

# ASTROLABE

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A CIS Student Research Journal



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# ASTROLABE

A CIS Student Research Journal

*Astrolabe* is a student research journal that is published on behalf of the College of Islamic Studies (CIS) at Hamad Bin Khalifa University (HBKU) by HBKU Press.

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*Astrolabe* is a student publication platform created in the spirit of our Islamic heritage and the quest of students to engage with the issues of significance to Muslims in the contemporary global context.

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## Dean's Message

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Dear Reader,

I am delighted to share the third issue of *Astrolabe: A CIS Student Journal*, which continues to highlight student voices at the College of Islamic Studies (CIS), Hamad Bin Khalifa University (HBKU), as they engage with the wide-ranging discussions that affect Muslim communities around the world.

In these pages, we delve into a rich collection of conversations that only hint at the kind of era we are living in—one that is defined by perpetual waves of change and evolutionary thought. At every frontier, whether social, political, economic, technological, intellectual, geological, and so on, we are continually challenged to test the limits of our knowledge. A key strategy to be able to address these challenges is to verify our own Islamic grounding and then enhance our understanding of the nuances of these issues through an interdisciplinary approach. I am proud to see how our students have adopted this open mindset to be able to take on the multilayered questions faced by our societies.

I would like thank all the students who submitted their papers for consideration as well as those who further developed their selected work to be included in this issue. The diversity of the topics they explore provide an insight into the multitude of discussions that take place across our interdisciplinary courses at CIS, the sheer complexity of these topics, and the applied nature of these debates to contemporary times.

**Dr. Emad El-Din Shahin**

Dean, College of Islamic Studies

Editor-in-Chief, Oxford Encyclopedia of Islam and Politics

## Introductory Note

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*Knowledge exists potentially in the human soul like the seed in the soil; by learning the potential becomes actual.*

- Al-Ghazali

Dear Reader,

Welcome to the third issue of *Astrolabe: A CIS Student Research Journal*, a publication that reflects the spirit of curiosity, exploration, and dissemination of knowledge here at CIS to the wider community.

The *Astrolabe* is a scholarly representation of the ancient instrument—the unique and innovative tool that helped sailors navigate the mystery of oceans and fuse together an approach based on science as well as strongly rooted faith. The *Astrolabe* journal navigates student researchers through Islam and social studies to explore new knowledge possibilities in light of an ever-changing world.

Each article enclosed in this issue was generated as part of the coursework produced during the graduate study journey. They each portray analytical thought and a nuanced understanding of the Islamic tradition in addressing debates from sustainable architecture and child abuse reporting to biomedically assisted procreation and Shari’ah-compliant margin trading. You will also find papers addressing misalignment of legalism and social practices, labor rights of Gulf women, tolerance and Quranic diplomacy, the conceptualization of Islamophobia, and SDG-driven market performance through a financial lens.

We hope you enjoy this edition and we look forward to a continued tradition of bringing contemporary voices to our readers with fresh ideas, novel solutions, and thought-provoking perspectives.



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## RESEARCH ARTICLE

# Islamic Perspectives: An Alternative to the Existing Model of Social Sustainability in Architecture

Sameeha Abdussamad

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## ABSTRACT

In today's world, it has become evident that science and technology cannot solve every problem, but rather have produced many of their own. Their interaction with our environment has made it a victim, paving way to one of the greatest crises we have to deal with in this century. Overdependencies on natural resources for mass production technology have put a strain on them, leading to their depletion. There is a need to ensure that the challenges and responsibilities are shared among members of a community and equal opportunities are established globally in order to attain sustainable development. The identified principles of sustainability in Islam have been manifested throughout

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Islamic traditional architecture, and they have proven to be efficient in terms of comfort and standards. This research attempts to examine the defects in the current worldview of sustainability and presents the hypothesis that considering Islamic principles in the conventional model of sustainability may help to develop a more effective model, providing better results. This paper also narrows down its focus on the social component of sustainability through architectural practices and examines the pros and cons produced while incorporating Western practices into cultures that show strong adherence to traditions. It discusses maintaining the local tradition and techniques that are culture- and climate-appropriate for the region, as well as being environmentally friendly and economical, which are much sought-after factors in urban design in the current scenario of a global pandemic.

## INTRODUCTION

Since the beginning of time, mankind has been consistently dependent on the natural environment surrounding human existence. For years, this relation has been complementary; however, irrational usage and over-exploitation of resources have eventually led to their depletion beyond repair, placing the future of our planet and coming generations at stake. The beginning of the 1960s marked a change in the way resources were being harnessed. It was Rachel Carson's *Silent Spring* (1962) that exposed the hazards of the chemical industry, questioning humanity's faith in technological progress, and helped set the stage for the environmental movement.<sup>1</sup> This sudden awakening came as a "reaction to the harmful consequences of the Modern Movement,"<sup>2</sup> which saw wasteful use of land and resources by applying inefficient and unhealthy construction practices and over-dependence on fossil-driven technologies. Consequently, attention was given to the harmful effects that construction practices had on our environment and "the awareness of holistic environmental thinking" was developed.<sup>3</sup>

The concept of sustainable development is considered to be "a response to the human need to balance environmental protection with social-economic development."<sup>4</sup> It started off as the "greening of architecture," aimed to transform modern architecture into an environmentally oriented approach. Later on, from the 1980s to the 2000s, "the notion of green was gradually replaced by sustainability"<sup>5</sup> and the concept evolved to how we know it today.

The realization of the immense pressure that humanity has placed upon the environment led world organizations to take up the cause, for example, the world summits organized by

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1 NRDC, *The Story of Silent Spring*, August 13, 2015, <https://www.nrdc.org/stories/story-silent-spring>.

2 Phillip James Tabb and A. Senem Deviren, *The Greening of Architecture: A Critical History and Survey of Contemporary Sustainable Architecture and Urban Design* (Routledge, 2014), 2.

3 Tabb and Deviren, *The Greening of Architecture*, 1.

4 H. Aburounia and M. Sexton, "Islam and Sustainable Development," *Fraunhofer Information Center for Space and Construction IRB*, 2006, <http://www.irbnet.de/daten/iconda/CIB9051.pdf>. 757.

5 Tabb and Deviren, *The Greening of Architecture*, 19–22.

the United Nations in 1972 and 1983 in Stockholm, 1992 in Rio, 2002 in Johannesburg, and the recent conventions in 2015 and 2019 in New York. The goal was set to meet the needs of the present generation, without compromising the needs of coming generations. This concept of sustainability was grounded in the ethics of environmental responsibility; however, a construction industry “which puts sustainability at the heart of its operation” was lacking.<sup>6</sup> Such a mindset in the field hampered the application of sustainability principles and, for the same reasons, could not produce the desired effect.

## SUSTAINABILITY: AN OVERVIEW

Historically, architecture has evolved as a response to the social and climatic conditions of various regions and cultures with different approaches. Globalization has brought about internationalization of architecture through modernism, which in turn has led to the eradication of cultural identity.<sup>7</sup> Although the movement unified the architectural language worldwide, it brought with it harmful consequences of pollution, land degradation, and exhaustion of natural resources. Consequently, there emerged the need to mitigate the negative effects of this aggressive pursuit of nature on the biosphere. Several architects of the 20th century took more environmentally oriented design approaches, when “they tended to integrate climatic design principles with modernist forms, technologies and materials.”<sup>8</sup> However, treating the problem using the very practices that created them seemed futile.

By the late 20th century, serious concerns led to the creation of various organizations that took up the issue and proposed solutions to overcome it. A report by an international team of researchers at the Massachusetts Institute of Technology, titled *The Limits to Growth* (1972), concluded that “man can create a society in which he can live indefinitely on earth if he imposes limits on himself and his production of material goods to achieve a state of global equilibrium with population and production in carefully selected balance.”<sup>9</sup> Yet another turning point in the development of international environmental politics was the United Nations Conference on the Human Environment (also known as the Stockholm Conference) that was convened under the UN in 1972. The modern concept of “sustainability” first appeared in the Brundtland Report, titled *Our Common Future*, published in 1987 by the United Nations, which stated that humanity does have the ability to make developments sustainable; the present state of technology and social organization can be “managed and improved to make way for a new era of economic growth” with international cooperation and political will.<sup>10</sup> The resolution adopted by the UN General

6 Brian Edwards, *Rough Guide to Sustainability* (Newcastle, UK: RIBA Enterprises, 2005), 4.

7 UK Essays, “Impact of Globalisation on Architecture”, June 14, 2018. [www.ukessays.com. https://www.ukessays.com/essays/architecture/impact-globalisation-architecture-7345.php?vref=1](https://www.ukessays.com/essays/architecture/impact-globalisation-architecture-7345.php?vref=1).

