Towards a New Global Multilateralism:
Greater Inclusivity and Mutual Respect

Dr Christophe Bernasconi, Secretary General HCCH

Launch of the book:

Contemporary Trends in Sharia: Critical Debates in Historical Contexts,

by Hadi Enayat and Mohamed Keshavjee

The Institute of Ismaili Studies, Aga Khan Centre, London, 13 October 2026

Distinguished guests, dear friends, ladies and gentlemen,

It is a wonderful feeling, indeed a particular honour, to be with you this afternoon at the beautiful and inspiring Aga Khan Centre. Let me begin by thanking the Institute of Ismaili Studies and everyone who has made today's events possible. It is particularly appropriate to have this conversation here – a place whose architecture and purpose speak to encounter across cultures, traditions and societies.

Let me also warmly congratulate Hadi Enayat and Mohamed Keshavjee on *Contemporary Trends in Sharia: Critical Debates in Historical Contexts*. It is a remarkable book – intellectually rich, wide-ranging and thought-provoking. I learned a great deal from it – and it made me think.

I had the privilege of writing the Foreword. Subsequently reading the completed work, I was struck by its resonance with lessons drawn from nearly three decades at the Hague Conference on Private International Law – or the HCCH as we call it these days. Those lessons include the importance of context; the danger of mistaking diversity for incompatibility;

and the possibility of engagement without requiring one tradition to absorb another.

I am not a scholar of Islamic law; I offer the perspective of an international lawyer whose work is to help different legal systems work together.

You may not be familiar with private international law. Let me therefore take a brief moment to explain what it is – because it is central to what I want to say this afternoon.

The starting point is that the world has different legal systems. This is both obvious and valuable. *Why?* Because law is never created in a vacuum. Law is always a reflection of values – of political, social, cultural, economic and often indeed religious values of the societies in which the law develops. We should neither expect nor want all of those systems to become the same.

But we live in a world of constant cross-border interaction. People move, marry and form families across borders; businesses trade and invest internationally. Documents, legal relationships and court decisions need to produce effects outside the legal system in which they originated. And that is where difference can create friction.

Legal friction is economic friction: it creates uncertainty and risk for businesses and thus adds cost. But it can also become intensely personal – for a parent seeking maintenance for a child, or someone whose legal status is recognised in one country but not another.

Private international law helps different legal systems communicate by providing an interface between them. It answers questions such as: Which court may hear the dispute? Which law applies? How can authorities cooperate across borders? And when should a decision taken in one legal system be recognised and enforced in another?

Developing that interface is the purpose of the HCCH. We bring States together to develop common rules and cooperation mechanisms that allow their legal systems to interact with greater certainty and predictability. We do not seek to make national substantive laws identical. I thus often think of private international law as building bridges. The substantive law at either end of the bridge remains largely untouched; the task is to make sure that people, families, businesses, documents and decisions can cross from one side to the other without unnecessary legal friction.

At the HCCH, these bridges rest on sound principles agreed through dialogue and consensus, reflecting shared values of fairness, justice and human dignity. A bridge also has safeguards, notably *public policy* – or *ordre public*. In exceptional cases, a legal system may refuse to apply foreign law or recognise a foreign decision where doing so would be manifestly incompatible with its fundamental principles. A judgment obtained through fundamentally unfair proceedings, for example, need not be recognised. In cross-border child protection matters, the child's best interests must be taken into account.

In the Foreword, I suggested that, at a time when political multilateralism, the rule of law and international institutions are under pressure, we need a more effective and practical multilateralism based on cooperation, inclusivity, consensus and mutual respect. A multilateralism that begins with respect for diversity; that seeks common frameworks without demanding sameness; a multilateralism in which different traditions meet on equal terms and help shape common solutions; and which is judged by whether it enables us to solve practical problems together.

These principles are not new, but what must change is how fully we put them into practice: who shapes the rules, whose knowledge informs them, and whether they work for the people who need them.

The related sequence in developing that multilateralism is simple: understand before judging; engage across difference; and from that understanding build cooperation.

