

Economic Rights and Justice in the Qur'an

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ABSTRACT

The compatibility of Islam with the international human rights norms has been a continuous topic of debate. Diversity in Islam inevitably leaves all arguments inconclusive. This article compares the text of the Qur'an, which is the highest authority in Islam, with the International Bill of Rights (IBR) by focusing on economic rights and justice. The Qur'an and the IBR seek an egalitarian economic system that sets restrictions on the use of property. This article draws attention to the Qur'anic verses' emancipatory promise, which is also embedded in the IBR, but is often undermined by the privileged of both Muslim-majority and in other states.

Allah will not change the condition of a people until they change what is in themselves.
The Qur'an, 13:11

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I. INTRODUCTION

Human rights is a popular concept increasingly used to frame social and political issues and guide social movements.¹ Although the compatibility of Islam and international human rights norms are often questioned, the notion of human rights continues to resonate in Muslim-majority countries.² Arguing that human rights “often are given impetus from the ground up,”³ Anthony Tirado Chase references several movements within the Muslim world that have invoked human rights, including the Palestinian liberation, Islamism, women’s rights, and the Arab Spring.⁴ While the immediate target of the Arab Spring protests was their countries’ repressive governments, protestors demanded more than just democratic governance—they challenged the legitimacy of the entire prevailing order (*al-nizam*).⁵ The violation of economic justice and rights was a central concern. In fact, what triggered the protest movements that swept several countries was the self-immolation of the unemployed Tunisian engineer Mohamed Bouazizi in December 2010, as a response to the police confiscation of his fruit stand—his last resort to make a living.⁶

The governments of Arab and other Muslim-majority countries do not reject human rights. In fact, many of them have ratified, although often with reservations, a number of international human rights treaties that include economic rights, such as the International Convention on Economic, Social and Cultural Rights and other UN conventions against racism and that protect the rights of children, women, and people with disabilities. Muslim-majority countries typically accept the responsibility of implementing the treaties as long as each provision is in compliance with the Islamic *Shari’a*. However, *Shari’a* is not a fixed and settled code; *Shari’a* varies in time and space depending on the religious scholars’ interpretation, as well as the understanding of political leaders and local people.⁷

This article revisits the broad question of Islam’s compatibility with the international human rights norms by focusing on economic rights. It exam-

1. THE USES AND MISUSES OF HUMAN RIGHTS: A CRITICAL APPROACH TO ADVOCACY, (George Andreopoulos & Zehra F. Kabasakal Arat, eds., 2014).
2. Mahmood Monshipouri & Reza Motameni, *Globalization, Sacred Beliefs, and Defiance: Is Human Rights Discourse Relevant in the Muslim World?*, 42 J. CHURCH & ST. 709 (2000).
3. ANTHONY TIRADO CHASE, HUMAN RIGHTS, REVOLUTION, AND REFORM IN THE MUSLIM WORLD 3 (2012).
4. *Id.* at 23, 39–40.
5. Zehra F. Kabasakal Arat, *Economic Rights in the Middle East*, in ROUTLEDGE HANDBOOK ON HUMAN RIGHTS AND THE MIDDLE EAST AND NORTH AFRICA 40 (Anthony Tirado Chase ed., 2016).
6. *Id.*
7. See Noel James Coulson & Ahmed El Shamsy, *Shari’ah*, ENCYCLOPEDIA BRITANNICA (18 Sept. 2019); Zehra F. Kabasakal Arat, *Promoting Women’s Rights Against Patriarchal Cultural Claims: The Women’s Convention and Reservations by Muslim States*, in HUMAN RIGHTS AND DIVERSITY: AREA STUDIES REVISITED 231 (David P. Forsythe & Patrice C. McMahon eds., 2003).



ines the Islamic notions of economic justice and rights and compares them to the grounding of those rights in international law by concentrating on the *foundational* texts in both traditions. For Islam, I focus on the Qur'an, the sacred text that Muslims uphold as the actual word of God and thus as the *highest authority*. For international human rights law, I examine three documents collectively known as the International Bill of Rights (IBR).⁸ Applying a method of power analysis of belief systems/ideologies, which I developed earlier,⁹ I examine the two texts with attention to the extent to which they seek dispersion/concentration of power and sources of power. Also, I show that contrary to the common belief, there is a strong strain of *individualism* within the Qur'an.

I contend that the IBR and the Qur'an are emancipatory texts that offer promises of change for a more just world and uphold an egalitarian and redistributive economic system. These significant similarities are often overlooked, because the two texts employ different languages, provisions, and processes of implementation due to the fact that they were introduced in different historical contexts. Addressing a pre-industrial and pre-state society, the Qur'an relies upon a language of *individual responsibilities and duties* and presents a divinely ordained moral code, which of course can inform laws as it did so throughout the history. The IBR, on the other hand, is a combination of legal documents produced in an industrial age within a state-centric system that recognizes the *state* as the primary protector of human rights. As a legal code with weak enforcement mechanisms, the IBR's main impact has been to devise new international norms and mobilize people to pressure their state. Since laws not only generate moral values but also codify existing moral norms, illustrating the overlapping moral prescriptions of the Qur'an and the IBR would enhance the appeal of international human rights norms and the advocacy of economic rights in Muslim-majority countries.

The following section reviews the current literature and presents competing views on Islam's compatibility with international human rights. In Section III, I introduce my approach to the study of belief systems/ideologies, which emphasizes three dimensions of power, and then summarize my analysis of the IBR as a human rights ideology. In Section IV, I offer a systematic reading of the Qur'an by focusing on its economic provisions. Lastly, in concluding sections, I discuss individualism within the Qur'an and compare its economic stipulations with those proposed in the IBR.

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8. They include: (1) Universal Declaration of Human Rights, *adopted* 10 Dec. 1948, G.A. Res. 217A (III), U.N. GAOR, 3d Sess, U.N. Doc. A/RES/3/217A (1948) (UDHR); (2) International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (*entered into force* 3 Jan. 1976) (ICESCR); and (3) International Covenant on Civil and Political Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* 23 Mar. 1976) (ICCPR).
 9. Zehra F. Kabasakal Arat, *Human Rights Ideology and Dimensions of Power: A Radical Approach to the State, Property, and Discrimination*, 30 HUM. RTS. Q. 906 (2008).



II. ISLAM AND HUMAN RIGHTS: COMPETING VIEWS

Most scholars and commentators treat democracy and human rights as concepts that originated in and are intrinsic to Western philosophy.¹⁰ They view Muslim-majority countries that demonstrate any elements of human rights or democracy as borrowers.¹¹ Within this diverse group, some attribute the weakness of democratic institutions and human rights violations in Muslim-majority states to the character of Islamic law, culture, and civilization.¹² Others stress the incompatibility by claiming that there is no notion of individual rights in Islam.¹³ However, there are also those, like many in the administrative team of the former US President George W. Bush, who consider “moderate Islam” to be compatible with the “Western norms” of democracy and human rights.¹⁴

Among the Muslim analysts who consider human rights to be a Western notion, Mohammed Abed al-Jabri notes that finding “the authoritative historical point of reference” on human rights in Western nations “is not [a] sufficient justification to contest the *universality* of human rights in its modern implication.”¹⁵ Some Muslim politicians and scholars, on the other hand, consider democracy and human rights as alien notions imposed by the West as a ploy to maximize Western interests and undermine the sovereignty of their states or the value of Islam.¹⁶ Finally, there are those who contend that although the international human rights standards and Islamic culture and tradition are not completely in sync, such standards can be followed in Muslim communities after achieving a cultural reform of Islam.¹⁷ Abdulaziz Sachedina sees the origin of human rights in the secularist Western humanism, but claims, “[t]he Islamic model for democratic pluralism is not inher-

10. Nader Hashemi & Emran Qureshi, *Human Rights*, THE OXFORD ENCYCLOPEDIA OF THE ISLAMIC WORLD (2019).

11. *Id.*

12. Francis Fukuyama, *The West Has Won*, THE GUARDIAN ¶7–9, 13 (11 Oct. 2001); See, e.g. Afua Hirsch, *Sharia Law Incompatible with Human Rights Legislation*, LORDS SAY, THE GUARDIAN (23 Oct. 2008).

13. Robert Carle, *Revealing and Concealing: Islamist Discourse on Human Rights*, 6 HUM. RTS. REV. 122 (2005); Jack Donnelly, *Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights*, 76 AMER. POL. SCI. REV. 303, 306 (1982).

14. See, e.g., see Dona J. Stewart, *The Greater Middle East and Reform in the Bush Administration’s Ideological Imagination*, 95 GEOGRAPHICAL REV. MIDDLE E. 400 (2005); Asli Aydintasbas, *Turkey in Full*, N.Y. TIMES (6 Apr. 2009).

15. MOHAMMED ABED AL-JABRI, DEMOCRACY, HUMAN RIGHTS AND LAW IN ISLAMIC THOUGHT 176 (2009).

16. See interviews with Arab intellectuals in KEVIN DWYER, ARAB VOICES: THE HUMAN RIGHTS DEBATE IN THE MIDDLE EAST (1991); see also ANN ELIZABETH MAYER, ISLAM AND HUMAN RIGHTS: TRADITION AND POLITICS (5th ed., 2013).