8 Tabb and Deviren, *The Greening of Architecture*, 6.

9 The Club Of Rome, *The Limits to Growth*, 1972, <https://www.clubofrome.org/publication/the-limits-to-growth/>.

10 World Commission on Environment and Development, “Our Common Future / The Brundtland Report”, 1987.

Assembly in the 2005 World Summit defined the “three major components of sustainable development (Figure 1(a))—economic development, social development, and environmental protection—as interdependent and mutually reinforcing pillars.”<sup>11</sup> Despite these guidelines and calls for a fresh start, transforming the world society and the world’s economy to a sustainable basis appears to be the most significant challenge of our time.<sup>12</sup>

## A FAULTY MODEL OF SUSTAINABILITY



**Figure 1.** The three pillars of sustainable development, from left to right, (a) the theory, (b) the reality, and (c) the change needed for a better balance (IUCN: The World Conservation Union 2006).

It was encouraging that the environment was finally considered on equal footing with the economy and social well-being; this was indeed a considerable improvement over what had been done in the past.<sup>13</sup> However, the model still placed humanity outside the environment, with no connectivity to the biosphere,<sup>14</sup> and failed to recognize our relevance as the major users or contributors to the ecosystem. The notion had thus evolved into a market-based economic model, with little to no consideration given to the environment as such (Figure 1(b)). By drawing on this concept, Dawe and Ryan argue in their article that “the environment is not and cannot be a leg of the sustainable development stool. It is the floor upon which the stool, or any sustainable development model, must stand.”<sup>15</sup> Hence, the “three-pillared” model of sustainability was a flaw because it discounted the future and encouraged over-consumption.<sup>16</sup> The irony was that even when the 20th century was

11 UN General Assembly, *2005 World Summit Outcome* (New York: United Nations Organisation, 2005).

12 Michael Ben-Eli, “Sustainability: Definition and Five Core Principles,” The Sustainability Laboratory, 2015, <http://www.sustainabilitylabs.org/assets/img/SL5CorePrinciples.pdf>.

13 Neil K Dawe and Kenneth L Ryan, “The Faulty Three-Legged Stool Model,” *Conservation Biology* 17, no. 5 (2003): 1458–60.

14 Herman E Daly, *Beyond Growth: The Economics of Sustainable Development*, New Edition (Beacon Press, 1997).

15 Dawe and Ryan, “The Faulty Three-Legged-Stool Model,” 1458–60.

16 Odeh Rashed Al-Jayyousi, *Rethinking Sustainability: Islamic Perspectives*, July 3, 2015, <https://www.ecomena.org/sustainability-islamic-perspectives/>.

heralded as the era of sustainability, “the evidence is that the global human enterprise is rapidly becoming less sustainable and not more.”<sup>17</sup>

Jane Jacobs, in her best known and influential work *The Death and Life of Great American Cities* (1961), reckons that cities of the postmodern world were an antithesis to nature, which was limited to the notion of grass, fresh air, and little else. In addition, she states that the social behavior of people was affected by city planning, which in turn affected the economic behavior of the cities.<sup>18</sup> Many projects intended to be sustainable ended up in failure as the components of the sustainable model were not considered effectively by planners. We see this in the case of the Pruitt-Igoe housing projects, one of America’s most notorious housing projects, as it failed to meet the expectations of planners and authorities as a solution for the urban poor in the city. It deteriorated into a crime-ridden infamous slum and was eventually imploded with dynamite in 1972 (Figure 2).<sup>19</sup>



**Figure 2.** America’s most ambitious housing project Pruitt-Igoe came down in ruins in 1972 after crime and filthy conditions led to its demolition. Source: US Department of Housing and Urban Development.

It is here that we need to scrutinize the connection between the three major components of sustainable development, and that it is impossible to consider them separately as economic developments cannot be separated from environmental issues, that in turn are connected to the social component of development. Considering poverty as an example,

17 IUCN: The World Conservation Union, “The Future of Sustainability: Re-thinking Environment and Development in the Twenty-first Century,” January 29–31, 2006, [www.iucn.org. http://cmsdata.iucn.org/downloads/iucn\\_future\\_of\\_sustainability.pdf](http://cmsdata.iucn.org/downloads/iucn_future_of_sustainability.pdf).

18 Jane Jacobs, *The Death and Life of Great American Cities* (New York: Random House, 1961).

19 Hannah Frishberg., *The Failed Paradise: Pruitt-Igoe*, November 26, 2013, <https://www.atlasobscura.com/articles/pruitt-igoe>.

we see that it is a cause and effect of global environmental problems, and it is a factor that affects the economic indices of countries. Hence, the global economy and the global ecology have now become more interwoven/interlinked locally, nationally, and globally in this net of cause and effect.<sup>20</sup> The United Nations has thus formulated 17 practical challenges to solve in the near future (Figure 3), which revolve around the environmental, social, and economic components of sustainability.



**Figure 3.** The UN’s Sustainable Development Goals include challenges related to environmental, social, and economic components of sustainability. Source: Open source by the UN.

## ISLAMIC PRINCIPLES AND SUSTAINABILITY

Previous research has established that religion significantly relates to the performance of sustainable behaviors, encouraging such approaches and providing an insight into a more holistic view of sustainability.<sup>21</sup> While considering the role of religious consciousness in the formation of sustainable attitudes, the vantage point of Islam deserves as much consideration as any other; the present ecological crisis has indeed made Islam a particularly relevant ethical tradition.<sup>22</sup> The concept of sustainability is not new to Islam as “sustainable development principles have existed for centuries in the Holy Qur’an and the Hadith.”<sup>23</sup> The Holy Qur’an and Hadith have established a framework for mankind on how to interact with their surroundings—the environment—and are encouraged to maintain the balance in

20 World Commission on Environment and Development, “The Brundtland Report.”

21 Elizabeth A Minton, Lynn R Kahle, and Chung-Hyun Kim, “Religion and Motives for Sustainable Behaviors: A Cross Cultural Comparison and Contrast,” *Journal of Business Research* 68, no. 9 (2015).

22 S. Parvez Manzoor, “Environment and values: the Islamic perspective,” in *The Touch of Midas: Science, Values, and Environment in Islam and the West*, ed. Ziauddin Sardar (Manchester: Manchester University Press, 1984), 150–69.

23 Aburounia, and Sexton, “Islam and Sustainable Development,” 757.

the universe that God has established since the beginning of creation. This shows that the “concept of sustainable development took root in 7th century Islam ideology, however, it was not until 20th century that this was translated into a modern context.”<sup>24</sup>

As mentioned previously, the concept of sustainability developed in the past half-century considers “the environment, social well-being, and economy as the legs sustainable development stands upon... and are of equal importance.”<sup>25</sup> Sustainable development is defined in Islam as the balanced and simultaneous realization of consumer welfare, economic efficiency, and attainment of social justice, with importance given to the ecological balance (Figure 1(c)) in the framework of an evolutionary knowledge-based, socially interactive model defining the Shuratic process of decision-making.<sup>26</sup> Many intellectuals have now formulated certain basic principles with regard to environmental thinking in Islam.<sup>27</sup> This was done in the light of the fundamental values of Islam as identified in the “Knowledge and Values” seminar held in Stockholm in September 1981.<sup>28</sup> The following section provides an insight into the foundational ideas for such a realization of sustainable development principles from an Islamic perspective.

### *Man as the Representative of God (Khalifa)*

The primary principle of Islam, the basis for the very existence of humanity, is the purpose for which mankind was created. Infusing the natural world with transcendental (revealed) ethics is the main purpose of man according to the Qur’an.<sup>29</sup> He was appointed as a representative of the Divine upon earth, as seen from the following verse:

And when your Lord said to the angels: “Indeed! I am about to place a vicegerent (*khalifa*) on earth.” (Holy Qur’an 2:30)

This role was conferred with a certain intention, with the *raison d’être* being to “enjoin what is right, and forbid what is wrong” (Holy Qur’an 3:104-110; 9: 71,112; 31:17). Therefore, failure to abide by this principle will in turn bring about calamities and destruction (*fasad*) for man himself, which can be observed from the present world scenario as stated in the verse:

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24 Aburounia and Sexton “Islam and Sustainable Development”, 763.