One of the strongest messages I take from *Contemporary Trends in Sharia* is precisely the danger of approaching a complex legal and ethical tradition as though it were monolithic. Sharia, *fiqh* and what we often loosely describe as "Islamic law" are not interchangeable concepts. Sharia carries a broad normative, ethical and religious meaning. *Fiqh* is the human jurisprudential endeavour through which sharia has been interpreted and applied. Contemporary State law may in turn combine legislation, jurisprudence, custom and different strands of that inherited tradition.

That matters because legal systems in Muslim-majority States are extraordinarily diverse. Different schools, histories and institutions produce different outcomes. Once a legislature turns one among several

fiqh interpretations into official law, what an outsider sees as “the” Islamic rule may be one choice from a much richer jurisprudential tradition. Within *fiqh*, jurists have long drawn on principles of necessity and public interest to respond to changing circumstances, providing deep resources for adaptation through reasoning from within the tradition itself.

If we approach another legal system assuming from the outset that it must fit neatly into our own concepts and categories, we may misunderstand it before the conversation has even begun. Understanding is therefore not merely an academic courtesy; it is a practical condition for successful legal cooperation, and thus for effective multilateralism.

There is a broader lesson here too. Almost two billion Muslims cannot meaningfully be described through extreme examples selected from extraordinarily diverse societies. Nor should any civilisation be reduced to its extremes. At a time when public debate is too often driven by caricature and mutual demonisation, knowledge itself can become an instrument of bridge-building.

That thought was reinforced for me recently in Tunis, where I spoke at a conference named after the Tunisian jurist Mohamed Charfi. I revisited his book *Islam et liberté : le malentendu historique, translated as Islam and freedom: the historical misunderstanding*, and its exploration of the relationship between Islam, modernity, freedom, law and the State. Charfi is not discussed in Hadi’s and Mohamed’s book, but his reformist impulse resonates with one of the book’s central themes: Islamic thought is not static, and renewal can come from within the tradition itself.

What I particularly appreciate about this work is that resisting caricature does not mean avoiding difficult questions. In the chapters on religious freedom and criminal justice, the authors confront apostasy, blasphemy and the *ḥudūd* – prescribed punishments for certain offences – while examining contemporary reinterpretations. They recover traditions in which mercy, doubt and demanding standards of proof matter, but also confront their use by authoritarian governments for political purposes. They also address Western systems of punishment, including racial inequality and the use of imprisonment and solitary confinement. Such encounters across different systems make each of us more capable of examining ourselves.

The chapter on gender justice gives a striking example. Discussing verse 34 of the fourth chapter of the Qur'an and interpretations used to justify a husband striking his wife, the authors show how Muslim women, scholars and activists draw on the Qur'an, the Prophet's example and Islamic jurisprudence to challenge domestic violence. The experience of Sisters in Islam in Malaysia is particularly revealing: Muslim women asking difficult questions of their own tradition because they understood equality and justice as demands of their faith. Their advocacy eventually helped ensure that Muslim women were protected by Malaysia's domestic-violence legislation.

This is a subject on which I feel strongly. Gender equality is not an optional value. Muslim women and scholars reason from within the tradition while engaging with contemporary human-rights thinking. That, to me, is bridge-building at its best: respect for a tradition does not require preserving

injustice in its name; rejecting injustice does not require rejecting the tradition as a whole.

What began locally also contributed to a wider transnational movement for equality and justice in Muslim family law, including the global Muslim women's movement *Musawah*. Universal ideas do not always travel from the global level downwards; they can grow from locally rooted experience and reshape the global conversation.

This leads naturally to the *maqāṣid al-sharīʿa* – the higher purposes of the law. Al-Ghazālī famously identified five fundamental purposes: the preservation of life, intellect, property, offspring and religion. Later thinkers added values such as dignity, fulfilment of contracts, equality, freedom and even the interests of humanity as a whole. That wider horizon also has an environmental dimension. Hadi and Mohamed refer to contemporary *fatwās* in Indonesia on rainforest preservation and biodiversity, informed by science, placing Islamic ethical thinking in conversation with Pope Francis, the United Nations, economics and environmental science. Climate change reminds us that no State, legal system or civilisation can solve such problems alone.