17. MOHAMMED ARKOUN, RETHINKING ISLAM: COMMON QUESTIONS, UNCOMMON ANSWERS 62 (Robert D. Lee ed. & trans., 1994); Bassam Tibi, *Islamic Law/Shari’a, Human Rights, Universal Morality and International Relations*, 16 HUM. RTS. Q. 277 (1994).



ently antithetical to a central concept of human dignity and the individual's inalienable right to determine her spiritual destiny without interference."¹⁸

Yet, there are also Muslim and non-Muslim analysts who reject the notion that human rights are Western innovations. Some within this group claim that Muslims were ahead of others in recognizing a range of human rights.¹⁹ The words of Muhammad Mekki Naciri, spoken when he was a member of Morocco's Council of Religious Scholars, illustrate this position:

Human rights may be something new for the West, but we in Islam have had it since the beginning. We have no differences between whites, blacks, Jews, Muslims—everyone is free. We never persecuted the Jews here the way they did in France and England. In England and in the US you fight against the blacks.²⁰

These analysts also contend that Muslim women had enjoyed property rights or the right to divorce in the seventh century—long before such rights were recognized for women anywhere else.²¹ Gender inequality in practice is attributed to the public resistance to the egalitarian message of the Qur'an and to its patriarchal interpretations by the male elite.²² Similarly, the *siyar* laws that regulated Muslim states' relationship with other nations are taken as evidence of Muslims' subscription to the just war theory, and as a precursor of the Geneva Conventions and other international humanitarian laws.²³

Some scholars who see human rights as authentic to Islam, however, also claim that the Islamic notion of human rights is distinct.²⁴ Abul A'la Mawdudi argues that Islam not only recognized human rights at least ten centuries before the West, but also offered a stronger foundation because the rights in Islam are given by God not by a temporal being like a king or an assembly.²⁵ His list of "basic" Islamic human rights include the rights to life, the safety of life, a basic standard of living, freedom (from slavery), justice,

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18. Abdulaziz Sachedina, *The Clash of Universalisms: Religious and Secular in Human Rights*, THE HEDGEHOG REV. 49, 60 (2007); ABDULAZIZ SACHEDINA, ISLAM AND THE CHALLENGE OF HUMAN RIGHTS (2009).
 19. ABDUL KARIM BANGURA & ALANOU AL-NOUH, ISLAMIC CIVILIZATION, AMITY, EQUANIMITY AND TRANQUILITY: ANALYZING AND INVENTING PEACE PARADIGMS, CONFLICT RESOLUTION AND PEACEBUILDING STRATEGIES (2011).
 20. Quoted in DWYER, *supra* note 16, at 38.
 21. Ali A. Mazrui, *Islamic and Western Values*, 76 FOREIGN AFF. 118, 119–20 (1997).
 22. FATIMA MERNISSI, THE VEIL AND THE MALE ELITE: A FEMINIST INTERPRETATION OF WOMEN'S RIGHTS IN ISLAM (1991); ASMA BARLAS, BELIEVING WOMEN IN ISLAM: UNREADING PATRIARCHAL INTERPRETATIONS OF THE QUR'AN (2002).
 23. Karima Bennoune, *As-Salāmu `Alaykum? Humanitarian Law in Islamic Jurisprudence*, 15 MICH. J. OF INT'L L. 605 (1994); ABUL A'LA MAWDUDI, HUMAN RIGHTS IN ISLAM (1976). In addition to the practice of the Prophet and subsequent Islamic rulers/states, Qur'anic verses are cited, e.g., "[f]light in the way of Allah those who fight you but do not transgress. Indeed, Allah does not like transgressors." (2:190)
 24. For more on the diverse and conflicting Muslim views on Islam's compatibility with international human rights norms, see Najma Moosa, *Human Rights in Islam*, 14 S. AFR. J. HUM. RTS. 508, 517–22 (1998).
 25. MAWDUDI, *supra* note 23, at 13–15.



the right to co-operate or not to co-operate, equality of human beings, and respect for the chastity of women.²⁶

The first chapter of Mawdudi's pamphlet was originally delivered as a radio talk in January 1948, predating the Universal Declaration of Human Rights (UDHR) by almost a year.²⁷ Sheikh Mohammad al-Ghazali of Egypt is another prominent figure who produced an Islamic alternative to the UDHR.²⁸ The Universal Islamic Declaration of Human Rights, adopted by the Islamic Council of Europe in September 1981, and the 1990 Cairo Declaration of Human Rights, adopted by the Organization of Islamic Conference (renamed the Organization of Islamic Cooperation in June 2011), can be analyzed using a similar approach.²⁹ Although varied, the main difference between these two documents is noted in their narrow treatment of gender equality and women's rights.³⁰

Others subscribe to the notion that human rights articulated in the UDHR and the subsequent declarations and treaties adopted by the United Nations were constructed by a transnational elite that included Muslim and non-Muslim participants who have been informed by various belief systems, philosophies, and cultural practices.³¹ Many also agree that some notions of human rights are recognized in all cultures and religions, usually as duties, despite having fallen short of universalism and permitting many

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26. See *id.* at 17–24. He further delineates fifteen “rights of citizens in an Islamic state,” which include the following: the security of life and property; the protection of honor; the sanctity and security of private life; the security of personal freedom; the right to protest against tyranny; freedom of expression; freedom of association; freedom of conscience and conviction; protection of religious sentiments; protection from arbitrary imprisonment; the right to basic necessities of life; equality before law; rulers not above law; the right to avoid sin; and the right to participate in the affairs of state. See also *id.* at 25–38.
27. Miriam Cooke & Bruce B. Lawrence, *Muslim Women Between Human Rights and Islamic Norms*, in RELIGIOUS DIVERSITY AND HUMAN RIGHTS 313, 319 (Irene Bloom, J. Paul Martin & Wayne L. Proudfoot eds., 1996).
28. Bassam Tibi, *Islamic Law/Shari'a, Human Rights, Universal Morality and International Relations*, 16 HUM. RTS. Q. 277 (1994).
29. For various Islamic declarations and their discussion, see Abdullah al-Ahsan, *Law, Religion and Human Dignity in the Muslim World Today: An Examination of OIC's Cairo Declaration of Human Rights*, 24 J. L. & RELIGION 569 (2009); Carle, *supra* note 13; LAURENCE PETER FITZGERALD, *THE JUSTICE GOD WANTS: ISLAM AND HUMAN RIGHTS* (1993); Tabet Koraytem, *Arab Islamic Developments on Human Rights*, 16 ARAB L. Q. 255 (2001); MAYER, *supra* note 16; Moosa, *supra* note 24, at 513–15; Mervat Rishmawi, *The Revised Arab Charter on Human Rights: A Step Forward*, 5 HUM. RTS. L. REV. 361 (2005).
30. Cooke & Lawrence, *supra* note 27, at 319–20; MAYER, *supra* note 16.
31. ZEHRA F. KABASAKAL ARAT, *HUMAN RIGHTS WORLDWIDE: A REFERENCE HANDBOOK* (2006) [hereinafter HUMAN RIGHTS]; Zehra F. Kabasakal Arat, *Forging a Global Culture of Human Rights: Origins and Prospects of the International Bill of Rights*, 28 HUM. RTS. Q. 416 (2006) [hereinafter *Forging*]; SALLY ENGLE MERRY, *HUMAN RIGHTS AND GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE* (2006); JOHANNES MORSINK, *THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: ORIGINS, DRAFTING, AND INTENT* (1999); Susan Eileen Waltz, *Universal Human Rights: The Contribution of Muslim States*, 26 HUM. RTS. Q. 799 (2004).



discriminatory practices and violations.³² Muslim thinkers and scholars who are considered followers of "liberal Islam" can be included in this group,³³ and several of them attempt to demonstrate how individual components of international human rights (e.g., right to political participation, right to education, etc.) have either corresponding rights, duties or some supportive elements in Islamic texts and traditions.³⁴

On the other hand, 'Abdolkarim Soroush notes that, in general, religions (not only Islam) are not right-based but duty-oriented, and he rejects the notion that duties embedded in religious sources would inform human rights. Referring to human rights as extrareligious concepts, however, does not lead him to conclude that human rights are incompatible with Islam. He asserts that "religious scholars cannot afford to be oblivious to [extrareligious] knowledge" since "basic religious values such as truth, justice, humanity, public interest, and so on are integral to non-religious value systems as well" and "a religion that is oblivious to human rights . . . is not tenable in the modern world."³⁵

Yet, even those who contend that the Qur'an and Islamic traditions recognize human rights also agree that Muslims have failed to follow them.³⁶ Abdul Aziz Said provides a list of human rights precepts that are required by Islam and *should be regulated by a proper Islamic political system*: affirmation of human dignity, unity of humankind, protection of minorities, assertion of freedom of conscience, collective obligation for public welfare, application of justice, sanctity of life, immunity for property and privacy, requirement for knowledge and responsibility for future generations.³⁷ Similarly, Tariq Ramadan argues that it is possible to detect elements relating to human rights "from the centre of Islamic legislation, from the *Shari'a*," including "the right to life, freedom, equality, non-discrimination, justice, asylum, and the right to liberty of conscience, etc."³⁸ Stressing the liberal

32. ARAT, HUMAN RIGHTS, *supra* note 31; Arat, *Forging*, *supra* note 31.

33. Charles Kurzman, *Liberal Islam: Prospects and Challenges*, 3 MIDDLE EAST REV. OF INT'L AFF. 11 (1999); LIBERAL ISLAM: A SOURCE BOOK (Charles Kurzman ed., 1998).

34. Abdullahi Ahmed El Naeim, *A Modern Approach to Human Rights in Islam: Foundations and Implications for Africa*, in HUMAN RIGHTS AND DEVELOPMENT IN AFRICA 75 (Claude E. Welch & Ronald I. Meltzer eds., 1984); Riffat Hassan, *Rights of Women Within Islamic Communities*, in RELIGIOUS HUMAN RIGHTS IN GLOBAL PERSPECTIVE: RELIGIOUS PERSPECTIVES 361 (John Witte, Jr., & Johan D. van der Vyver eds., 1996); MAJID KHADDURI, THE ISLAMIC CONCEPTION OF JUSTICE (1984); Maqbul Illahi Malik, *The Concept of Human Rights in Islamic Jurisprudence*, 3 HUM. RTS. Q. 56 (1981).

35. REASON, FREEDOM, AND DEMOCRACY IN ISLAM: ESSENTIAL WRITINGS OF ABDOLKARIM SORUSH 127–28 (Mahmoud Sadri & Ahmad Sadri eds. & trans., 2000).

36. Sami A. Aldeeb Abu-Sahlieh, *Human Rights Conflicts Between Islam and the West*, 9 THIRD WORLD LEGAL STUD. 257 (1990); TARIQ RAMADAN, ISLAM, THE WEST AND THE CHALLENGES OF MODERNITY 97–104 (2001); MAYER, *supra* note 16.

37. Abdul Aziz Said, *Precept and Practice of Human Rights in Islam*, 1 UNIVERSAL HUM. RTS. 63, 65–68 (1979).

38. RAMADAN, *supra* note 36, at 101.



trends in Islamic political theory, Ahmad S. Moussalli acknowledges the mixed messages and heritage:

While the history of the highest Islamic political institution, the caliphate, is mostly a history of authoritarian governments, the economic, social, political, and intellectual history of Islam abounds with liberal doctrines and institutions. In classical and medieval Islamic political thought, there are comparable doctrines of equality, freedom, and justice, older and much more universal than those subsequently developed by traditional Islamic thought.³⁹

The diversity in the opinion of analysts who examine the Islamic position on human rights can be attributed to the diversity of Islam, which has been influenced by different cultures and has produced cultural practices and schools of thought that varied over time and place. One attempt to separate what is Islamic from later external influences has been to review the original and most venerated source of Islam: the Qur'an. The authenticity of the Qur'an is accepted by all Muslims. However, even the Qur'an yielded multiple interpretations that differ depending on the historical and social contexts, and the ideology of the interpreter.