25 Dawe and Ryan, “*The Faulty Three-Legged-Stool Model*,” 1458–60,

26 Iyad Abumoghli, *Islamic Principles on Sustainable Development*, August 23, 2019, <https://www.ecomena.org/islam-sustainable-development/>.

27 Ziauddin Sardar, *The Touch of Midas: Science, Values, and Environment in Islam and the West* (Manchester: Manchester University Press, 1984); S. Gulzar Haider, “Habitat and Values in Islam: A Conceptual Formulation of an Islamic city,” *Touch of Midas* (Manchester: Manchester University Press, 1984), 170–208; Sayed Sikandar Shah Haneef, “Principles of Environmental Law in Islam,” *Arab Law Quarterly* (2002): 241–54; Spahic Omer. “A Conceptual Framework for Sustainability in Islamic Architecture: The Significance of the Concepts of Man and the Environment,” *Journal of Islamic Thought and Civilization* 5, no. 2 (2015): 49–74.

28 Manzoor, “Environment and values: the Islamic perspective.”

29 Manzoor, “Environment and values: the Islamic perspective”.



Mischief (*fasad*) has appeared on land and sea because of (the deed) that the hands of men have earned (Holy Qur'an 30:41)

This reckons that environmental problems such as global warming, devastating floods, and scorching droughts are all consequences of man's irresponsible handling of earth and its resources—a dereliction to recognize his role as the *khalifa*. The principles for sustainability in Islam, thus derived from this very concept—which is the missing aspect of the conventional model—can be stated as follows.

### ***Custodianship of Earth's Assets (Amanah)***

The role of representative (*khalifa*) has come with certain responsibilities—a role that mankind has volunteered to accept (Holy Qur'an 33:72). It is therefore of utmost importance to keep in mind this trusteeship (*amanah*) while interacting with the environment, and to make sure the resources are used in a sustainable manner, in order to ensure that the relationship is symbiotic. The problems we face with our environment today are due to the absence of this custodianship, due to which man is not held accountable for his actions.

### ***Intrinsic State of Purity (Fitrah)***

Everything that has been created in nature is for the benefit of mankind. This dependency should, however, be in accordance with the order fixed by the Creator himself.<sup>30</sup> It is essential to use the elements of the environment in their natural state without any corruption to imply full harmony with nature, people, and the built environment. The building materials and construction practices today are heavily dependent on fossil fuel energy and its byproducts, having negative impacts on health.<sup>31</sup> The lack of ventilation, lighting, and materials in their natural (*fitrah*) form have led to ecological degradation.

### ***Pre-Existing Order of the Universe (Mizan)***

The universe was created, carefully measured, and balanced; the divine command is not to tamper with it after it has been set in order (Holy Qur'an 7:85; 55:7–8). Any attempt to disrupt this balance will prove to be catastrophic. Human greed to maximize profit and attain economic growth has ravaged the environment beyond recognition.<sup>32</sup> The key to maintaining this balance (*mizan*) is put forth as a divine law: “Do not commit excess” (Holy Qur'an 6:141; 7:31). Any deviation from this command to abstain from extravagance (*ithraf*) may badly disturb the harmonious relationship between man and nature and result in unspeakable ecological crises and its ensuing disasters.<sup>33</sup>

### ***Path of Moderation (Wasat)***

The Islamic nation has been addressed as the “median community” (*ummatan wasat*) in the Holy Qur'an (2:143)—a nation that avoids excess in all circumstances. Utilization of

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30 Haneef, “Principles of Environmental Law in Islam”.

31 Tabb and Deviren, *The Greening of Architecture*, 14.

32 Haneef, “Principles of Environmental Law in Islam”.

33 Haneef, “Principles of Environmental Law in Islam”.

resources needs to be done considerably and moderately, benefiting from it and simultaneously passing it on to the next generation in an excellent condition.<sup>34</sup> This neutral approach (*wasat*) symbolizes the responsibility (*amanah*) that needs to be implemented by the *khalifa*.

### *Economic and Social Justice ('Adl)*

All of nature's resources are considered to be the right and joint property of the entire mankind; taking precautions to safeguard the interests and rights of others, including the coming generations, is a responsibility of every human (*khalifa*).<sup>35</sup> In modern times, indigenous people have been deprived of their rights ('*adl*), and their resources are substituted according to the needs defined by the West in the name of sustainability.<sup>36</sup> The deliverance of justice ('*adl*) is not limited to humans alone but should encompass every living creature and natural resource—abusing any of these is considered a sin.

### *Perfection in Actions (Ihsan)*

It has been observed previously that man should not be delinquent while manipulating nature for his benefit. The principle of perfection/goodness (*ihsan*) is embedded in the idea that man's handling of nature should be mutually beneficial. All of man's relationships in Islam are based on *ihsan* and not on material or economic gain, as emphasized in the verse "God enjoins justice and kindness" (Holy Qur'an 16:90).<sup>37</sup> Developments should not be done meaninglessly and without necessity, which would contribute to overindulgence and wastage of resources. The Holy Qur'an (28:77) encourages mankind to "Do good, as God has done good to you," and not to harm the environment in the process of benefiting from it.

## APPLICATION OF ISLAMIC PRINCIPLES

Throughout history, the Arab/Islamic world has contributed to the advancement of societies even while strongly adhering to religious values. We observe examples since the time of Prophet Muhammad who implemented the above principles and manifested the role of divine representation (*khalifa*), followed by the Caliphs of Islam. The overarching principle while dealing with nature is derived from the prophetic declaration: "There shall be no damage and no infliction of damage,"<sup>38</sup> which reflects the principles of neutrality (*wasat*) and balance (*mizan*). He believed that not only humans, but also animals, forests, and watercourses have rights ('*adl*) reserved under the divine law. For this reason, he established "*hima*" and "*haram*" zones (wildlife and natural resource protection zones

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34 Abumoghli, "Islamic Principles on Sustainable Development".

35 Abumoghli, "Islamic Principles on Sustainable Development".

36 Al-Jayyousi, *Rethinking Sustainability: Islamic Perspectives*.

37 Kamaruzaman Jusoff and Siti Akmar Abu Samah, "Environmental Sustainability: What Islam Propagates," *World Applied Sciences Journal* 12 (Special Issue on Creating a Knowledge Based Society) (2011): 46–53.

38 Abumoghli, "Islamic Principles on Sustainable Development".

under the rules of Islam, i.e., the *Shariah*) as the public property or common lands managed and protected by the public authority for conservation of natural resources.<sup>39</sup> Such demarcation thus became a symbol of social equity, redress, justice, and an instrument of environmental conservation.<sup>40</sup> Many hadiths of the Prophet refer to protecting the environment and keeping it clean and fruitful (*fitrah*), and encourage afforestation and land reclamation for the productive use of the environment (*ihsan*).<sup>41</sup> Even though this might strike many as strange, we could say that the Prophet was an “environmentalist avant la lettre,” who pioneered the implementation of conservation, sustainable development, and resource management,<sup>42</sup> which established the principle of custodianship (*amanah*). The strategies devised by Prophet Muhammad—like the concept of *hima* and *haram*—became a way of life in Islamic societies; it was passed from generation to generation, practiced almost unconsciously, and allowed the people of this region to survive the centuries before being overwhelmed with modern tools and technology.<sup>43</sup> This was a testimony to the society’s understanding of its limited resources and a manifestation of how to use the available resources sustainably to build resilient systems that will help it overcome the harshness of its environment.

In accordance with earlier observations, there is a need to rethink the Western model for sustainability in a way that it guarantees a humanistic and sustainable framework. It needs to resonate with culture, ensuring balance (*mizan*) and social equity (*adl*), and respecting harmony between nature, people, and markets.<sup>44</sup> This reflects the Islamic perspective in which “conserving the human, social and natural capitals are considered as necessities.”<sup>45</sup> It is encouraging to compare this notion with that found in a secular study which concludes that “religion significantly relates to performance of sustainable behaviors... maximizes the effectiveness of campaigns encouraging sustainable behaviors.”<sup>46</sup>

In the modern context, many examples of traditional Islamic architecture are found in the 20th century, which provides an opportunity to analyze the effectiveness of the above-mentioned principles. The philosophical approach of the renowned Egyptian architect Hassan Fathy, who pioneered the use of appropriate technology in the Arab/ Islamic world, is embedded in these principles. Fathy, being a contemporary of the Modern Movement, was disillusioned by it; he felt that the social and climate-oriented architecture and planning was missing in this context.<sup>47</sup> In the following sections, we examine Fathy’s

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39 Abumoghli, “Islamic Principles on Sustainable Development”.