If we borrow the language of *maqāṣid* – of purposes – what are the higher purposes of multilateralism? In my view, they include:

- Peaceful coexistence
- Cooperation based upon law rather than force
- Human dignity
- Legal certainty and predictability
- Reciprocity

- And the ability to solve together problems which none of us can solve adequately alone

If those are the purposes, institutions such as the HCCH, together with their procedures and negotiating practices, are means to those ends. Fidelity to the purpose cannot always mean keeping the means unchanged. The purpose may endure; the means must be capable of adapting and evolving.

For the HCCH, as an intergovernmental organisation with a global mandate, that means in particular strengthening universality and inclusivity; being open to all legal traditions by widening participation both in recognising and defining relevant cross-border issues and in developing new Conventions to solve them.

Many once expected modernisation to bring secularisation and convergence around a common social and legal model. That has not happened. For billions, religion remains a source of identity, ethics, law and social meaning. A genuinely global multilateralism must therefore learn to cooperate across enduring differences of worldview, rather than waiting for those differences to disappear.

Our objective should be renewal, not abandonment – connection with integrity, while respecting diversity.

There is a concrete illustration in Mohamed's chapter on mediation. When a modern family mediation model developed in Britain was introduced to Ismaili mediators from different parts of the world, participants identified important assumptions beneath it. The model moved quickly towards

resolving the dispute, without first exploring whether reconciliation remained possible, and reflected an individualistic, nuclear-family setting. Participants explained that, in their communities, a marital dispute could involve wider family and community relationships, which might also affect whether a settlement endured. The trainers listened and adapted the training through discussion and locally grounded role play, while keeping the essential values of mediation in view.

Genuine dialogue is not a process in which one side arrives with the answer and the other learns it. Sometimes the encounter itself improves the answer.

This example shows that, in a world of different cultures and traditions, sameness is not the answer. At the same time, people, families and businesses rooted in different legal systems interact more and more. They need reliable legal bridges between those systems: rules that help determine which courts may act, which law applies, and whether decisions will be recognised and enforced across borders. Such bridges allow people to navigate their differences with legal certainty and predictability. This is the work of private international law.

That brings me back to my own work: the HCCH's Children's Conventions and the Malta Process. For more than two decades, our Malta Process has brought together Contracting Parties to our Children's Conventions and States whose legal systems are based upon or influenced by sharia and which are not Parties to those Conventions. Mohamed has contributed actively, alongside other sharia experts.

Here, differences become intensely practical: a child has connections with two countries, parents are in conflict, authorities need to communicate, and a family needs a solution. Harmonising substantive family laws would not be realistic: family law is a reflection of a society's values, traditions and institutions. The Malta Process addresses a different question: Can the HCCH Children's Conventions provide a bridge between legal systems with different traditions, including systems based upon or influenced by sharia?

It approaches that question through inclusive dialogue, open to all interested States. Compatibility is examined from within the participating legal traditions, with the active contribution of experts in Islamic law. That dialogue has shown that differences in family-law traditions need not prevent cooperation under the Conventions, where there is common ground in the best interests of the child – a principle that can be recognised across the traditions represented.

Different legal traditions can therefore support a common framework for protecting children across borders. Morocco and Tunisia joined the Child Abduction Convention independently of the Malta process, while Pakistan's accession followed its participation in it.

The progression is clear: dialogue creates understanding; understanding can build trust; and trust can support participation in a common PIL treaty framework.

There is another family-law example which clearly illustrates the bridge: *kafala* as a measure of *child protection*. It means taking responsibility for a child's care, protection and upbringing. It is *distinct from the migrant-*

worker sponsorship system that bears the same name. The UN Convention on the Rights of the Child expressly recognises *kafala* as a form of alternative care, and the HCCH Child Protection Convention explicitly accommodates it.