Noting the wide array of Islamic interpretations of human rights, Mahmoud Mohamed Taha and his student Abdullahi Ahmed An-Na'im suggest an alternative exegesis that makes the Qur'an highly compatible with international human rights.⁴⁰ According to An-Na'im, if people are pressed to choose between their faith, which is an important aspect of their identity, and some neutral or abstract notion of human rights or justice, they will choose the former. To achieve global justice, however, An-Na'im contends that establishing a link between faith and internationally recognized human rights is crucial. In order to have a continuous dialogue, he writes, "we must pursue a strategy of *internal transformation* of perceptions of the religion, culture, or ideology in question to achieve a reconciliation between belief systems."⁴¹

In reference to Islam, An-Na'im proposes following Taha's alternative method of exegesis, which follows that "the Qur'an itself contains two messages, one intended for immediate application within the historical context of the seventh century and after and another message for subsequent implementation as the circumstances of time and place permit."⁴² Separating the message of the Qur'an between those revealed in the earlier Mecca

39. AHMAD S. MOUSSALLI, *THE ISLAMIC QUEST FOR DEMOCRACY, PLURALISM, AND HUMAN RIGHTS* 3 (2001).

40. MAHMOUD MOHAMED TAHA, *THE SECOND MESSAGE OF ISLAM* (Abdullahi Ahmed An-Na'im trans., 1987); ABDULLAHI AHMED AN-NA'IM, *MUSLIMS AND GLOBAL JUSTICE* (2011) [hereinafter *GLOBAL*]; ABDULLAHI AHMED AN-NA'IM, *ISLAM AND THE SECULAR STATE: NEGOTIATING THE FUTURE OF SHARI'A* (2008); ABDULLAHI AHMED AN-NA'IM, *TOWARD AN ISLAMIC REFORMATION: CIVIL LIBERTIES, HUMAN RIGHTS, AND INTERNATIONAL LAW* (1990) [hereinafter *REFORMATION*].

41. AN-NA'IM, *GLOBAL*, *supra* note 39, at 183.

42. *Id.* at 193.



period from the later Medina one, Taha and An-Na'im argue that the current understandings of the *Shari'a* is based on revelations and *sunna* (practice/tradition) from the Medina period, which abrogated the more egalitarian and humanistic message of the Mecca period, because the social and political conditions, as well as the psychology and mental attitude of the early Muslims, could not allow the implementation of the radical egalitarian message. Thus, they propose, "reversing the process of *naskh* (abrogation)" and allowing "those texts which were abrogated in the past" to be revived as the basis of law or moral guidance.⁴³ An-Na'im further stresses that although the Qur'an introduces the divine message, what is accepted as *Shari'a* is a human interpretation of that message that varies according to the interpreter. Consequently, he invites all individual believers to "reconsider their human interpretation of Shari'a in the present context of their own societies, rather than attempt to superimpose the universality of human rights over what Muslims believe to be required by Shari'a."⁴⁴

This study, inspired by An-Na'im's emphasis on the need to establish bridges between belief systems and philosophies and his invitation to engage in a dialogue, examines the overlap between the Qur'an and IBR. However, also subscribing to the notion that the human rights struggle is essentially a *power struggle*, I examine the IBR and the Qur'an with attention to what they convey regarding the concentration and dispersion of power and its sources. In this article, I focus on economic power,⁴⁵ but a brief overview of the three dimensions of power that constitute the analytical framework would be helpful.

III. THE THREE DIMENSIONS OF POWER AND THE IBR

In an earlier study, I claim that there is a distinct ideology of human rights embedded in the IBR and analyze that ideology on three dimensions of

43. AN-NA'IM, REFORMATION, *supra* note 40, at 56; In an earlier study on women's rights in the Qur'an, I follow a different path but concur with Taha and An-Na'im. See Zehra F. Arat, *Women's Rights in Islam: Revisiting Quranic Rights*, in HUMAN RIGHTS: NEW PERSPECTIVES, NEW REALITIES 69 (Adamantia Pollis & Peter Schwab eds., 2000). Noting that at the spiritual level (regarding '*ibadat*'), the Qur'an recognizes *all* human beings as equals, regardless of sex, race, and class, but the verses related to worldly transactions and social relations (*mu'amalat*) include discriminatory elements, I propose taking the spiritual references as policy guidelines. This matches the proposal by Taha and An-Na'im, because the Meccan revelations usually deal with faith and '*ibadat*', while the Medine verses are mainly concerned with social functions and transactions.

44. AN-NA'IM, GLOBAL, *supra* note 40, at 29.

45. Employing a *power approach* makes this study different from those that examine Islamic economic theory or its implementation in past and present. For example, see SAYED KOTB, SOCIAL JUSTICE IN ISLAM (John B. Hardie trans., 1970); Timur Kuran, *Islamic Economics and the Islamic Subeconomy*, 9 J. ECON. PERSP. 155 (1995).



power—social, political, and economic.⁴⁶ I define these three dimensions of power (for any ideology or belief system) as follows:

The Social Dimension of Power concerns social inclusion and acceptance, and thus it refers to the ideology's posture on *discrimination*. "It can range from the rejection and repression of different groups for the sake of creating homogenous or 'pure' societies to the recognition of differences and incorporation of different groups with equal rights and as full participants."⁴⁷

The Political Dimension of Power denotes the ideology's position on the *state*, exploring:

if there is a need for a central and continuous authority and how that authority should be exercised. Ideological positions may range from the advocacy of a strong state involving centralized and concentrated political power in the hands of one or few to seeking societies without state in which the political power is widely dispersed. In between, there lie arguments in favor of state with various degrees of control over individual rights, as well as various degrees of individual access to authority and participation in decision-making.⁴⁸

The Economic Dimension of Power refers to the position on *property*, which involves:

the attitude toward the ownership of the means of production and the control over the use of such property. It ranges from promoting individual ownership and control of property to calling for the elimination of private property in favor of different forms of public/collective ownership. The *control* over the use of property and production process is as important as ownership, since the control of property (capital) is directly linked to the control of resources and labor.⁴⁹

The backbone of the human rights ideology articulated within the IBR is founded in universalism and anti-discrimination. On the social dimension of power, the IBR emphasizes equality in dignity and calls not for mere tolerance but for the full recognition of all individuals.⁵⁰ On the political dimension of power, I define the human rights ideology of the IBR as *étatist*. Calling for a strong state, the text also requires the state not only respect and protect human rights, but also to operate as an open system of politics with dispersed authority that ultimately reflects the will of people.⁵¹

On the economic dimension of power, the IBR appears ambiguous. Its earliest component, the UDHR, recognizes the right to own property—both individually and collectively. This right, however, is later omitted in the ICESCR. All three components of the IBR oppose production systems that depend on slavery and serfdom, but they do not take a clear position on capitalism and wage labor.⁵²

46. Arat, *Human Rights Ideology and Dimensions of Power*, *supra* note 9.

47. *Id.* at 910.

48. *Id.*

49. *Id.*

50. *Id.* at 915–19.

51. *Id.* at 919–21.

52. UDHR, *supra* note 8, art. 17; ICESCR, *supra* note 8, pmb1; ICCPR, *supra* note 8, art. 8.



Although the IBR falls short of prescribing a specific economic system, the emphasis placed on equality in dignity and several rights included in both the UDHR and the ICESCR—the rights to work, to a standard of living adequate for the health and well-being of individuals and of their family, to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood, to just and favorable conditions of work, to rest and leisure, to free education, to medical care and necessary social services, etc.—are more than implicit for the *purpose* of production and features of the production process.⁵³ While the common understanding of the IBR tends to take its position on property at face value and considers it to be neutral on property ownership, examining the recognized rights in relation to each other reveals a different position. In this reading, regardless of the prevailing type of property ownership, the use of property and the production process are “subject to *considerable constraints*.”⁵⁴ In other words, the IBR calls for measures that would restrict the owner’s control over the property and production process, and thus would prevent the deterioration of wage-labor into a state of indignity. The list of social and economic rights, ranging from the right to “favourable remuneration ensuring for himself and his family an existence worthy of human dignity,”⁵⁵ to the right to rest and the right to periodic holidays, would restrict the content of the contract between the employer (private individual or public company) and the worker. In market economies, this would mean that market forces would be allowed to determine the value of labor only above a certain level that is considered essential to maintain human dignity and the healthy existence of individuals and their families.

IV. ECONOMIC POWER, JUSTICE AND PROPERTY RIGHTS IN THE QUR'AN

Believed to be the actual word of God conveyed to Prophet Mohammad by the Arc Angel Gabriel during a twenty-three-year period between 610 and 622, the Qur'an has remained as the highest authority and been central to all Islamic traditions. It has been treated as the primary source of both Islam as a religion (*ad-din*) and the Islamic Law (*al-Shari'a*). However, as already pointed out, neither the practice of religion nor the Islamic Law has been uniform. Although the interpretation of the text has varied depending on the time, place and the person, the authenticity of the text is never questioned (unlike some other sources of the religion, such as the stories and sayings attributed to Prophet Mohammad that were compiled about two centuries

53. See UDHR, *supra* note 8, for a summary and detailed provision in the Covenants. Taken together, these provisions reveal a philosophy that treats rights as more than opposites of wrongs, mandating a *dignified life* that requires material and other resources.

54. Arat, *Human Rights Ideology*, *supra* note 9, at 923.

55. UDHR, *supra* note 8, art. 23.



after his death). Thus, this study limits the analysis to the Qur'an, as the foundational text that is accepted by all Muslims and is expected to inform and guide all followers of the faith.

What is the message of the Qur'an on economic justice and rights? In this section, I address this question by offering a systematic analysis of the conceptualization of property and prescriptions about its proper use. In addition to highlighting the relevant verses of the Qur'an, I incorporate similar observations noted by other analysts in other contexts.

A. Property Ownership

Although the Qur'an recognizes individual ownership of property, the ownership is not absolute, and how it can be accumulated and used is subject to restrictions. The actual ownership belongs to God. Human beings are entrusted with the care of wealth on earth, both provided by nature (God) and produced by human labor. Several verses remind of the divine creation (e.g., 1:2 and 2:29) and reiterate the divine ownership of the worlds:⁵⁶

Do you not know that to Allah belongs the dominion of the heavens and the earth and [that] you have not besides Allah any protector or any helper? (2:107)

To Him belongs what is in the heavens and what is on the earth and what is between them and what is under the soil. (20:6)⁵⁷

Among all divine creations, however, human beings hold a special position. First, many of God's creations, including the sun, the moon, stars, nights and days (4:33, 16:12), seas that offer tender meat and ornaments (16:14), ships running through them (16:14, 45:12, 22:65), and "whatever is on the earth" (22:65), are offered for the *benefit* and *use* of humans. Human beings are invited to "seek His bounty" (16:14, 45:12) and enjoy all that God owns and rules: "It is He who made the earth tame for you—so walk among its slopes and eat of His provision—and to Him is the resurrection" (67:15).

