instead, the focus was on the *waqf*, which differs from the corporation in that it was usually founded by an individual, the founder entailed its function, and it could have distinct rules of operation (p. 128). There are four differences between the *waqf* and the corporation: (i) profit orientation, (ii) shares were non-transferable, (iii) no clear separation between property or *waqf*, and (iv) caretaker legal status. Qadis (Muslim judges) derived rents from administering the *waqf*, so they prevented profits from arising (p. 132). Curiously, tax farms did use corporate organizational forms (p. 113). Multiple *waqfs* were not allowed to pool their resources, hence limiting large enterprise even further. It was "undeniable" that the West depended upon larger, more complex organizations; even though European corporations had only 5.2% of total wealth in 1717, it was the institutional experiment that counted. This illustrates the point made earlier about how the impact of the second-order effect exceeds that of the first-order effect (pp. 120-21). Kuran notes that property rights were weak, but does not develop this much further (p. 127).

d. Credit

Kuran doubts whether the ban on *riba* was significant, as the ban was circumvented (p. 148). Admittedly, there were some costs in evading the *riba* ban, since legal stratagems had to be used to do so. More significant than the monetary loss was the absence of open discussion about monetary matters (p. 150). The refusal of Muslim financiers to give interest or invest deposits deprived Muslims of an important organization. The lack of organizational permanence would force dissolution of a bank upon the death of an owner (pp. 155-56).[8] The cash *waqf* was an alternative, but the *waqf* interest rate (which Kuran does not explain) was often fixed and cash *waqfs* could not merge to supply credit on a larger scale.

(Cambridge, UK: Cambridge University Press, 1985); and Mehmet Genc, *State and Economy in the Ottoman Empire* (Istanbul: Otuken Nesriyat, 2000).

[8] Kuran also notes that contemporary European corporations were fairly small and had only five to seven members on average (p. 157).

When one considers the joint effect of various Islamic laws, it is clear that the overall effect was inimical to economic growth. Large corporate bodies could not form because of the lack of corporate status and anonymous participation. Without banks, the credit needed for enterprise to grow was wanting. Even if a merchant were successful, inheritance laws would decrease the fortune considerably. If a large endowment was thought of, it went to the relatively unproductive *waqf*. It is no surprise that the Middle East fell behind.

4. Implausible Methodology

The question now is: How plausible is Kuran's account, both in terms of his method and his narrative? Suppose I accepted his thesis and somehow acquired the authority to modify Muslim law. What clues could I gather from a close reading of *The Long Divergence*? After making allowances for the nature of the problem, would I be able to extract lessons? Of course, there is the option of a wholesale rejection of Muslim commercial law, but this would require Kuran to claim that demolition is the only constructive act, which is something he avoids. I find the book to be slapdash, marred by incomplete arguments, faulty logic, and a failure of "institutional imagination" or the ability to immerse oneself in a subject sufficiently so as to be able to look at its problems "from the inside," so to speak. I begin with general methodological questions, then with scholarly lacunae, then faulty logic, then failures of interpretation (both of European and Ottoman history), and end by posing the questions which Kuran should have addressed.

There is one problem with all such accounts, which may be illustrated by Kuran's account of Ebussuud, chief judicial officer of the Ottomans, who showed flexibility in modifying laws when approaching problems. Kuran admits this flexibility, yet concludes that Ebussud did not "alter the substance of the law in ways that laid the foundation for revolutionary change" (p. 9). This judgment is a foregone conclusion. We already know the answer—the Ottomans lost—so it is simple to make all changes that did happen, "inessential." In order to avoid a facile narrative, the historian faces the special burden of making us feel the seriousness with which problems were felt and the potential of the solutions that were proposed. This requires more time and detail than Kuran was prepared to give.[9] Kuran tells us that second-order effects "are often more significant" in economic development than are first-order ones—a rather significant and even

[9] A unique feature of Ottoman life, the Imaret, finds no mention.

profound claim. If taken seriously, could we extend the logic to claim that some third-order causes dominate some first-order ones and perhaps a very few fourth-order causes dominate a very few first-order ones, so that we can now produce locomotives by changing the path of a butterfly? Before this nonsense takes hold, the original proposition has to be argued in detail, not asserted confidently with evidence as vague as Kuran's.

Kuran gives his arguments force by referring to trite generalities. For example, he reminds us of the need to separate local from global optimality—an inarguable but ultimately vacuous claim (pp. 39-41). As this is a historical question spanning centuries and not a nonlinear programming problem of inventory control, the reference to global optimality presumes that someone has the global view—and who is this? It may sound less profound, but it is more accurate to say something like, "From our vantage point, the solutions adopted in the early centuries of Islam, which seem well-adapted in their day, became a brake on the progress of trade and technology."