This is inclusivity in our normative work. It neither requires States to introduce *kafala* into their domestic law nor turns it into adoption. It enables cooperation across different systems of child care. When authorities propose care through kafala in another Contracting State, the Convention requires prior consultation and the receiving authorities' consent, taking account of the child's best interests. Again, the bridge does not eliminate the difference; but it makes cooperation across the difference possible.

These questions are particularly tangible in Muslim diaspora communities. Legal systems do not meet only in conference rooms; they meet in people's lives – in marriage, parent-child relationships, maintenance, civil status and recognition across borders. The same philosophy extends to *commerce and trade*, where our frameworks help public documents and judgments move effectively between legal systems.

Cooperation is stronger when participants have helped shape its rules. That is why inclusion matters so much in our work.

Today, the HCCH has 95 Members – that is 94 States and the European Union – while an additional 65 non-Member States are Parties to one or more HCCH Conventions. So, the HCCH connects 159 States and the EU. Together, they currently account for 1,045 treaty actions – that is, ratifications or accessions to our Conventions.

That is impressive. These figures reflect a dense network of cooperation across different legal systems, cultures and traditions. But only Members participate in developing new instruments; membership is therefore essential to inclusion, giving States a voice in shaping future rules.

States in Africa, Asia, and the Middle East cannot simply be recipients of international norms formulated elsewhere. They must be co-authors. At the multilateral table, they must meet as participants of equal standing.

But inclusivity is not simply a matter of counting States. A room can be diverse while one intellectual tradition still defines the questions and acceptable answers. That may be representation, but it is not yet genuine inclusion.

True inclusion means that the conversation becomes different – and better – because different perspectives help shape both the questions we ask and the solutions we develop. Perspectives from Jakarta, Nairobi, Rabat or Riyadh should be part of the development of future solutions just as naturally as those from London, Paris, Sydney, Berlin or Washington.

For the HCCH, this also means seeking greater participation from Muslim-majority States and a stronger voice from the Arab world.

The experience of the Malaysian Sisters in Islam offers a powerful reminder: innovation and universal ideas can move from the local to the global. The direction of learning must run both ways.

The book's chapter on sharia and human rights asks a question central to this argument: Can different intellectual and moral traditions arrive at

genuinely universal principles without all having to reach them by the same route?

It examines Muslim thinkers seeking within Islamic thought foundations for human dignity, moral responsibility and the inherent worth of every human being. Hadi does not retreat into cultural relativism. Mutual respect does not require moral relativism, and inclusivity does not make fundamental rights negotiable. Different traditions can draw on different intellectual and ethical resources to support the same commitment to human dignity and fundamental rights.

Shared purposes do not automatically produce agreement on rules. States may agree that children deserve protection and still disagree about jurisdiction, procedures or safeguards. Consensus requires working through those differences to find a solution they can implement and sustain. At the HCCH, our normative instruments are developed by consensus. Consensus does not mean that everybody gets exactly what they wanted when they entered the room; it means that the resulting framework commands common ownership. Adoption alone, however achieved, is insufficient. A treaty that is never properly implemented may constitute a diplomatic victory for some, but it is not successful multilateralism. A carefully negotiated instrument which States understand, implement and use for decades may attract less attention, but it changes lives.

The ultimate test is: Does it work? Can a parent obtain maintenance across borders? Can authorities cooperate to protect a child? Can judgments and

public documents move effectively between legal systems? Those are the tests.

That is why our work does not end when a Convention is adopted. We monitor how instruments operate in practice, support Central Authorities and judicial networks, and address implementation problems. A global legal order ultimately exists not in a communiqué, but at the moment when someone needs it. That is why I describe the multilateralism I believe in as practical and effective. “Practical” is not a limitation upon ambition; practical effectiveness is the test of ambition.

There is something remarkable in the history of the HCCH which captures this wider significance. Our founding father, Tobias Asser, received the Nobel Peace Prize in 1911. The Nobel presentation speech expressly recognised him as the initiator of the Hague Conferences on Private International Law.