40 Hala Kilani, Assaad Serhal, and Othman Llewlyn, *Al-Hima: A Way of Life* (Beirut: IUCN West Asia regional Office, Amman Jordan; SPNL Beirut, Lebanon, 2007), 8.

41 Jusoff and Samah, “Environmental Sustainability”.

42 Jusoff and Samah, “Environmental Sustainability”.

43 Serhal Kilani and Llewlyn, *Al-Hima: A Way of Life*, 5.

44 Al-Jayyousi, *Rethinking Sustainability: Islamic Perspectives*.

45 Al-Jayyousi, *Rethinking Sustainability: Islamic Perspectives*.

46 Minton, Kahle, and Kim, “Religion and Motives for Sustainable Behaviors”, 7.

47 Tabb and Deviren, *The Greening of Architecture*, 7.

philosophy depicting the aforementioned Islamic principles and their demonstration through the elements of traditional Islamic architecture.

### Case Study: Architectural Philosophies of Hassan Fathy

In this section, we inspect the philosophies put forward by the Egyptian architect and master builder, Hassan Fathy (1900–1989)—one of the first architects to break with the modern architecture and who took efforts to revive and create a new architectural practice that connected with the essence of an Islamic architectural tradition. During his professional career, which began in 1926, Fathy stayed close to the Nubian tradition, using mud brick, which was its characteristic building material, and Pharaonic architectonic elements such as unsupported arches and vaults, while upholding the traditional values of Islam and demonstrating coherence between structural and sociological needs.<sup>48</sup> The architecture of Islam is dictated by the instructions of the religion of Islam; its productions differ from region to region depending on traditions, habits, climate, and vernacular forms.<sup>49</sup>

Fathy was not enamored by modern forms and criticized their total disregard for human needs and social values and the destruction of long-established cultural patterns that modernism encouraged.<sup>50</sup> He acknowledged that man was answerable to the dictates of the environment and was able to identify and give meaning to this critical connection through an appropriate design in response to natural forces and human needs, which he saw as a key factor in the different architectural expressions of various cultures.<sup>51</sup> In this manner, he acknowledged the environmental factor of sustainability in his philosophy.

The underlying organizational principle of Fathy's plan was balancing the needs of the Islamic social system, with its clear separation of private life, as reflected in the traditional roles of men and women—the public space was designed for men, the private space for women, the family, and the livestock, and the semi-public space linked the two.<sup>52</sup> He reasoned that “cooperative building system can only work if a man's work can be recorded as a loan to society and repaid in the form of a building.”<sup>53</sup> He also introduced a scheme of in-service training for trainees “to pay for their training by giving their newly acquired skill to the community at a lower rate than the normal.”<sup>54</sup> By doing so, he was able to address social and economic issues, by giving rights to the local/indigenous groups to earn for themselves.

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48 Hana Taragan, “Architecture in Fact and Fiction: The Case of the New Gournia Village in Upper Egypt,” Necipoglu, Gulru, *Muqarnas Volume XVI: An Annual on the Visual Culture of the Islamic World* (Koninklijke Brill NV, 1999), 169–78.

49 Abdel-moniem M. El-shorbagy, “The Architecture of Hassan Fathy: Between Western and Non-Western Perspectives,” University of Canterbury Research Repository, 2001, <https://ir.canterbury.ac.nz/handle/10092/7557>.

50 James Steele. “A Tribute to Hassan Fathy,” *Architecture for a Changing World* (1992): 50–52.

51 Steele, “A Tribute to Hassan Fathy”.

52 Taragan, “Architecture in Fact and Fiction”.

53 Hassan Fathy, *Architecture for the Poor: An Experiment in Rural Egypt* (University of Chicago Press, 1976), 123.

54 Fathy, *Architecture for the Poor*.

Fathy believed that an architect puts his building in two environments, the God-made and the man-made, and that he needs to respect both of them.<sup>55</sup> He manifested this through the use of local materials and also incorporated elements responsive to the climate of the area, including the courtyard, the *qa'ah*, the *malqaf*, the *takhtabush*, and the *mashrabiyyah*.<sup>56</sup> Fathy held the view that architecture must be indigenous to the region and its people, as each has its own specific materials, climate, culture, and traditions. From his literary works, we see that his ideas revolve around three main core principles—man as the center of the architecture, man as a part of nature, and consequently man embedded in nature's universal laws.<sup>57</sup>

One notable project by Fathy is the Islamic center for the Dar Al Islam Foundation (Figure 4) in New Mexico in 1980. Though the context is not in the Arab/Islamic world, it was chosen because the landscape would be similar to those of many Muslim lands and because of the existing tradition of building with adobe.<sup>58</sup> It should also be noted that Fathy brought along a team of Nubian masons, who came to the USA specifically for the purpose of training the local community members in low-technology building techniques of vault and dome construction used in Upper Egypt.<sup>59</sup> Steele, in his catalogue of Hassan Fathy's work, justifies the choice of architecture: "While the architectural style chosen for the village may seem foreign in this Western context, it does have much in common with the local, adobe tradition. Judging from both the technical and economic complexities involved in using adobe here, however, it would seem that the intentional choice of this material and style was made for iconographic, rather than environmental or cultural reasons."



**Figure 4.** The Dar Al Islam Islamic Center in New Mexico designed by Hassan Fathy is a notable example in terms of sustainability. Source: Daralislam.org.

55 Steele, "A Tribute to Hassan Fathy".

56 El-shorbagy, "The Architecture of Hassan Fathy" .

57 Darl Rastorfer, *The Man and His Work: In Hassan Fathy*, (Concept Media / Aga Khan Trust for Culture, 1985).

58 Archnet, *Dar al-Islam, Abiquiu, United States*, December 15, 2020, <https://archnet.org/sites/201>.

59 James Steele *The Hassan Fathy Collection. A Catalogue of Visual Documents at The Aga Khan Award for Architecture* (Bern, Switzerland: The Aga Khan Trust for Culture, 1989).

Through interviews conducted to attest the discrepancies in the conventional model and the need to revive sustainable philosophies similar to that of Hassan Fathy, the opinions of academics and professionals related to the field were collected. It was confirmed that Fathy chose to build economically simple structures using local materials that were climate-oriented and influenced by the Nubian and Coptic architecture.<sup>60</sup> Swelim comments that he intended to adopt the vernacular architecture into a modern context as it deemed to be successful in the past, thereby upholding the traditional values of Islam and creating a new practice that identified with the essence of an Islamic architectural tradition. However, his strength and relevance were in relation to his philosophies rather than his buildings.<sup>61</sup>

With the threat of global climate change and resource depletion, there is a need to switch to traditional energy-efficient methods indigenous to a specific region.<sup>62</sup> Naseef states that Fathy tried to revive certain skills that were being lost to the local population with the advent of modern technologies; the trend of modernism hijacked the cost-effective techniques that were already at the disposal of the local labourers/craftsmen. Despite the fact whether he built for the elite or the poor, it has become an increasingly inevitable challenge to revive philosophies similar to that of Hassan Fathy in the current world scenario.<sup>63</sup> Although Fathy attempted to provide a foundation for sustainable practices in the architecture of the region, he did not sow the seeds of the social process that would have enabled it to be further developed through new vernaculars;<sup>64</sup> many of his projects were not deemed to be successful. Nevertheless, his concepts and philosophy still hold relevance to the concept of sustainability.

## FATHY'S PHILOSOPHY IN LIGHT OF ISLAMIC PRINCIPLES

In this section, we compare the quotes from Hassan Fathy that portray his philosophy, in order to find which aforementioned principles related to sustainability in Islam they depict and to verify their practicality in traditional Islamic architecture with examples as indicated in Table 1.

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60 Dr. Tarek Swelim, *An Interview with Dr. Tarek M. Swelim*, Interviewed by Sameeha Abdussamad, December 10, 2019; Ar. Hassan Naseef, *An Interview with Ar Hassan Naseef*, Interviewed by Sameeha Abdussamad. December 13, 2019.