5. Psychologism

The more specific difficulties with Kuran's account can be illustrated by the way in which he dismisses psychological explanations based on a people's mindset. Kuran notes that conservatism and fatalism exist even today, hence these traits cannot be explanatory: "By themselves, universal and permanent social traits cannot explain variations across societies" (p. 10). This is a permanent blind spot for Kuran. The extent of fatalism matters. Kuran does not look at degrees of variation—one does not have to have numbers to use the words "few," "some," "many," or "most"—and hence cannot provide shading for the images he claims to provide. Consider an important proposition which he uses repeatedly: Even though groups *could* have organized in the Ottoman Empire to modify or alter Muslim law, "[y]et, until recently, no such reforms took place" (pp. 8-9 and 164-66). But *why* not? Is this not a question of central importance? How did *their* minds function, if they passed by readily visible improvements? Kuran cannot present the issue thus because his method is based on an opposition to "mindset" as the primary explanation.

6. Lack of Magnitudes and Institutional Detail

Kuran tells us that many Muslim laws could be circumvented at some cost, and infers that they "discouraged some potentially profitable partnerships" (p. 60). This is logic, not economic history. What we want are some numbers on magnitudes, which are not provided. Kuran continually insinuates magnitudes where he does not have evidence. For example, "Scholars describe contracts found in records . . . with reference to legal treatises of a millennium earlier" (p. 67). Are we talking about some, many, most, or all contracts? It makes a difference. It is easy to accept that the legal stratagems to avoid *riba* had costs—but how much? Was it a nuisance or did it really lessen trade? We are also told that Muslim investors used many merchants to diversify risk. This sounds sensible, but Kuran's argument also requires the aggregate capital of a merchant not to be large, which need not follow if each merchant had many investors. Again, if individual Muslim merchants had less capital than their European counterparts, was this compensated by having more Muslim merchants, so that the aggregate capital used by the Ottomans was larger?

The same attention to detail is wanting when Kuran tells us that Muslim partnerships were risky because they could be terminated unilaterally and were automatically terminated by death. What happened if a partner died while the caravan was in India? How was the "immediate" termination effected? We are left guessing. Kuran tells us that heirs could demand a share of every asset, but was that in money or in kind? How was this law different in Europe? When obvious questions are neither asked nor answered, one has to wonder.

7. Does Kuran Probe the "European Facts" He Notes?

A number of claims about Europe made in passing by Kuran make one ask for more. For instance, he claims, "Regions that started to modernize defensively, and largely by imitation, have tended to remain organizational laggards" (p. 33). If this is true, why not illustrate it with a few examples drawn from some of the more prominent cases of defensive modernization—the U.S.? Germany? Japan? A page later he seems to think that mercantilism really was "rule by merchants" (p. 34). How did the merchants express their interest? Was it the importers, exporters, traders, agriculturists, bankers, or manufacturers who prevailed—or did they all have identical interests? When Kuran tells us that some European financiers were enormously rich, he also tells us that one famous example, the Fuggers, grew by marriage. This is hardly impersonal exchange and there was no barrier for the Ottomans to replicate *this* mechanism. In Europe death would lead to an immediate reconstitution of the firm. Why could the Ottomans not copy this mechanism?

Perhaps the most important unexamined claim of Kuran's about the Europeans pertains to the Portuguese. He tells us that they began trade by force. What if this were true in general? What if force accounted for most European contact with non-Europeans and this explained the European superiority in trade? The proposition should at least get a glancing consideration. When Tipu Sultan of Mysore decided to adopt superior European martial methods from the French, this alarmed the English so much that Thomas Munro dropped all of his work in Bengal and raced south to prevent Tipu from succeeding. Munro and the British succeeded, but perhaps this event tells us something significant about the "inability" of natives to adapt.

8. Are Kuran's Assumptions about European Growth Well-Founded?

That large corporations and impersonal exchange, financed by banks, provided the motor for European prosperity is a basic point in Kuran's argument. However, he admits that these corporations owned only 6% of European wealth, so how could they be the basic economic cause of European superiority? If one says that "when backed by European arms, these corporations were decisive," that alters the argument. As for financing, it is doubtful whether banks were really that necessary for the Industrial Revolution.