Why regard work on families, commerce and relations between legal systems as work for peace? Because peace is also built quietly – when people learn to act and work together, when States accept that cooperation does not require one to prevail over another, when repeated interaction creates reciprocity and confidence, and when legal systems are properly connected. In that practical and durable sense, the HCCH has always been a peace project.

Today, the international rule of law and political multilateralism are under pressure, geopolitical rivalry is increasing, and trust between States is strained. Private international law will not end wars or resolve geopolitical rivalry, and technical cooperation cannot substitute for political multilateralism. But I do believe the HCCH provides a useful laboratory of effective and practical multilateralism.

Hadi and Mohamed recognise the limits of law: reform matters, but law alone cannot create social justice or the relationships and ethical commitments on which a healthy society depends. International law has similar limits. Treaties create obligations and courts deliver decisions, but they cannot by themselves manufacture trust, restraint or a willingness to listen.

Multilateralism therefore needs more than legal architecture; it also needs a relational and ethical infrastructure built through practice.

At the HCCH, States with profoundly different political systems, religions, cultures and legal traditions continue to sit around the same table. They identify problems none can solve adequately alone, negotiate common rules, and cooperate across profound differences. In doing so, they preserve something enormously important: the habit of discussion and cooperation.

This practical multilateralism can keep channels open when political relationships become difficult, preserving professional networks and the capacity to cooperate. At a moment when political multilateralism is under pressure, that capacity is itself an international public good.

But preserving cooperation cannot be our only ambition. Economic and demographic weight is shifting, and States once marginal to international rule-making rightly expect to help shape it. The answer to the present crisis is therefore not less multilateralism, nor is it simply the old multilateralism again.

The new global multilateralism I mean has three requirements: wider participation on equal footing in shaping common solutions; mutual respect across different legal and intellectual traditions, without surrendering fundamental rights; and cooperation that produces practical results.

And here the lesson I draw from *maqāṣid* returns: preserve the purpose; allow the means to evolve. No single civilisation, region or legal tradition can organise an interconnected world alone. Africa, Asia, Latin America, the Middle East and Muslim-majority States must help shape the international legal order. Greater inclusivity helps keep the higher purposes of multilateral cooperation achievable in the world we actually inhabit.

And this brings me, finally, back to the book itself: it, too, is about bridge-building. It invites readers unfamiliar with sharia to look beyond caricature and understand its historical complexity, while remaining attentive to human dignity, gender equality, religious freedom and justice. It also invites Muslims to engage seriously with contemporary human-rights thinking and other traditions, without suggesting that renewal requires abandoning their own.

Near the end of the book, Hadi and Mohamed describe sharia, understood through the evolving jurisprudential tradition of fiqh, as an “unfinished project”. Successive generations will continue to confront new social realities and craft responses to them. Multilateralism too is unfinished. We must defend its essential commitments to law, cooperation, human dignity and peaceful relations, while allowing its means to evolve.

The world does not suffer from a shortage of difference, nor will difference disappear. Our task is to distinguish before we generalise, listen before we prescribe, and search for common purposes beneath different legal languages. These are conditions for meaningful and sustained traffic across the bridge: a bridge resting on commonly agreed rules of private international law, also reflecting shared values of human decency, fairness and justice. Difference need not prevent cooperation; failure to understand it can.

That is the connection I draw between the book and the work of the HCCH. I believe in the multilateralism I have described because people can see and experience what it means for them: a child receiving maintenance across borders, a family facing less legal uncertainty, or a business trading with greater confidence.

I am confident that this multilateralism, grounded in inclusivity, constructive dialogue, mutual respect and broad consensus, can sustain cooperation through the difficult period we are living through. And when we emerge from it – and I believe we will – it can offer a model for what we should build: a multilateralism confident enough to uphold principle, humble enough to listen, flexible enough to adapt and practical enough to

make a difference. A multilateralism that understands that mutual respect is not the conclusion of cooperation; it is where cooperation begins.

My warmest congratulations again to Hadi and Mohamed.

My sincere thanks to the Institute of Ismaili Studies and to everyone who has made today's event possible.

And my thanks to all of you for your kind attention.