61 Swelim, *An Interview with Dr. Tarek M. Swelim*.

62 Naseef, *An Interview with Ar Hassan Naseef*.

63 Naseef, *An Interview with Ar Hassan Naseef*.

64 Malcolm Miles, "Utopias of Mud? Hassan Fathy and Alternative Modernisms," *Space and Culture* 9, no. 2 (2006): 116–39.



**Table 1.** Comparison of the architectural philosophy of Hassan Fathy with principles of sustainability in Islamic traditions and its manifestation through examples.

Philosophy of Hassan Fathy	Islamic Principles Depicted	Examples from Islamic Architecture
<p><i>Attitude towards Architecture</i></p> <p>“The architect puts his building in two environments; the one is God made i.e. the landscape..... the other is man-made; the urban. If he does not respect the first, it would be a sin ... and if the architect did not respect the other, it would be lack of civility towards the fathers.”<sup>65</sup></p> <p>“He (architect) is introducing a new element into an environment that has existed in equilibrium for a very long time... if he shirks this responsibility and does violence to the environment by building without reference to it, he is committing a crime against architecture and civilization.”<sup>66</sup></p>	<p>Custodianship (<i>Amanah</i>)</p> <p>Balance (<i>Mizan</i>)</p> <p>Purity (<i>Fitra</i>)</p>	 <p>The ancient mud city of Shibem in Yemen merged into its natural surroundings; its architecture was influenced by the local context (i.e., natural and cultural environments). The building materials are natural—clay, reed plants, or stone walls—with zero-carbon emissions, and can be recycled and used. The spatial organization of residential and commercial areas fulfill both social and climate needs.<sup>67</sup></p> <p>Source: National Geographic</p>

65 El-shorbagy, “The Architecture of Hassan Fathy”.

66 Hassan Fathy, *Natural Energy and Vernacular Architecture: Principles and Examples, With Reference to Hot Arid Climates*. Ed. Abd al-rahmān Sultān and Walter Shearer (University of Chicago Press, 1986), <https://archive.unu.edu/unupress/unupbooks/80a01e/80A01E00.htm#Contents>.

67 Ahmed S Attia, ““Traditional multi-story house (Tower House) in Sana’a City, Yemen: An example of sustainable architecture,” *Alexandria Engineering Journal* 59, no. 1 (2020): 381–87.

<p>“Willfully to break a tradition in a basically traditional society like a peasant one is a kind of cultural murder, and the architect must respect the tradition he is invading.”<sup>68</sup></p>		 <p>Traditional designs take advantage of the climatic conditions and local materials, avoiding the usage of materials and techniques foreign to the region with negative consequences. Source: Tripadvisor</p>
<p><i>Maintaining Cultural Identity</i></p> <p>“An architect is in a unique position to revive people’s faith in their own culture. If, as an authoritative critic, he shows what is admirable in local forms, and even goes so far as to use them himself, then the people at once begin to look on their own products with pride.”<sup>69</sup></p> <p>“Client, architect, and craftsman, each in his province, must make decisions, and if any one of them abdicates his responsibility, the design will suffer and the role of architecture in the cultural growth and development of the whole people will be diminished.”<sup>70</sup></p>	<p>Custodianship (<i>Amanah</i>) Social/economic justice (<i>‘Adl</i>) Moderation (<i>Wasat</i>)</p>	 <p>Using local labor provided the natives their right to earn and retain their cultural identity in architecture. In his projects, Fathy resorted to local recruitment, often employing a group of trained masons to impart the skills to the local masons in special building techniques. Source: Archnet.org</p>

68 Fathy, *Architecture for the Poor*, 25.

69 Fathy, *Architecture for the Poor*, 43.

70 Fathy, *Architecture for the Poor*, 40.



<p><i>Choice of Materials</i></p> <p>“Man should be careful not to disturb the natural electro-magnetic balance by improperly selecting the material he uses .... Great care must be taken in the choice of the wall and roof materials and their thicknesses with respect to their physical properties, such as thermal conductivity, resistivity and transmission, and optical reflectivity.”<sup>71</sup></p>	<p>Balance (<i>Mizan</i>) Moderation (<i>Wasat</i>) Purity (<i>Fitra</i>) Perfection (<i>Ihsan</i>)</p>	 <p>A mud-brick house in South Morocco. Materials that are alien to the surrounding would disturb the urban fabric and the natural setting. Source: Pinterest</p>
<p><i>Preserving Local Skills</i></p> <p>“Machine-made products are identical, impersonal, and unrewarding ... Handmade products appeal to us because they express the mood of the craftsman. Each irregularity, oddity, difference ... witness to the constant living interaction of the man with his material.”<sup>72</sup></p> <p>“I wanted to teach the Gourinis brick making, quarrying, brick and lime firing, bricklaying, plumbing, and plastering...I wanted to preserve and perhaps modify traditional designs of furniture that would suit the houses.”<sup>73</sup></p>	<p>Social/economic justice (<i>‘Adl</i>) Moderation (<i>Wasat</i>) Goodness (<i>Ihsan</i>)</p>	 <p>A machine product is not always connected to people or its surroundings. Handmade products provide livelihood for the local labor force, reducing time and cost with regard to transportation while maintaining originality and uniqueness. Source: Flickr</p> <p>With all the developments taking place around the world, teaching the locals new skills to upgrade their techniques and to make them more efficient can also be categorized as sustainable; for example, rammed earth constructions.</p>

71 Fathy, *Natural Energy and Vernacular Architecture*.

72 Fathy, *Architecture for the Poor*, 27.

73 Fathy, *Architecture for the Poor*, 61.

### *Climate-Oriented Architecture*

“The climate of the locality and the buildings around it mold the building, so that... it owes much of its shape to these factors... Climate, in particular, produces certain easily observed effects on architectural forms.”<sup>74</sup>

“Wooden or marble lattices fill large openings to subdue the glare of the sun while permitting the breeze to pass through. Such arrangements characterize the architecture of hot zones, and evoke comfort as well as aesthetic satisfaction with the visible endeavors of man to protect himself against the excessive heat.”<sup>75</sup>

“Beauty comes out when the form considers the force acting on it. Architectural form should consider the forces in nature of wind, rain, even how an earthquake shaking it would make it fall in a pattern that follows the geological formation of a mountain.”<sup>76</sup>

“Fathy used the word *sakina* to describe the quality he sought in the courtyards. The word *sakina* comes from the word *sakan*, which is the Arabic name for a house and relates to peace and purity.”<sup>77</sup>

Purity (*Fitra*)  
Moderation (*Wasat*)  
Perfection (*Ihsan*)  
Balance (*Mizan*)



Elements of Islamic traditional architecture, such as *sahn* (courtyard), *takhtabush* (a modification of the courtyard), and *malqaf* (wind catcher), harness the climatic conditions to provide architectural and thermal comfort, fulfilling the purpose of aesthetics and function. Source: Archnet.org



*Mashrabiya* used for thermal comfort, privacy, and regulating heat inside the building. Source: Autodesk



*Badgir*, a specific type of *malqaf* (windcatcher), for the purpose of ventilation makes use of air movement through the building. Source: Tasteiran.net

74 Fathy, *Natural Energy and Vernacular Architecture*.

75 Fathy, *Natural Energy and Vernacular Architecture*.

76 Rastorfer, *The Man and His Work: In Hassan Fathy*.

77 El-shorbagy, “The Architecture of Hassan Fathy”<sup>74c</sup>.

### Urban Planning Considerations

“As climate is a dominant factor in traditional town planning... uniformity in urbanization is found in all hot arid zones. The layouts of almost all traditional cities in the area are characterized by two features: narrow winding streets, and large open courtyards and internal gardens.”<sup>78</sup>

“Typically, large courtyards serving as reservoirs of cool, fresh air dominate a city plan... With regard to a gridiron town plan, buildings crowded in the city center affect wind movement in that quarter, creating eddies and lowering the wind velocity by friction and change of direction... if the architect must adopt a gridiron street pattern with wide avenues, then sufficient green areas should be spread over the geographical area in order to redistribute the heat evenly within the city and avoid its concentration in the center.”<sup>79</sup>

Balance (*Mizan*)  
Moderation (*Wasat*)  
Perfection (*Ihsan*)



Part of the town plan of the city of Damascus showing open courtyards (unmarked) within the urban fabric. Courtyards act as reservoirs of cool, fresh air and avoid crowding and urban sprawl. Source: Fathy 1986

## SOCIAL COMPONENT OF SUSTAINABILITY IN ARCHITECTURE

Human resources are a valuable asset of sustainable development; however, a rapid growing population increases pressure on resources and poses a problem when the available resources in relation to population growth turns out to be insufficient. Hence, there is a need to adopt techniques to improve human potential to manage these resources in a manner less harmful for the environment.