Here is the account of an eminent economic historian:

> *Ploughback of the high profits to be earned in the new sectors enabled successful firms to expand their physical scale of production as rapidly as they wished without recourse to sources of finance outside their immediate circle of family, friends, and close business colleagues.* We shall call this resolution of the anomaly the "Postan-Pollard story." Postan (1935) began the tale by arguing that although eighteenth century Britain was the "richest land in Christendom" there was no capital market to direct excess savings to the enterprises with excess investment demands. Pollard (1964) completed the story by demonstrating that even with the coming of the factory system fixed capital was a relatively small share of a firm's total

> assets. Only cotton-spinning mills by the 1830s had fixed capital as a major component of their assets and even for them the share was only a bit more than half.[10]

If the grand problematic is to explain why the Ottoman's failed to industrialize, surely Kuran should have checked his facts about the prevalence of capital markets and the indispensability of fixed capital to industrialization.

9. Fallacious Economic Reasoning

Kuran is convinced that primogeniture helped capital accumulation, but it is hardly obvious that having one child inherit the entire fortune encourages accumulation. What if the fop or the fool inherited? Capital dissipation would ensue. This is such a complex question that Kuran's confident pronouncements make one wonder about his seriousness. We need to guess how many children would there be and how they would relate to each other. There are many famous examples of European family firms; if the family is kept together, surely Ottoman family firms could also exist (p. 136). Nor do we know the distribution of enterprise, intelligence, and energy between the children. Was there not more chance of stimulating competition in the economy if wealth was diffused, which is what Muslim inheritance laws ensured? Or does Kuran think that the virtues of size in Europe trump those obtained from competition among Ottomans?

If all children get a share, then the shares will change with births and death—this is arithmetic. Kuran goes on to argue that uncertainty about one's own share reduces enterprise. How did he get to this conclusion? Births and deaths have opposite effects upon shares, but how do we know which predominates? Furthermore, do we know whether individuals become more entrepreneurial when anticipating wealth or fearing poverty? Fragmenting makes for smaller estates and

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10 Larry Neal, "The Finance of Business During the Industrial Revolution," in Roderick Floud and Deirdre McCloskey, eds., *The Economic History of Great Britain Since 1700*, 2nd ed., vol. I (Cambridge, MA: Cambridge University Press, 1994), pp. 151-81 (emphases added). Neal further tells me there is also relevant literature on the challenges with setting up stock markets, but I think the point has been made.

"it will also have less experimentation involving partnerships" (pp. 88-89). This is not at all clear, since smaller estates may mean that there are many more merchants needing a partner, hence more potential "experimentation." In any case, it is the numbers dealing with each potential effect that will enable us to know the overall effect and settle the matter. Without these, Kuran is simply flailing.

10. Inability to Visualize Alternatives

Kuran makes a very significant remark, the basis of which is unfortunately not documented, that in the Ottoman economy the State was more flexible than was private enterprise (pp. 15-16).[11] In a famous essay, Alexander Gerschenkron argues against the presumption that there were "prerequisites" for industrialization, since most "prerequisites" could be substituted for.[12] Was he right? In East Asian economies, the State has led, or at least directed, the process. Why could there not be an Ottoman precursor?

11. Conclusion

Since law is basic to Kuran's argument that the Ottoman economy was weakened by its adherence to Muslim law, two questions are of primary importance. First, could Ottoman laws have been modified using their own internal logic? If so, this would require some legal tinkering, but one can imagine an imaginative *wazir* or *mufti* taking the leap. For example, why could the *waqf* not be modeled along the lines of the great American foundations of the twentieth century, such as those of Ford or Rockefeller, or more recently, of Bill Gates?

Second, and of far greater reach and importance for Muslims, could different laws have been derived from the founding principles of Muslim law? This would require some "openness" in the statement of Islamic legal principles as well as some elasticity in the early precedents. Kuran finds exactly such material, but their significance passes him by: "Early Muslim jurists gave various preexisting commercial rules an Islamic identity by recasting them as moral

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[11] Kuran does not consider the logical possibility that the private institutions did not change because they were already efficient ones.

[12] Alexander Gerschenkron, "Reflection on the Concept of 'Prerequisites' of Modern Industrialization," in his *Economic Backwardness in Historical Perspective* (New York: Frederick A. Praeger, 1962), pp. 31-51.

principles deriving from the Qur'an. They also undertook successive refinements, usually to accommodate the needs of merchants" (p. 49). These are words of enormous import. Early Islamic law was thus really pre-Islamic law with a gloss. How easy would it have been to change Ottoman law if only this was established? Why were the Ottomans not more inquisitive about the basis of their faith? Are we back to "mindset" again? Furthermore, it seems that even the law that was used was pliable and readily adapted to mercantile needs. If these words are to be taken seriously, then Kuran should have been solving a different problem: Why did the stress of European contact not encourage the Ottomans to look deeper within? Answering this question, however, would require a more understanding attitude than Kuran displays.[13]

[13] I am deeply grateful to Larry Neal for help with European economic history.