Second, among all divine creatures, humans are the ones assigned a special responsibility. Although the owner of everything is God, humankind (*insan/nas*) is selected to serve as God's trustee (*khalifa*, successors/viceregent), as indicated in verse 6:165, among others: "[a]nd it is He who has made you successors upon the earth and has raised some of you above

56. In addition to the translations by Ghali, Muhsin Khan, Pickthall, Shakir, Yusuf Ali and Sahih International posted at quran.com, the hard copies of the English translations by Arberry, Fakhry, Dawood, and Khalidi, the Turkish translation by Ismail Hakki Izmirli, and Azerbaijani and Turkish translations also posted on quran.com were consulted. Sahih International is employed throughout the article, unless it is noted otherwise. See THE NOBLE QUR'AN (2016).

57. See also Qur'an verses 10:55, 20:26, 30:36, 57:2, 57:5, 57:9, 6:141.



others in degrees [of rank] that He may try you through what He has given you." Yet, the Qur'an also notes that human beings were not the first or the best choice, but they appeared as willing and thus accepted the Trust:

Indeed, we offered the Trust to the heavens and the earth and the mountains, and they declined to bear it and feared it; but man [undertook to] bear it. Indeed, he was unjust and ignorant. (33:72)

The imperfections of human beings are addressed in another verse, in reference to the angels' questioning the suitability of humans for the important responsibility of the trustee:

[W]hen your Lord said to the angels, "Indeed, I will make upon the earth a successive authority." They said, "Will You place upon it one who causes corruption therein and sheds blood, while we declare Your praise and sanctify You?" Allah said, "Indeed, I know that which you do not know." (2:30)

Abdulaziz Sachedina notes that while the Qur'an "reveals the human's vulnerability to satanic temptation and ensuing misguidance,"⁵⁸ all human beings are also honored with the "noble nature" or dignity (*karamah*), "endowed with an innate scale with which they can weigh the rightness and wrongness of their conduct," and have the "capacity for learning from past destructiveness."⁵⁹

The Trust is placed collectively upon humanity but is expected to be carried out individually. Thus, human beings are not only allowed to hold property individually but also to pass it to their offspring and other kin. In other words, in addition to property ownership, the Qur'an recognizes the right to inheritance: "[w]e have made heirs to what is left by parents and relatives. And to those whom your oaths have bound [to you]—give them their share. (4:33).

B. Economic and Social Inequalities

While God provides for all people and invites them to freely enjoy His bounty, shares of the wealth are not distributed evenly. In fact, the unequal distribution of wealth and property is presented as the will of God. As the actual possessor of the great bounty, "He gives to whom He wills" (57:21, 57: 29), and some gifts "exceed others" (4:32, 4:34). Since the inequality in wealth and rank is purposeful, how the advantaged people dispose of their wealth is subject to God's judgement: "it is He who has made you successors upon the earth and has raised some of you above others in degrees [of rank] that He may try you through what He has given you" (6:165). They are

58. SACHEDINA, ISLAM, *supra* note 18, at 48.

59. *Id.* at 50.



reminded to be mindful of God's will and avoid self-serving accumulation: "It is We who have apportioned among them their livelihood in the life of this world and have raised some of them above others in degrees [of rank] that they may make use of one another for service. But the mercy of your Lord is better than whatever they accumulate" (43:32).

Inequalities among God's creations exist in the terms of their devotion to God and abilities, including each individual human being's knowledge and ability to judge. Believers are advised not only to ask "[a]re those who know equal to those who do not know?" (39:9), but also to act cognizant of differences. For example, lacking the ability to judge properly, the feeble-minded (*shufaha*) are not trusted with property ownership. Instead, their wellbeing and care are put under the protection of the able ones:

And do not give the weak-minded your property, which Allah has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness (4:5).

The Qur'an does not oppose class differences, the unequal distribution of wealth and income between men and women, or owning slaves.⁶⁰ Prescribing retaliation (*qisas*) in settling some conflicts between clans, a verse spells out various social divisions and inequalities: "O you who have believed, prescribed for you is legal retribution for those murdered—the free for the free, the slave for the slave, and the female for the female" (2:178).

Similarly, slavery is not only treated as a given, but the inequality between a slave and his/her master, in terms of their social position, wealth, and power, is stated explicitly by stressing the inequalities that exist between a free person and God (16:75 and 30:28). However, showing mercy toward slaves and helping them acquire freedom is prescribed as charitable acts (discussed later in the article). The social position of a person who committed a public offense is also taken into consideration in devising penalties, and leniency is shown toward those who are deemed less powerful.⁶¹

60. Thus, referring to the social dimension of power, there appears to be a discrepancy between the Qur'an and IBR, which upholds non-discrimination in all areas. This social dimension needs a separate and comprehensive analysis. Taha, for example, refers to slavery, along with inequality between men and women, polygamy, the veil (*al-hijab*), and segregation of men from women, as an unoriginal precept in Islam. See TAHA, *supra* note 40, at 137–45.

61. The punishment of an adulterous woman, for example, varies according to her social status. While wives of the Prophet would deserve double the punishment compared to an ordinary female believer, only half of her punishment is deemed appropriate for a slave woman (33:30 and 4:25). Riffat Hassan interprets these differentiations by social status as a manifestation of God's compassion for the socially disadvantaged. See Hassan, *supra* note 34, at 373–374.



C. Work for a Living and for God

Scholars agree that Islam proposes a purposeful and value-oriented life.⁶² The Qur'an speaks against being idle. One is expected to work for God, and that work entails both laboring to make a living and engaging in acts of remembering God, such as prayers and giving alms: "[a]nd when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed."(62:10)

While the world is offered to human beings, and they are allowed to enjoy God's bounty, everything possessed by human beings on earth is noted to be temporary. The "worldly life" is deemed an "enjoyment of delusion" and "amusement and diversion" (57:20, 6:32, 47:36). Nevertheless, one is not required to focus only on prayer. Among the legitimate reasons for diversion from praying is "seeking the bounty of Allah," but the fruit of such efforts is expected to be shared with others through charitable acts:

Indeed, your Lord knows, [O Muhammad], that you stand [in prayer] almost two thirds of the night or half of it or a third of it, and [so do] a group of those with you. And Allah determines [the extent of] the night and the day. He has known that you [Muslims] will not be able to do it and has turned to you in forgiveness, so recite what is easy [for you] of the Qur'an. He has known that there will be among you those who are ill and others traveling throughout the land seeking [something] of the bounty of Allah and others fighting for the cause of Allah. So recite what is easy from it and establish prayer and give zakah and loan Allah a goodly loan. And whatever good you put forward for yourselves—you will find it with Allah. It is better and greater in reward. (73:20)

The balance between worldly engagements and spiritual life, combined with the requirement to serve others as an expression of devotion to God, is interpreted by Sayed Kotb as an essential and unique characteristic of Islam. Comparing Christianity and Islam, Kotb claims that Christianity is "essentially ascetic" and seeks only spiritual salvation.⁶³ Thus, with the rise of capitalism, Christianity has served as "an opiate for the masses," and "the laboring classes who contemplate a class struggle have concluded that religion will not serve their cause in that struggle."⁶⁴ On the other hand, there are "no good grounds for any hostility between Islam and the thought of social justice, such as the hostility that persists between Christianity and Communism. For Islam . . . establishes the claim of the poor to the wealth of the rich."⁶⁵ Kotb further adds that Islam "join[s] together the world and

62. M. Umer Chapra, *The Islamic Welfare State and its Role in the Economy*, in *STUDIES IN ISLAMIC ECONOMICS* 143 (Khurshid Ahmad ed., 1980); KOTB, *SOCIAL JUSTICE IN ISLAM*, *supra* note 45.

63. KOTB, *SOCIAL JUSTICE IN ISLAM*, *supra* note 45, at 9.

64. *Id.* at 7.

65. *Id.* at 14.



the faith by its exhortations and laws;" it "unite[s] earth and Heaven in one spiritual organization,"⁶⁶ because "Islam believes in the unity of body and soul in the individual, and in the unity of the spiritual and the material in life."⁶⁷ In this unity, Kotb sees Islam offering a complete answer, while both Christianity and Communism fail in this regard, due to their rejection of materialism and spirituality, respectively.⁶⁸

The Arabic word *eamal* (عمل), which can be translated as work, labor, job, business, deed, or act, is mentioned in the Qur'an both in reference to work as labor, as well as to acts carried out toward fulfilling religious obligations (e.g., 9:105). This dual reference in relation to charitable acts will be revisited in a subsequent section.

D. Dispersion of Wealth and Property

While private ownership of property and its unequal distribution are permissible, there are certain provisions within the Qur'an that favor dispersion of property and wealth instead of their concentration in the hands of few. This preference is evident in verses that refer to the inheritance rights, as well as those that prescribe what Muslims should do and should not do.

1. Inheritance Rights

The fourth Chapter (*surah*) of the Qur'an includes a few verses that provide a very detailed description of who can inherit from whom and in which proportions. These verses are significant for illustrating the *distributive spirit* of the divine message:

Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children—you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise. (4:11)

And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any bequest they

66. *Id.* at 7.

67. *Id.* at 30.

68. *Id.* at 24 and 30–32. Liberation Theologians would disagree with Kotb's depiction of Christianity, since they see the message of Jesus as pro-poor and God siding with the laborers against capitalism and imperialism. See LEONARDO BOFF & CLOVDIS BOOF, *INTRODUCING LIBERATION THEOLOGY* (Paul Burns trans., 1987).



[may have] made or debt. And for the wives is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you [may have] made or debt. And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, as long as there is no detriment [caused]. [This is] an ordinance from Allah, and Allah is Knowing and Forbearing. (4:12)

They request from you a [legal] ruling. Say, "Allah gives you a ruling concerning one having neither descendants nor ascendants [as heirs]." If a man dies, leaving no child but [only] a sister, she will have half of what he left. And he inherits from her if she [dies and] has no child. But if there are two sisters [or more], they will have two-thirds of what he left. If there are both brothers and sisters, the male will have the share of two females. Allah makes clear to you [His law], lest you go astray. And Allah is Knowing of all things. (4:176)

Inheritance rights are not limited to close kin but are extended to those who might have been cared for by the deceased, regardless of their blood ties. Believers are told: "[a]nd when [other] relatives and orphans and the needy are present at the [time of] division, then provide for them [something] out of the estate and speak to them words of appropriate kindness" (4:8).⁶⁹

In addition to the distributive inheritance rules, examining both the Qur'an and practices of Muslims over the years, M. Raquibuz Zaman identifies *zakat*, the required levy to purify wealth, and at least ten other types of voluntary charity among the Islamic ways of promoting economic justice.⁷⁰ The following sections include some of these Qur'anic guidelines on the proper use of property.