78 Fathy, *Natural Energy and Vernacular Architecture*.

79 Fathy, *Natural Energy and Vernacular Architecture*.

Social sustainability implies that development should meet the basic necessities of all and provide equal opportunities for all the sections of a society to fulfill the requirements to attain a better quality life. It is addressed in terms of three factors by social scientists:<sup>80</sup>

1. Meeting the basic needs and addressing underdevelopment;
2. Changing attitudes towards the environment by promoting stronger environmental ethics;
3. Maintaining or preserving preferred ways of living or protecting particular socio-cultural traditions.

Over the years, societies have defined their environments, environmental challenges, and potential solutions depending on their culture; these solutions have unintended consequences, and in turn cause challenges and ask for solutions, repeating the cycle again.<sup>81</sup> While in the case of most societies the traditional practices are closely linked with nature, the Western cultural tradition defines nature as distinct from culture.<sup>82</sup> The incorporation of Western practices into cultures that show strong adherence to traditions highlights the difficulty of transferring building practices between polar-opposite cultures. It results in a system that caters to the requirements of the cream of the society and ignores the deprived, which gives rise to unacceptable modes of development. In the following section, we look into how the introduction of contemporary Western values to Islamic city designs have created drastic changes in its societal structure and altered traditions.

## CONTEMPORARY VALUES IN ISLAMIC CITIES

In a society, generally, values are continuously reinforced and maintained by the predominant religion or ideological system.<sup>83</sup> Traditional towns of Muslim nations were built according to the principles derived from the Sharia'a (Islamic law). This had a major influence on the urban development of the pre-industrial Muslim world. We see that it governed the values of Islamic societies by putting forward general principles, such as the importance of family and supporting offspring, setting enough privacy for family life, encouraging a healthy lifestyle for mental and physical well-being, and avoiding squander and extravagance. From these principles emerged regulations for social interaction (*mu'amalat*) and a powerful framework for determining correct and acceptable decisions in building activities. It took into account elements such as building heights and proximity of houses, introverted houses with courtyards and interior gardens, as well as the design of public spaces with respect to residential units.

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80 Suzanne Vallance, Harvey C. Perkins, and Jennifer E. Dixon, "What is Social Sustainability? A Clarification of Concepts." *Geoforum* 42 (2011): 342–48.

81 Sander Van Der Leeuw, *Social Sustainability, Past and Future: Undoing Unintended Consequences for the Earth's Survival* (Cambridge: Cambridge University Press, 2020), 10.

82 Leeuw, *Social Sustainability, Past and Future*, 10.

83 Besim S. Hakim and Peter G. Rowe. "The Representation of Values in Traditional and Contemporary Islamic Cities," *Journal of Architectural Education* 36, no. 4 (1983): 22–28.

In his comment on the article “Simultaneous Perplexity: The Paradise Garden as the Quintessential Visual Paradigm of Islamic Architecture and Beyond” (2013) by Nader Ardalan, Mohammed Arkoun states that the concept of a garden in the Muslim world is a cultural sign that activates “the awareness of the delicate beauty of this temporal world and the need for the preservation of this fragile planet.”<sup>84</sup>

This outlook towards nature was also visible in domestic architecture through climate-responsive design approaches such as wind screens (*mashrabiya*), the wind tower (*malqaf*), reception halls with fountains (*qa'a*), and most importantly the courtyard (*sahn*). The use of natural forces within the built environment through these architectural elements, along with the reuse of resources, emphasized the ties between the built and natural environment of Islamic societies. The use of locally available material is highlighted by the Muslim world through its historical buildings where the materials vary from mud to bricks to a variety of stones based on the geographical context. This was economical in terms of availability and transport, and it supported local industries and craftsmen.

From all of the above influences, Islamic urbanization exhibited certain characteristics, which can be summarized as follows:<sup>85</sup>

1. High-density, low-rise development;
2. Introvert concept on both the urban and building scales, providing privacy, climatic advantages, and positive urban spaces;
3. High coverage of land with buildings;
4. A continuous urban fabric, irregular in shape and form, with identity and originality.

Many traditional cities of the Muslim world reflect their cultural identity in their built environment even today. Among these cities, Fez in Morocco is known to have the best preserved old city in the Arab world, which stands out as the world’s largest urban area with no car traffic.<sup>86</sup> Even during the colonial period, due to the topography of the traditional city, the new colonial city was located 2 kilometers west of the ancient city, allowing the traditional medina to develop independently and operate in its traditional manner.<sup>87</sup> The separation between the public and private domains, and the interaction between the public space and the volumetric articulation of space—which are the basic Islamic structuring principles—are rigorously maintained in the city of Fez.<sup>88</sup> The urban fabric of the city clearly reflects the concept of social solidarity in which religious beliefs

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84 Nader Ardalan, “Simultaneous Perplexity”: The Paradise Garden as the Quintessential Visual Paradigm of Islamic Architecture and Beyond,” in *Understanding Islamic Architecture*, ed. Attilio Petruccioli and Khalil K. Pirani (London: Routledge, 2013), 9–18.

85 Ahmed Farid Moustapha, *Islamic Values in Contemporary Urbanism* (Melbourne: ISOMER (Islamic Society of Melbourne Eastern Region), 1986).

86 Huyam Abudib, “Exploring Contextual Characteristics of Traditional Medinas in North Africa.” *International Journal of Architectural Research* 10, no. 1 (2016): 325–43.

87 Abudib, “Exploring Contextual Characteristics”.

88 Jonathan G Katz, “Fez: The Ideal and the Reality of the Islamic City,” *Architecture as Symbol and Self-Identity* (Philadelphia: Aga Khan Award for Architecture, 1980), 74–77.

and values, especially those relating to organization and authority, encourage social interaction and discourage dispersal.<sup>89</sup>

In the post-colonial Islamic world, Muslim societies were torn between the images of the society created by the Prophet Mohammad in Medina and the reality of the Western present.<sup>90</sup> With the acceptance of Western models into these cities in the early 20th century, modernity started to overpower the existing architectural practices, disregarding the inherited sociocultural values of the region. Rapid urban transformation made people demonstrate disaffection and lower sense of belonging to the cities of the Middle East in the 1960s and 1970s.<sup>91</sup> There arose a need to revive the architectural heritage and re-establish the relationship with principles, which facilitated the organic growth and incorporated nature into the built elements like in the traditional urban setting.

With the development of contemporary urban settlements within Islamic cities, there has been a blatant departure from traditional practices. The urban fabric in these cases is unnaturally regular with grid patterns as they are designed to accommodate transportation systems. The physical independence of housing units departs from the usual conventions of traditional building and is reinforced by the building regulation rules that deny the formation of connected forms of housing; consequently, the advantages of shading and building for climate control can be lost, and the streetscape—even after showcasing traditional elements of Islamic architecture—loses both vitality and visual interest.<sup>92</sup> Such drawbacks were exhibited in the “Crash Housing” in Dammam, Al Khobar (Figure 5), which followed Western conventions in internal organization, distinct from the traditional patterns of settlements. The lack of appropriate orientation and use of building forms for climate control resulted in excessive consumption of energy and uneconomical costs of utilities. Professor Egbert Kossak, former Head of the Department of Planning at Stuttgart University, commented that if the Muslim world continued to plan cities according to modern conventions, they would lose the religion as a whole because the development patterns would completely depart from the traditional physical forms, which would destroy the original social values.<sup>93</sup>

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89 Rabah Saoud, “Introduction to the Islamic City,” MuslimHeritage.com (FSTC Limited, August 2002), <https://muslimheritage.com/uploads/Islamic%20City.pdf>.

90 Haider, “Habitat and Values in Islam”.

91 Mohammad Saeed Al-Shehhi, “The Evolution of Regional Design Practices: How the Arab World’s Design Past Informs Its Future,” Commercial Interior Design, September 27, 2017, <https://www.commercialinteriordesign.com/voices/the-evolution-of-regional-design-practices-how-the-arab-worlds-design-past-informs-its-future?amp>.

92 Hakim and Rowe, “The Representation of Values”.

93 Moustapha, *Islamic Values in Contemporary Urbanism*.



**Figure 5.** A block plan of the “Crash Housing” in Al Khobar. Source: Hakim and Rowe 1983.

All these factors in turn affected social relations and interactions between members of a society, which reduced the sense of responsibility and mutual cooperation in a social organization that further withered due to the centralization of governance. Modernization also severely impacted the urban form, creating a social rift between various economic classes and perpetuating a feeling of backwardness and lower social status.<sup>94</sup> The current migration pattern and refugee crisis have further deepened this gap between classes, giving rise to a situation where the rich become richer and the poor become more deprived, as discussed in the following section.

## THE PROBLEM OF ECONOMIC WEAKER SECTIONS

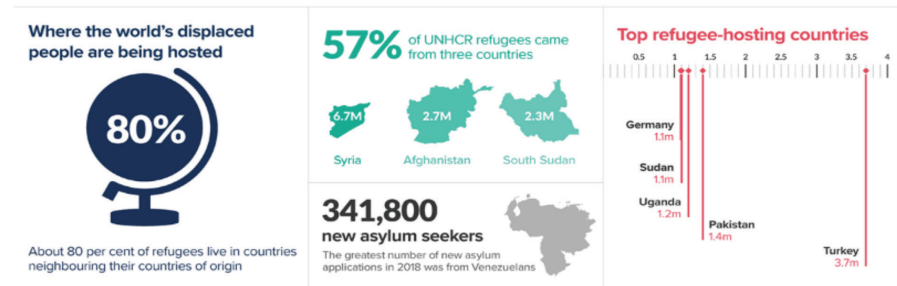
The concentration of economic activities in cities and the highest general standard of living caused a wave of migration from rural to urban centers; the new neighborhoods created to accommodate these sections of the population were formed based on non-Muslim planning techniques and subdivision standards.<sup>95</sup> The majority of these buildings were either apartment blocks with a high population density (high density, high rise) with disproportionate open spaces for use by the inhabitants, or independent dwelling units in the form of villas (low density, low rise), which left huge wasted spaces between them. This created the subdivision system known as “The Grid Iron Plan,” which was driven by capitalist mentality that aimed at extravagant display of wealth with its imbalanced consumption and inappropriate usage. The economic weaker sections in such cases

94 Stefano Bianca, *Urban Form In The Arab World: Past and Present* (New York: Thames & Hudson Inc, 2000).

95 Moustapha, *Islamic Values in Contemporary Urbanism*.

occupied the declining quarters of a city or the industrial suburbs with poor living conditions and housing facilities that was developed in a haphazard manner, with no social integration with other sections of the local society. With regard to such a planning system, architect Hassan Fathy remarks: “With regard to a gridiron town plan, buildings crowded in the city center affect wind movement in that quarter, creating eddies and lowering the wind velocity by friction and change of direction... if the architect must adopt a gridiron street pattern with wide avenues, then sufficient green areas should be spread over the geographical area in order to redistribute the heat evenly within the city and avoid its concentration in the center.”<sup>96</sup>

In his book *Dwelling in Developing Countries* (1963), Fathy recalls how the majority of city dwellers in such a setting are discontented with their dwellings and have a desire for detached houses or a building with few stories, with ample garden spaces for interaction.<sup>97</sup> In the current scenario, approximately 1.8 billion people worldwide live in homelessness and grossly inadequate housing, often in overcrowded conditions, lacking access to water and sanitation—making them particularly vulnerable to security issues and in a pandemic situation.<sup>98</sup> In addition, the United Nations reported that an unprecedented 70.8 million people around the world were forced from home by conflict and persecution at the end of 2018 (Figure 6).<sup>99</sup> However, for this intensifying housing crisis, the solution is not to build Western-style multi-story concrete blocks with ill-fitting cells and no connection to nature, which are hideous and inhumane. Every human, whether living in a rural or urban context, requires the same structurally comprehensive refuge to protect his individuality and to calm his spirit.<sup>100</sup>



**Figure 6.** Statistics showing the number of refugees living in countries neighboring their country of origin. Source: Open source by the UN.

96 Fathy, *Natural Energy and Vernacular Architecture*.

97 Hassan Fathy, *Dwelling in Developing Countries* (Geneva: Aga Khan Trust for Culture, 1963).

98 OHCHR. ““Housing, the front line defence against the COVID-19 outbreak,” says UN expert,” (UN Human Rights: Office of the High Commissioner, March 18, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25727>.

99 United Nations. “Refugees,” *United Nations*, April 20, 2020, <https://www.un.org/en/sections/issues-depth/refugees/>.

100 Fathy, *Dwelling in Developing Countries*.



Man is inseparably linked with nature, and the blue planet's survival and its symbolic representations through gardens and courtyards have served to further man's harmonious relationship with nature and the Absolute.<sup>101</sup> Any building typology that seems to be devoid of elements of nature can prove to be distressing and cause discomfort to its occupants. A shift in the conceptualization of man's relation with nature occurred with the advent of the sustainability era; the initial assumption of the environment being hazardous to humans changed vice versa in the postmodern world where man was portrayed as hazardous to nature, and in the contemporary world it has been understood that neither are dangerous to each other if handled carefully, but both can be if not.<sup>102</sup>

Today, the emphasis on the relationship between the social and environmental components of sustainability is more pronounced than ever before. The COVID-19 pandemic has put a spotlight on housing quality, which is crucial for our health and hence can no longer be swept under the carpet. The issue is not limited to poor quality substandard housing; it has also affected the residents of high-rise tower blocks in the cities. This is because people live in close quarters, and shared facilities make them a high-risk setting for outbreaks of infectious disease.<sup>103</sup> In addition, the strain on people's mental health due to the absence of elements of nature has also raised concerns. The positive impact on our mental health from time spent in nature is essential, and those living in urban environments are already experiencing the ill effects of high-density living and limited green space.<sup>104</sup> This is yet another lesson learned from the pandemic—a "nature deficit" setting affects our physical health and mental well-being adversely; hence, it needs to be incorporated extensively in our residences and urban planning at large.

## SAFEGUARDING TRADITIONS AND CULTURES AMONG SOCIAL DIVERSITY

Contemporary urbanism can be absorbed into the Islamic context by embedding it with the regional and cultural variables. Architects need to evolve techniques that are appropriate to the climate and economy particular to a region.<sup>105</sup> It is therefore important to reexamine the cultural expression of a society. Architecture based on appropriate technology should employ a language that is fitting and meaningful to the context of a specific culture.<sup>106</sup>

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101 Ardalan, "Simultaneous Perplexity".

102 Leeuw, *Social Sustainability*, Past and Future, 20.

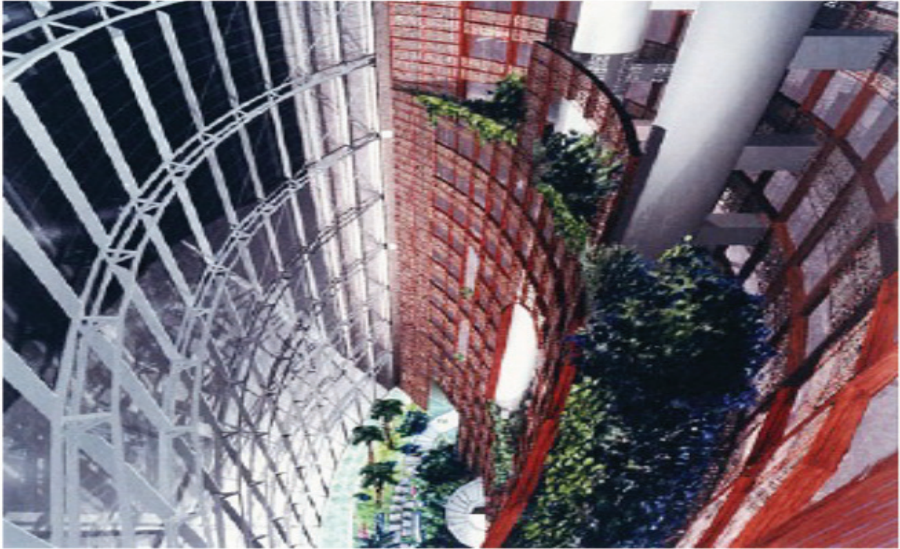
103 Misha Ketchell, *We Could have More Coronavirus Outbreaks in Tower Blocks. Here's How Lockdown should Work*, July 14, 2020, <https://theconversation.com/we-could-have-more-coronavirus-outbreaks-in-tower-blocks-heres-how-lockdown-should-work-142297>.