2. Prescriptions on the Proper Use of Property

A considerable number of acts prescribed to Muslims as good deeds or declared as what they should avoid are related to the disposal of property and wealth, which would have redistributive consequences. Such good deeds

69. Although inheritance rights have not been fully implemented in subsequent Muslim communities—especially for women, who are frequently denied this right—Timur Kuran views this principle of *dispersion* of property, as opposed to concentration, as a factor contributing to the lack of development in the Muslim world. See TIMUR KURAN, *THE LONG DIVERGENCE: HOW ISLAMIC LAW HELD BACK THE MIDDLE E.* 78–79 (2011).

70. They include: giving away goods or money beyond the required *zakat* (*Al Sadaqah*); religious endowments (*waqf*); sacrifice of animals during the 'Id al Adha (the holiday that follows the month of Hajj/pilgrimage to Mecca); charity for atonement (*Kaffarah*); the law of mutual aid (*Al Musa'adah*); the blood money that must be paid for accidentally killing another person (*Diyah*); the law of hospitality (*Al Diyafah*); the law of sharing (*Al Musharakah*); the law of acting in kindness (*Al Ma'un*); and the use of *Bait al Mal* (public treasury) to assist the debtor or the needy. See M. Raquibuz Zaman, *Economic Justice in Islam, Ideals and Reality: The Cases of Malaysia, Pakistan, and Saudi Arabia*, in ISLAMIC IDENTITY AND THE STRUGGLE FOR JUSTICE 47, 52–55 (Nimat Hafez Barazangi, M. Raquibuz Zaman, & Omar Afzal eds., 1996).



include: (a) required almsgiving (*zakaat*), (b) charity as atonement (*kaffaratu*), (c) voluntary charitable giving, and (d) taking care of others, financially and other ways. These can be collectively referred to as charitable acts and there are over 100 verses in the Qur'an that call for or promote *charitable giving*.

(a) Zakat: The Required Almsgiving:

Zakat, included among the five pillars of Islam, is the *required annual alms giving*.⁷¹ All Muslims are expected to give what is traditionally set as about 2.5 percent of their wealth annually. A verse in Surah 9 indicates the designated categories of *zakaat* recipients:

Zakah expenditures are only for the poor and for the needy and for those employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler—an obligation [imposed] by Allah. And Allah is Knowing and Wise. (9:60)⁷²

A subsequent verse in the same chapter orders the Prophet to be proactive in the distribution of *zakaat*. In addition to encouraging the believers to impart their wealth, he is called upon to collect and redistribute them: “[t]ake, [O, Muhammad], from their wealth a charity by which you purify them and cause them increase and invoke [Allah’s blessings] upon them. Indeed, your invocations are reassurance for them. And Allah is Hearing and Knowing” (9:103).

The Qur'an also addresses the believers directly to remind them of their *zakaat* obligation. Several verses reiterate that as Allah “causes gardens to grow” with a variety of produce, the believers should “[e]at of [each of] its fruit when it yields and give its due [zakah] on the day of its harvest. And be not excessive” (6:141). They are told: “seek, through that which Allah has given you . . . and [yet], do not forget your share of the world. And do good as Allah has done good to you. And desire not corruption in the land. Indeed, Allah does not like corrupters” (16:71). Those who are generous with their wealth and give *zakaat* are included among the righteous:

Righteousness is not that you turn your faces toward the east or the west,⁷³ but [true] righteousness is [in] one who believes in Allah, the Last Day, the angels, the Book, and the prophets and gives wealth, in spite of love for it, to relatives, orphans, the needy, the traveler, those who ask [for help], and for freeing slaves; [and who] establishes prayer and gives zakah; [those who] fulfill their promise when they promise; and [those who] are patient in poverty and hardship and

71. Others include: the proclamation of faith—“there is no God but Allah, and Mohammad is his messenger”—five daily prayers, fasting during the month of Ramadan, and pilgrimage to Mecca during the month of Hajj, if one is physically and financially able to make the journey and carry out the rituals.

72. The words “zakaat” and “zakah” are alternative transliteration of the same Arabic word.

73. This is a reference to praying.



during battle. Those are the ones who have been true, and it is those who are the righteous. (1:177)

Some analysts treat the requirement of almsgiving as a corollary of the right to social security.⁷⁴ In fact, the word "right" (*haqq*, حق) is used in a verse indicating that the poor and the deprived, who ask for help or not, have the right to a share of the property owned by the wealthy: "[a]nd from their properties was [given] the right of the [needy] petitioner and the deprived" (51:19). Indeed, it is known that Prophet Mohammad collected *zakat* and distributed it, along with the booties of war, to the needy. Following his practice, subsequently established Islamic states treated *zakat* as a tax "to be collected for a specific [social welfare] purpose and must be spent in a certain manner" and established special departments to collect it.⁷⁵ In fact, Tariq Ramadan objects to the translation and treatment of *zakat* as "charity." According to Ramadan, *zakat* is "the purifying social tax."⁷⁶ As an obligation before God, "[t]his levying 'purifies' on the religious, sacred and moral plane, the property of the one who possesses it."⁷⁷ Similarly, Kotb refers to *zakat* as "the poor-tax" that is "to be taken as a right, and is not to be given as a charity."⁷⁸

(b) Giving as an Atonement for Failing in Obligations to God (*Kaffaratu*)

While *zakat* is an obligation that is explicitly directed at helping the needy by redistribution of wealth, Muslims are also required to use their financial means to help others if they offend God by breaking their oaths or violating the divine rules. The preferred expiation for breaking oaths is "feeding of ten needy people from the average of that which you feed your [own] families or clothing them or the freeing of a slave," but fasting for three days is offered as a substitute if the person in violation lacks the financial means (5:89). For the offense of killing game "in the state of *ihram*"⁷⁹ intentionally, "the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering [to Allah] delivered to the Ka'bah, or an expiation: the feeding of needy people or the equivalent of that in fasting" (5:95).⁸⁰

74. See, e.g. ABED AL-JABRI, *supra* note 15, at 245–48.

75. ABDUL MALIK A. AL-SAYED, *SOCIAL ETHICS OF ISLAM: CLASSICAL ISLAMIC-ARABIC POLITICAL THEORY AND PRACTICE* 181 (1982).

76. RAMADAN, *supra* note 36, at 139.

77. *Id.*

78. KOTB, *SOCIAL JUSTICE IN ISLAM*, *supra* note 45, at 44. For additional discussion on *zakat*, see *id.*, at 73–81, 133–37, 286.

79. Being in the state of *ihram* refers to the time of pilgrimage to Mecca. On charity as expiation, see also Qur'an verse 5:45.

80. "Two just men" can be more accurately translated as "two people possessing a sense of justice."



(c) Voluntary Charitable Giving

While the amount required for *zakat* is traditionally set at approximately 2.5 percent of the wealth accumulated in a year, there is practically no limit to voluntary contributions. For example, a verse addressing the Prophet states: “[a]nd they ask you what they should spend. Say, ‘The excess [beyond needs]’” (2:219).

As believers are expected to spend what they have—their person and wealth—for the cause of God, God makes a distinction between those who are actively striving for God (*mujahideen*) and those who are being inert or ungenerous:

Not equal are those believers remaining [at home]—other than the disabled—and the mujahideen, [who strive and fight] in the cause of Allah with their wealth and their lives. Allah has preferred the mujahideen through their wealth and their lives over those who remain [behind], by degrees. And to both Allah has promised the best [reward]. But Allah has preferred the mujahideen over those who remain [behind] with a great reward (4:95).

It is repeatedly noted that good Muslims are the generous ones (70:24–25 and 51:15–19), who “spend out of what We have provided for them” (2:3). As Allah provided for all people while favoring some “over others in provision,” the favored ones are scorned if they “would not hand over their provision to those whom their right hands possess”⁸¹ and questioned: “[t]hen is it the favor of Allah they reject?” (16:71). Instead of being “self-deluding and boastful,” the believers are told to do good to parents, as well as “to relatives, orphans, the needy, the near neighbor, the neighbor farther away, the companion at your side, the traveler, and those whom your right hands possess” (4:36), to “feed the miserable and poor” (22:28), and to “do good as Allah has done good to you” (28:77).⁸²

In light of these verses, one can only agree with Khurshid Ahmad, who joins Ahmad al-Naggar, in concluding that in Islam:

Nothing that a man uses (as a consumer or as a producer) is morally free, even if it is economically free. It must be paid for by being thankful to its Creator and Owner, i.e. we must be mindful of Him in its use, and share some of its fruits with other rightful claimants.⁸³

Likewise, Zaman notes that “by urging Muslims to give generously in charity,” they are reminded “of their obligation to God, who is the ultimate owner and source of all resources.”⁸⁴

81. What one’s “right hands possess” means one’s slaves.

82. See Qur’an verses 76:6–9, 57:7, 57:10, 2:261, 2:265.

83. Anas Zarqa, *Islamic Economics: An Approach to Human Welfare*, in *STUDIES IN ISLAMIC ECONOMICS* 13, *supra* note 62, at 3, 13.

84. Zaman, *supra* note 70, at 53.



Those who put what they have into good use, do good deeds and pay *zakat* are promised to be rewarded by God: "Indeed, those who believe and do righteous deeds and establish prayer and give *zakah* will have their reward with their Lord, and there will be no fear concerning them, nor will they grieve" (2:277). The rewards include multiplying the amount for those who "loaned Allah a goodly loan [through charity]," as well as "a noble reward" (57:11 and 57:18).⁸⁵ And the Prophet is told to inform the believer accordingly:

Say, "O My servants who have believed, fear your Lord. For those who do good in this world is good, and the earth of Allah is spacious. Indeed, the patient will be given their reward without account." (39:10).

Money and wealth are intended to be circulated and redistributed, not concentrated, as it is most explicitly stated in a verse that refers to the distribution of the spoils of war:

And what Allah restored to His Messenger from the people of the towns—it is for Allah and for the Messenger and for [his] near relatives and orphans and the [stranded] traveler—so that it will not be a perpetual distribution among the rich from among you. And whatever the Messenger has given you—take; and what he has forbidden you—refrain from. (59:7)

The subsequent verse counts emigrants among those who are entitled to assistance: "[f]or the poor emigrants who were expelled from their homes and their properties, seeking bounty from Allah and [His] approval and supporting Allah and His Messenger, [there is also a share]. Those are the truthful" (59:8).

(d) Taking Care of Others and Being Just

Muslims are instructed to side with the oppressed and fight the oppressor (49:9). The expectation is the "just treatment" of not only the members of the family, the immediate community and Muslims at large, but of the entire humankind, as articulated in verse 17:26: "[s]o give the relative his right, as well as the needy and the traveler. That is best for those who desire the countenance of Allah, and it is they who will be the successful."

Writing extensively on the Islamic concept of justice, Majid Khadduri notes that "[i]n Islam, Divine Justice is enshrined in the Revelation and Divine Wisdom which the Prophet Muhammad communicated to his people."⁸⁶ Verses that encourage caring for others are numerous. Several of those that praise charitable acts are already cited in the previous pages of this article, and many more instruct the believer to be caring and just:

85. On rewards for generosity, see Surah 2, verses 261, 262, 265, 274. Also note "[a]nd know that your properties and your children are but a trial and that Allah has with Him a great reward" (8:28).

86. KHADDURI, *supra* note 34, at 3.



And do not approach the orphan's property except in a way that is best until he reaches maturity. And give full measure and weight in justice. We do not charge any soul except [with that within] its capacity. And when you testify, be just, even if [it concerns] a near relative. And the covenant of Allah fulfill. This has He instructed you that you may remember. (6:152)

Throughout the Qur'an, the phrases of "give full measure when you measure," "weight in justice," and "weight with an even balance" are mentioned repeatedly, in both the literal and metaphorical sense.⁸⁷ The believers are also explicitly warned against corruption,⁸⁸ and are reminded that "[He] who created death and life to test you [as to] which of you is best in deed" (67:2). Oppression and lying are included among forbidden acts:

Say, "My Lord has only forbidden immoralities—what is apparent of them and what is concealed—and sin, and *oppression without right*, and that you associate with Allah that for which He has not sent down authority, and that you say about Allah that which you do not know." (7:33)⁸⁹

An entire Surah (107), the title of which is often translated as "The Small Kindnesses" (*al-Ma'un*), is reserved to warn against those who are indifferent to the plight of orphans and the poor or who refrain from providing assistance to the needy. Being unkind is frequently equated with injustice. The Qur'an employs multiple synonyms of the word "justice" (e.g., *adl*, *qist*, *mizan*), as well as antonyms (e.g., *jawr*, *zulm*), and many of these references stress economic justice.⁹⁰

3. *Objectionable Acts and the Uses of Property That Should be Avoided*

In addition to the desirable attitude and behavior, the Qur'an specifies the acts that Muslims should try to avoid. The end result of some of those prescriptions appears to be spreading the wealth and improving the wellbeing of individuals, who may be members of the community, or strangers.⁹¹ While the accumulation of wealth is not objected, it cannot be the purpose of life and definitely should not be tried through illegitimate means:

"Say, in the bounty of Allah and in His mercy—in that let them rejoice; it is better than what they accumulate." (10:58)

Say, "Have you seen what Allah has sent down to you of provision of which you have made [some] lawful and [some] unlawful?" Say, "Has Allah permitted you [to do so], or do you invent [something] about Allah?" (10:59).

87. See, e.g., Qur'an verses 7:85, 11:84, 11:85, 17:35, 26:181, 26:182, 55:9.

88. See, e.g., Qur'an verses 7:85, 11:84, 26:183.

89. *Oppression without right* can be better translated as "unjust aggression."

90. For brief references to the alternative terminology, see KHADDURI, *supra* note 34, at 5–8.

91. Note multiple references to the traveler and needy as targets of *zakat* and charitable acts.



Fairness and honesty are sought in every action, with emphasis on the use of property and charity. Muslims are called to respect others' property rights, engage in honest business transactions, and avoid bribery for further enrichment: "[a]nd do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]" (2:188, 4:29). Among the improper or illegitimate economic behaviors, we can highlight three: (a) charging interest/usury, (b) hoarding, and (c) exploitation of others' wealth and labor.

(a) Charging Interest/Usury

There are several verses in the Qur'an that oppose usury (*riba*). The believers are told "do not consume usury, doubled and multiplied" (3:130), and those who have already collected usury to "give up what remains [due to you] of interest, if you should be believers" (2:278). *Riba* and *zakat* are treated as opposites, with an emphasis on the latter as the actual "multiplier" by Allah (30:39 and 2:276). As noted by Ramadan, "[o]n divine balance . . . Usury is a loss, while [zakat] is a gain" (2001, 154). Referred to as "consuming of the people's wealth unjustly," usury is considered a sin and forbidden (4:161, 2:276). Needless to say, those who committed this sin are promised a painful punishment:

Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury]—those are the companions of the Fire; they will abide eternally therein (2:275, see also 4:161)

There are two words in the Qur'an that are typically translated as "interest." While the word interest in the above listed verses are translations of *riba*, the word *fa'ida*, is translated as "increase" or "return" and treated as a permissible profit made from sales or lending. The difference between the two appears to be in the amount (*riba* entailing excessive charge) and intention.⁹² However, debates on the application of the varying translations are far from being settled.⁹³

(b) Hoarding

The Qur'an also opposes hoarding, because it would result in unfair accumulation of wealth and prevent money or goods from circulating and improving the welfare of the community members and others. If the severity

92. Zaman, *supra* note 70, at 51–52; KHADDURI, *supra* note 34, at 207–11.

93. RAMADAN, *supra* note 36, at 150–155.



of punishment is an indicator of the gravity of the transgression, hoarding appears to be a serious offense. In addition to the verse that states, “[a]nd those who hoard gold and silver and spend it not in the way of Allah—give them tidings of a painful punishment,” (9:34) several other verses describe the penalty for hoarding as hell or hellfire, sometimes rather graphically: “[t]he Day when it will be heated in the fire of Hell and seared therewith will be their foreheads, their flanks, and their backs, [it will be said], ‘This is what you hoarded for yourselves, so taste what you used to hoard’” (9:35).⁹⁴

Similarly, God opposes being stingy. The Qur’anic references against stinginess can be taken as an encouragement of charity, as well as a sign of abhorrence held toward covetous attitude and behavior, which calls for divine punishment: “[w]ho are stingy and enjoin upon [other] people[s] stinginess and conceal what Allah has given them of His bounty—and We have prepared for the disbelievers a humiliating punishment (4:37).⁹⁵

(c) Exploitation of Others’ Property and Labor

As already indicated, the Qur’an requires Muslims to respect the property of others. In this regard, the inheritance rights of orphans are particularly stressed, and people are repeatedly warned against taking advantage of orphans. The Qur’anic verses that emphasize the protection of orphans and granting their share of inheritance properly are numerous, and some refer to the misappropriation of orphans’ property as “a great sin:”

And give to the orphans their properties and do not substitute the defective [of your own] for the good [of theirs]. And do not consume their properties into your own. Indeed, that is ever a great sin. (4:2)⁹⁶

Another category of people deemed vulnerable and deserving extra protection against injustices are slaves. Several verses call for the charitable treatment of slaves, protection of slave girls and helping slaves to gain their freedom. Owners are not free to treat their slaves as they wish, and they are expected to refrain from using the slave labor for immoral ends:

But let them who find not [the means for] marriage abstain [from sexual relations] until Allah enriches them from His bounty. And those who seek a contract [for eventual emancipation] from among whom your right hands possess—then make a contract with them if you know there is within them goodness and give them from the wealth of Allah which He has given you. And do not compel your slave girls to prostitution, if they desire chastity, to seek [thereby] the temporary interests of worldly life. And if someone should compel them, then indeed, Allah is [to them], after their compulsion, Forgiving and Merciful. (24:33)

94. See, e.g., Qur’an verses 3:180, 9:35.

95. See Qur’an verse 57:24 on stinginess; Qur’an verse 9:75—79 on the punishment of hypocrites who promise to spend from the wealth granted to them but do not and ridicule those who are generously charitable (spending more than the prescribed amount of *zakat*).

96. See Qur’an verses 4:2–3, 4:6, 4:8–10, 4:126–127; 6:152; 17:34; 89:17–19; 107:1.



E. Muslims as Consumers

Muslims are expected to be modest and moderate in their lifestyle and spending habits. They are supposed to avoid being wasteful, conspicuous with their wealth, or stingy. Among those who are considered praiseworthy are “those who, when they spend, do so not excessively or sparingly but are ever, between that, [justly] moderate” (25:67). Several other verses speak against “spending wastefully” (17:26), exulting in pride and being boastful (57:23), and conspicuous consumption:

And [also] those who spend of their wealth to be seen by the people and believe not in Allah nor in the Last Day. And he to whom Satan is a companion—then evil is he as a companion. (4:38)

The Qur'an requires moderation even in donations (17:28–29). A key word that would capture the preoccupation while avoiding the extremes is *wasat*.⁹⁷ Translated as the “middle” or “midway,” the word is typically taken as implying moderation and temperance, but also understood more simply as “justice.” Thus, when the word “*wasat*” in the opening sentence of the verse 2:37 is translated as “just,” it offers a description of the intended character of the Muslim community: “[a]nd thus we have made you a *just* community that you will be witnesses over the people and the Messenger will be a witness over you” (emphasis added).

V. COMPARING ECONOMIC JUSTICE AND RIGHTS IN THE IBR AND THE QUR'AN

A key element in comparing the IBR and the Qur'an is their respective positions on individual rights. Although the IBR generally deals with the rights of individuals, the separation of individual rights from the collectivities in which they are supposed to be claimed and enjoyed is problematic. More importantly, the claims that some cultures or religions are essentially collectivistic and thus incompatible with the international human rights norms that focus on individual rights is unfounded, both theoretically and empirically.⁹⁸ Although engaging in a lengthy debate on these issues is not within the purpose of this study, it is relevant and important to discuss where Islam, as present within the Qur'an, stands on individual rights.

97. Mahmoud Ayoub, *The Islamic Concept of Justice, in* ISLAMIC IDENTITY AND THE STRUGGLE FOR JUSTICE, *supra* note 70, at 19–20.

98. For example, Tatsuo Inoue rejects the notion that individualism and communitarianism are distinct characteristics of Western and Eastern value-systems and asserts that “the tension between individualism and communitarianism runs not between the West and Asia but through both of them.” See Tatsuo Inoue, *Human Rights and Asian Values, in* THE GLOBALIZATION OF HUMAN RIGHTS 116, 128 (Jean-Marc Coicaud, Michael W. Doyle & Anne-Marie Gardner eds., 2003).



A. Individual Rights and Responsibilities in the Qur'an and the IBR

Many analysts who hold the view that Islam is incompatible with the international human rights norms, tend to base their arguments on the notion of individual rights—they focus on the emphasis placed on the Islamic community of believers (*ummah*) and conclude that Islam recognizes collective rights and those collective interests trump individual rights.⁹⁹ Contrary to this rather popular interpretation, I contend that Islam recognizes individual rights (e.g., to inheritance, divorce, etc.) and individual responsibility through fulfillment of the requirements of the religion—like, the five pillars and charitable acts.

There is no doubt the community has been very important in Islamic history and tradition. The indicators of the emphasis placed on community are many: Islamic calendar starts with *hijrah* (the migration from Mecca to Medina) that allowed the formation of *ummah* in Medina, not with the birth of the Prophet, or with the beginning of the revelations; there is also a greater blessing for participating in Friday noon prayers and other congregational prayers and zakat; and, the believers are required and encouraged to seek the welfare of other believers through kind treatment and alms giving. The agreement about Islam's promotion of mutual social responsibility (*al-takaful al-ijtima'i*) often leads to the claims that Islam is either compatible with socialism, embodies a unique form of socialism, or is founded on social justice.¹⁰⁰ Marxist Muslims often cite the Qur'anic verse, "[a]nd We wanted to confer favor upon those who were oppressed in the land and make them leaders and make them inheritors," (28:5) to denote that God is on the side of the working class a revolution by the working class would make the

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99. MAYER, *supra* note 16, at 43–66; Tibi, *supra* note 28, at 289; Donna E. Arzt, *The Application of International Human Rights Law in Islamic States*, 12 HUM. RTS. Q. 202, 206 (1990); Abdul Aziz Said, *Human Rights in Islamic Perspectives*, in HUMAN RIGHTS: CULTURAL AND IDEOLOGICAL PERSPECTIVES 86 (Adamantia Pollis & Peter Schwab eds., 1979).
100. For a review of variant of theoretical arguments (e.g., by Mustafa as-Siba'i, Sayed Qutb) and attempted implementations by politicians, such as Nasser in Egypt or the Ba'ath Party leaders in Syria, see AL-SAYED, *supra* note 75, at 263–68; HAMID ENAYAT, MODERN ISLAMIC POLITICAL THOUGHT: THE RESPONSE OF THE SHI'IT AND SUNNĪ MUSLIMS TO THE TWENTIETH CENTURY 139 (2005); Tamara Sonn, *The Islamic Call: Social Justice and Political Realism*, in ISLAMIC IDENTITY AND THE STRUGGLE FOR JUSTICE 64, 72–74 (Nimat Hafez Barazangi, M. Raquibuz Zaman, & Omar Afzal eds., 1996); Arshi Saleem Hashmi, & Jacques Goudeau, *Islam and Socialism*, in ISLAM AND POLITICAL ECONOMIC SYSTEMS 67 (Abdul Karim Bangura ed., 2011); Ava Aprin & Meaghjan Ehni, *Islam and Social Democracy*, in ISLAM AND POLITICAL ECONOMIC SYSTEMS 87 (Abdul Karim Bangura ed., 2011). For arguments about Islam's compatibility with different economic systems, see ISLAM AND POLITICAL ECONOMIC SYSTEMS (Abdul Karim Bangura ed., 2011). For a comprehensive historical and sociological analysis of capitalism within Islamic tradition, see MAXIME RODINSON, ISLAM AND CAPITALISM (Brian Pearce trans., 1974). It is also appropriate to note that treatment of all socialisms as lacking individualism is not accurate, either. If Marx's earlier writings are taken into consideration, it is clear that the emancipation of the individual laborer is the goal, but achieving that goal requires collective action.



working class God's viceregent/successor on earth.¹⁰¹ Noting "Islamic Law is in favor of the profit motive but against interest on loans," Ali A. Mazrui claims that Prophet Mohammad followed elements of "a mixed economy encompassing both socialist and neo-capitalist tendencies."¹⁰²

What is often overlooked is the fact that rights and responsibilities, as expressed in the Qur'an, on both spiritual and social levels, lie with the individual (with the exception of punishment of capital crimes). Inheritance rights and property ownership are assigned to the individual. Marriage is a contract between two individuals, and the partners keep the ownership of their individual properties separate. Orphans hold their property rights as individuals. Women participate in the legal process as individuals, separate from their husbands—they can sue, or be sued, serve as witnesses, and be parties to contracts.

Performing religious duties is also an individual responsibility. Qur'anic verses are explicit on individual responsibility in paying alms,¹⁰³ attending the mosque and performing prayers.¹⁰⁴ Individuals, as rational beings, are considered not only capable of understanding and interpreting their duties, but they can also perform them without seeking the guidance or blessing of clergy.¹⁰⁵ Like the religious duties that are offered directly to God (e.g., prayers, fasting), the ones that are offered socially, through helping fellow believers and other human beings, are also performed individually. For example, *zakat* is an individual responsibility, not that of a couple or family. The required amount has to be calculated for each adult separately. The amount of alms beyond the required amount, as well as its designee, is left to the individual to decide—and a divine reward is promised to the individual. Multiple verses indicate that obligations are set for the individual believer who will also receive the rewards accordingly,¹⁰⁶ including entering the paradise.¹⁰⁷ Nobody carries the burden of another's act: "[w]hoever is guided is only guided for [the benefit of] his soul. And whoever errs only errs against it. And no bearer of burdens will bear the burden of another" (17:15).¹⁰⁸

Thus, contrary to the common belief, one can argue that Islam, as expressed in the Qur'an, is not a religion against individualism. It embraces

101. The verse appears in a section that relates the injustices committed by the Pharaoh against the Israelites.

102. ALI A. MAZRUI, *CULTURAL FORCES IN WORLD POLITICS* 67 (1990).

103. See Qur'an verse 9:71.

104. See Qur'an verse 7:31.

105. Richard Bulliet considers individualism in Islam as evident in practice. He notes that Muslim individual, throughout history, "has intrinsically enjoyed the freedom to choose his or her authoritative definition of Islam, whether it be grounded in the law, or in the practice of a pious or political leader, or in the traditional usages of his or her community." See Richard W. Bulliet, *The Individual in Islamic Society*, in *RELIGIOUS DIVERSITY AND HUMAN RIGHTS*, *supra* note 27, 175 at 189.

106. See Qur'an verses 3:195, 4:195, 4:32, 11:112, 33:34–35, 57:18,

107. See Qur'an verses 4:124, 9:72, 57:12–13.

108. See also Qur'an verses 6:164, 53:38.



individualism by holding each person responsible to both God and to other members of society. According to Taha, “in Islam the individual is the end. Everything else, including the Qur’an and the religion of Islam itself, are means to that end.”¹⁰⁹ At the same time, however, the Qur’an restricts excessive individualism that leads to the violation of others’ dignity. In other words, it may be more accurate to state that the Qur’an does not treat individualism and collectivism as binary opposites.¹¹⁰ It does not oppose individual rights but rejects the *possessive individualism* of classical Western liberalism, which assumes that the human nature is to be self-centered, atomistic and competitive, as well as the reflection of such individualism in an unrestrained, accumulative and greedy capitalism.¹¹¹ This line of thinking leads Ramadan to conclude that “Islam, in its fundamentals, is radically opposed to the existing liberal economic order.”¹¹²

Similarly, the references to the rights of a person and the emphasis placed on *individual* rights in the IBR cannot be taken as evidence that the human rights ideology of the IBR subscribes to either a classical liberal (e.g., Lockean) or contemporary libertarian notion of individual rights or individualism.¹¹³ Some contemporary liberal analysts see the provisions of the IBR likely to best be fulfilled in a Social Democratic welfare state.¹¹⁴

Moreover, although it is state-centric, the IBR does not exclusively assign the responsibility to respect, recognize or protect human rights to the state. For example, the last paragraph of the preamble of the UDHR holds individuals and groups also responsible:

The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that *every individual and every organ of society*, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.¹¹⁵

109. TAHA, *supra* note 40, at 62.

110. For a discussion of the significance of community for the Muslim individual, see *id.* at 62–112.

111. Lisa Livingood, *Islam and Capitalism*, in ISLAM AND POLITICAL ECONOMIC SYSTEMS, *supra* note 100, at 47.

112. RAMADAN, *supra* note 36, at 145.

113. For a more detailed discussion of this point, see Arat, *Human Rights Ideology*, *supra* note 9.

114. See Rhoda E. Howard & Jack Donnelly, *Human Dignity, Human Rights, and Political Regimes*, 80 AMER. POL. SCI. REV. 801 (1986). For a critique of relying upon welfare state to realize human rights, see Arat, *Human Rights Ideology*, *supra* note , at 928–31.

115. UDHR, *supra* note 8, pmbl (emphasis added).



The first article of the UDHR declares not only that “[a]ll human beings are born free and equal in dignity and rights[,]” but also maintains that “[t]hey are endowed with reason and conscience and should act towards one another *in a spirit of brotherhood*.”¹¹⁶ The first paragraph of Article 29 further explicates the interconnection of rights and duties: “[e]veryone has duties to the community in which alone the free and full development of his personality is possible.”¹¹⁷

Finally, both ICESCR and ICCPR include the line, “Realizing that the individual, *having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,*” at the end of the preamble.¹¹⁸

Thus, contrary to Soroush’s claim that “duties [are] marginal to modern law,”¹¹⁹ international human rights law is copious in state obligations and unambiguous on individual responsibilities. It should be noted that despite insisting that the language of religion is that of duties not rights, Soroush appears to be adjusting his opinion, if not tendering self-contradiction:

They [religious people] concentrate more on what God expects from them . . . ; they look among their duties to find their rights, not vice versa. However, a *greater sensitivity to duties than to rights is not necessarily an antagonism to rights*; it is, rather, a valuable addition to the debate on human rights and a challenge to liberalism’s putative monopoly of this issue.¹²⁰

B. Property Ownership, Labor and Rights

Regarding property ownership, the Qur’an endorses individual ownership and the dispersion of wealth more clearly than the IBR, which has a limited number of direct references to the ownership and control of property. The right to property is addressed only in the UDHR. Article 17 refers to property rights in two paragraphs:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.¹²¹

In addition to recognizing both individual and collective ownership, the UDHR is ambiguous on what is meant by the word “property”—if it refers

116. *Id.* art. 1 (emphasis added).

117. *Id.* art. 29

118. ICESCR, *supra* note 8, pmb1; ICCPR, *supra* note 8, pmb1 (emphasis added).

119. SORUSH, *supra* note 35, at 62.

120. *Id.* at 129–30. Emphasis added.

121. UDHR, *supra* note 8, art. 17.



to personal property or the means of production. This ambiguity is further reflected in the omission of property rights in the International Covenant on Economic, Social and Cultural Rights.¹²²

Addressing property ownership more directly and permitting private ownership (meant as the means of production), the Qur'an is also more explicit than the IBR in seeking the dispersion of property and wealth. While both texts recognize property rights to different degrees, both the Qur'an and the IBR imply a need to place restrictions on the individual or corporate (public or private) use of property.

Throughout the IBR, restrictions are set through a range of defined freedoms and rights. Freedom from slavery and servitude, the rights to work, livable wages, leisure, and other labor rights would directly require restricting and regulating the production processes and relations.¹²³ Other social and economic rights, such as the right to social security, education, shelter, health, and healthcare, implicitly refer to the designated end of production.¹²⁴ Thus, if the state, the main duty bearer in fulfilling and protecting human rights, is serious in realizing these rights, it has to regulate and tax property and production accordingly.¹²⁵

The Qur'an does not offer a list of rights but highlights various conditions and situations—poverty, destitution, unjust treatment of people, indifference toward vulnerable populations, such as orphans, slaves, displaced people—as problems that cannot be ignored or tolerated by believers. Thus, if we borrow the wording of Henry Shue, the Qur'an charges Muslims with the duties of: (1) refraining from depriving people from enjoying their subsistence rights, (2) protecting them from deprivation, and (3) helping the deprived.¹²⁶ By opposing the concentration of wealth, the Qur'an attempts to prevent people from falling into poverty and destitution.

A major difference between the Qur'an and the IBR lies in their treatment of slave labor. The IBR categorically opposes slavery and slave labor both in UDHR and the ICCPR.¹²⁷ Speaking against slavery and servitude, the IBR takes a clear position on certain socio-economic systems, stating "[n]either slave economy nor feudalism is compatible with respect for human rights. Forced labor is considered a violation of human dignity."¹²⁸

122. Lacking such protection in the international human rights law does not mean that property rights are not respected. On the contrary, one may argue that, especially in the Western tradition and thanks to advancement of the neo-liberal economic paradigm at the global level, in practice, private property rights enjoy a more privileged position and stronger protection than all other human rights, while they are often violated in case of collectivities, such as indigenous populations.

123. ICESCR, *supra* note 8, arts. 6–10.

124. *Id.*

125. Arat, *Human Rights Ideology*, *supra* note 9, at 922.

126. HENRY SHUE, *BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY* 52 (2d ed. 1996).

127. UDHR, *supra* note 8, art. 4; ICCPR, *supra* note 8, art. 8.

128. Arat, *Human Rights Ideology*, *supra* note , at 921.



The Qur'an, on the other hand, appears to take slavery as a given and offers no direct objection. However, various verses place restrictions on enslavement, call for just treatment of slaves and encourage manumission, which indicates a lack of endorsement. Taha refers to slavery as "not an original precept in Islam."¹²⁹ Other scholars tend to treat slavery as an institution that Islam has sought to dissolve gradually.¹³⁰ Considered a thing of the past, slavery is not even addressed in more recent writings.¹³¹

The Qur'anic references to slavery, however, offer some guidance for the contemporary work environment. The verses that promote the just and kind treatment of slaves (the core of the labor force in the seventh century Arabia), along with those that tell believers to "give full measure when you measure,"¹³² can be taken as obligations of the employer toward fulfilling the contemporary labor rights.

C. Differences in Historical Contexts, Social Structures and Enforcement Mechanisms

While the end goal of both the IBR and the Qur'an are very similar in terms of economic prescriptions, they differ in their language—rights versus duties—and on the *primary* agent of fulfillment—the state versus the individual. The differences largely stem from the fact that they were introduced at different points in history and to societies with different social structures. The IBR is a modern text, drafted at a time when many countries were already industrialized, wage-labor was the norm, and most societies were managed by highly bureaucratic states—national or colonial. The Qur'an, on the other hand, was revealed to a small pre-modern community. Addressing a society that was semi-organized, the provisions of the Qur'an mainly rely upon self-regulation by the property owner. The owner is compelled to be a *good* Muslim by being generous and considerate of others' needs. Thus, the economic and social wellbeing of people, which is sought through the fulfillment of the economic and social rights in the contemporary human rights discourse, is presented as corollary *moral* and *religious* duties of believers who are able to bestow them.

The reliance on private acts of individual charity for the delivery of human rights establishes some problems. First, leaving the fulfillment of human rights to charitable acts stemming from individuals' fear or love of God would leave them vulnerable. History has shown that human beings, in general,

129. TAHA, *supra* note 40, at 137.

130. ASGHAR ALI ENGINEER, *THE RIGHTS OF WOMEN IN ISLAM* (1992); MAWDUDI, *supra* note 23; KOTB, *SOCIAL JUSTICE IN ISLAM*, *supra* note 45.

131. Gender inequalities constitute another area of social rights and inequalities. For a discussion of gender inequalities and their impact on women's economic rights, see Arat, *Women's Rights in Islam*, *supra* note 43, at 88.

132. See Qur'an verses, *supra* note 87.



are incapable of feeling such fear or love strongly enough to respect others' rights, including those of fellow Muslims. As aptly noted by M. R. Zaman, "[i]f [all Muslims] followed the teachings of Islam with respect to Sadaqah, Zakah, and the principles of mutual aid, severe income inequalities would not exist in an Islamic society."¹³³ Sayed Qutb/Kotb made a similar comment: "[h]ad Islam been applied, there would have been no social injustices or economic discrepancies."¹³⁴

Second, even if people were willing to be charitable, the attempt to fulfill economic and social rights through charity would violate the human rights principle of equality in dignity, as it is understood today. The power differentials between the donor and the recipient would undermine the dignity of the latter one, since the recipient appears to be the beneficiary of a merciful act bestowed by a benevolent person at his discretion, instead of a right holder or claimer.

Finally, redistribution through individual or private charity is likely to be limited both in its reach and sustainability. A system of redistribution that does not involve or seek structural changes would continue reproducing haves and have-nots, where the haves would call the shots and decide how much to give and to whom.¹³⁵

Nevertheless, stressing two elements found in the Qur'an may redress these concerns and make it more closely aligned with the IBR. First, it is the emphasis placed on human dignity. As the IBR justifies the universal application of human rights with the "recognition of the inherent dignity . . . of all members of the human family,"¹³⁶ the Qur'an makes implicit references to it throughout the text. There is at least one explicit reference to the dignity bestowed upon human beings and thus to their distinguished position among all creatures:

And We have certainly bestowed dignity (*karamah*) on the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference (17:70).¹³⁷

Second, there is a possibility of turning voluntary acts of caring for others (private charity) into a *general will* that can be carried out by a public

133. Zaman, *supra* note 70, at 53.

134. SAYED QUTB, *ISLAM AND UNIVERSAL PEACE* 41 (1977).

135. We already see a manifestation of this problem in the philanthropy of corporations that divert a small portion of the profit they amass by systematically violating the rights of their workers, communities in which they operate, or consumers, through low wages, unsafe work environment, environment pollution, and dangerous products.

136. UDHR, *supra* note 8, pmb1.

137. *Karamah* and *sharaf*, commonly translated as *dignity* and *honor*, respectively, are often used interchangeably. Sahih International translates the conjugation of *karamah* in the verse as "we honored" perhaps to achieve a smooth wording in English, but since *karamah* is used instead of *sharaf*, "we dignified them" or "bestowed dignity" would be a more accurate translation.



authority. Prophet Mohammad's practice of collecting the *zakat* and spoils of war in his office and distributing them to the needy may be taken as a precursor of a state-centered human rights regime akin to the one prescribed by the IBR. An already cited verse (9:103), calling the Prophet to "[t]ake from their wealth a charity by which you purify them and cause them increase" provides a Qur'anic justification for the centralized collection and distribution of *zakat* and fulfillment of other rights through a public service system. Indeed, the Prophet had followed the divine order and collected *zakat*.¹³⁸ Since the Prophet is considered to be the exemplary Muslim who should be emulated by all Muslims (33:21),¹³⁹ this particular practice by him can be revived for emulation. Further Qur'anic support for the public distribution of charitable funds appears in verse 60 of the same Surah, which includes "those employed to collect [zakah]" among the people who can receive *zakat* (9:60). In other words, indicating that the tax collector should be funded by the tax money, the Qur'an endorses a centralized redistributive system.¹⁴⁰

VI. CONCLUSION

In this article, I attempt to show that, despite major differences in their origins and formulations, the IBR and the Qur'an share some common features. Intended to reach beyond the immediate recipients, to the generations to come, their messages are essentially egalitarian and redistributive. Although they both allow private property ownership, they both seek to curb the power of property owners and managers and direct them toward respecting human dignity and fulfilling human rights.

Arguably, the oppressed and economically disadvantaged people who embrace the Universal Declaration of Human Rights or the Qur'an are already aware of the egalitarian message of the text that they uphold, even if they do so selectively. The challenge has been understanding and conveying the

138. Zaman, *supra* note 70.

139. "There has certainly been for you in the Messenger of Allah an excellent pattern for anyone whose hope is in Allah and the Last Day and [who] remembers Allah often" (33:21).

140. In this study, I do not address the practice of Islam, but it is important to note that *zakat* was not the only tax collected at the time of the Prophet. Michael Lecker makes a convincing argument that the Prophet levied (port and market) customs dues and exempted some from paying them. There are no Qur'anic references to this practice, and Lecker contends that it was a continuation of pre-Islamic practice. See MICHAEL LECKER, *PEOPLE, TRIBES AND SOCIETY IN ARABIA AROUND THE TIME OF MUHAMMAD VII*, 19–43 (2005). However, there is at least one reference to *jizyah* in the Qur'an (9:29), the tax placed upon the people of the Book, meaning Jews and Christians, the followers of the other two Abrahamic religions. The case of customs dues and *jizyah* can be taken as a two-fold evidence for our purposes: (1) Islam has been open to extrareligious practices from the very beginning, and (2) intervention by a central authority (the state) into economy and distribution of wealth was not anathema to Islam as understood and practiced by the Prophet.



messages holistically, that is reading and interpreting each article or verse in connection to the others to appreciate the underlying thrust of each text. The analysis offered here is a step toward meeting that challenge—to show the connections among different provisions of the texts, as well as their common grounds. Of course, there are skeptics who contend that “[a]ttempting to justify rights via Islam has not been a success.”¹⁴¹ While it is hard to disagree with such claims on the basis of practice, one has to take into consideration that it is too soon to reach such a conclusion since the efforts to establish a link between international human rights norms and the Qur’anic message has been fairly recent. Moreover, the implementation of the international human rights norms has been challenging in non-Muslim context as well.

Both the Qur’an and the IBR suffer from having their provisions used selectively, manipulated for different causes other than protecting human rights, and resisted by those who are in the position of power and privilege. Thus, the task ahead for human rights advocacy is to be aware of this power struggle and reiterate the common emancipatory messages of different traditions until they are heard as clearly and as widely as the prevalent messages that help sustain the status quo or serve the interest of the privileged.

141. Anthony Chase, *Liberal Islam and “Islam and Human Rights”: A Sceptic’s View*, 1 RELIGION & HUM. RTS. 145, 156 (2006).



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