104 Misha Ketchell, *We Could have More Coronavirus Outbreaks*.

105 Kamil Khan Mumtaz, "A Search for Architecture Based on Appropriate Technology," *Theories and Principles of Design in the Architecture of Islamic Societies* (1988): 125–31.

106 Mumtaz, "A Search for Architecture Based on Appropriate Technology".

Nader Ardalan, in his design of the headquarters of the oil and gas industry of Abu Dhabi in 1990, illustrated the flexibility in design, “representing a wide range of aesthetic approaches from a highly technological interpretation to a much more traditional rendering of the theme.”<sup>107</sup> The landmark design, which functionally integrated the architectural heritage of the region with its outstanding features of the design, is a great atrium placed at the very heart of the building containing the “hidden, vertical garden” that brings filtered natural light, a view, and a symbolic sense of regeneration of a verdant garden (Figure 7).



**Figure 7.** The view of the central atrium of ADMA-ADGAS HQ in Abu Dhabi containing a vertical garden. Source: Nader Ardalan.

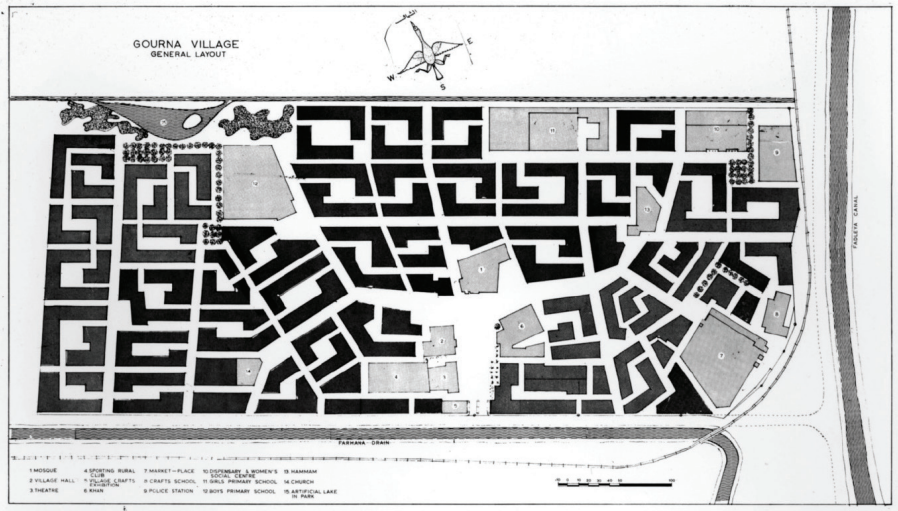
Architects concerned with mass housing most often avoid dealing with each individual separately, citing time constraints; however, considerations must be at individual levels to provide apt dwelling facilities. There needs to be a return to the inherent building practices and urban principles in contemporary Islamic cities. The principles and values that are archetypal and universal to most of humanity need to be put into practice in a socially diverse society. Standardization and prefabrication techniques may be adopted, but they should allow variety in form, color, size of unit, and spaces to achieve individual identity and mix between various client requirements.<sup>108</sup> An ideal and efficient neighborhood that prevents social and economic segregation can be achieved by following these strategies. Another way to preserve the traditional urban fabric of a city is by maintaining and managing the old parts of the city with historical values, which can be

<sup>107</sup> Ardalan, “Simultaneous Perplexity”.

<sup>108</sup> Moustapha, *Islamic Values in Contemporary Urbanism*.

developed to become tourist hotspots while upholding the identity and integrity of the local architecture

Residential units attached externally should have internal courtyard gardens surrounded by walls, making them central to the dwelling. Individual consultations with the inhabitants would help the architect create structures with long-lasting comfort. For a more refined approach, using local labor provides them their right to earn and retain their cultural identity in architecture, as well as teaching them new skills to upgrade their techniques and make them more efficient, which can also be categorized as sustainable. This technique was adopted by Hassan Fathy to build the New Gournia Village in Egypt, which was a high-density, low-rise courtyard development (Figure 8).



**Figure 8.** Master plan of New Gournia Village near Luxor, Egypt by Hassan Fathy, which was only partially developed. Source: MIT Libraries.

Elements of Islamic traditional architecture, such as the *sahn* (courtyard), *takhtabush* (a modification of the courtyard), and the *malqaf* (wind catcher), harness climatic conditions to provide architectural and thermal comfort, fulfilling the purpose of aesthetics and function. The architect must take into account the natural forces acting upon a structure and harness them efficiently with minimum economic and energy wastage. Traditional designs take advantage of climatic conditions and local materials, avoiding the use of materials and techniques foreign to the region with negative consequences, as Fathy remarks: “Willfully to break a tradition in a basically traditional society like a peasant one is a kind of cultural murder, and the architect must respect the tradition he is invading.”<sup>109</sup>

109 Fathy, *Architecture for the Poor*, 25.

## CONCLUSION

From the previous sections, we see that the identified principles of sustainability in Islam have been manifested throughout Islamic traditional architecture, which have proven to be effective in terms of economy, comfort, and standards. However, today, its practicality has not been adopted on a global scale and its possibilities remain disregarded. For this reason, we must understand that modern technology is not outside the framework of Islamic principles. It is worth noting that some principles put forth from the Islamic perspective of sustainability, such as social/economic justice (*'adl*), moderation (*wasat*), perfection (*ihsan*), and balance (*mizan*), coincide with the goals being pursued by the conventional model of sustainability. However, it is the intent, the conscience, and the methods of implementation that differ in both the models. In order to apply these principles in the global context, the preconceived notions that Islamic values are impractical and only exist in theory need to be eliminated and dialogues between these two models of sustainability ought to be established, in order to develop more effective and efficient approaches for sustainable development.

It is essential to ensure that the challenges and responsibilities are shared and equal opportunities are established globally, in order to attain sustainable development. The so-called “progress” made by science has had devastating consequences on the world—the awareness of this truth has now made the vast majority rethink strategies for development in a sustainable manner. Nevertheless, a systematic application of science to harness natural sources of energy will prove to be far more productive than the vernacular/traditional architecture, but without foregoing the very essence of these architectural typologies.

The process of urbanization is inevitable and therefore should take place without deteriorating existing practices and local traditions of the context while simultaneously increasing the quality of living standards. On the one hand, we need to reaffirm traditional and cultural values and identities; on the other hand, this adherence should not cause the Islamic world to fall back in terms of the development associated with the geopolitical economic order. The possibility of sustainable development by incorporating Islamic urban principles into contemporary urbanism in order to suit local contexts cannot be ignored, and it requires urgent attention and should be subject to further research.

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## RESEARCH ARTICLE

# The Ethics of Procreation: From the Ancient Female Infanticide (*wa'd al-banāt*) to the Modern Sex Selection

Hamim Azad

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## ABSTRACT

The emergence of modern biomedically assisted sex selection for non-medical reasons facilitates parents to desire the sex of a fetus. This practice raises many ethical questions that centers around human value and dignity. The notion and practice of infanticide are categorically prohibited in Islam. The aim of this research is to understand whether the non-medical sex selection practice is a form of pre-Islamic paganistic (*jāhiliyyah*) infanticide and whether the reasons that persuade the parents to opt for such a practice resemble the causes that used to motivate the *jāhili* Arabs. The research analyzes the status of surplus embryos produced through the sex selection process in order to mark the beginning of human life and consequently to determine whether the termination of the

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fetuses that will not be used is considered as infanticide. Some scholars and physicians opine that the surplus embryos in the process of sex selection have life; thus, killing them is similar to killing life, i.e., a similarity to pre-Islamic infanticide in essence and in the factors.

**Keywords:** sex selection, infanticide, non-medical reasons, ethical, beginning of life, embryos

## RESEARCH QUESTION

Is sex selection for non-medical reasons a modernized form of the ancient and ethically abhorrent infanticide?

## INTRODUCTION

Sex selection with the help of modern advanced biomedical technologies is a process that involves techniques such as *in vitro* fertilization (IVF) and pre-implementation genetic diagnosis (PGD). IVF is a form of assisted reproductive technology (ART) that helps extract an egg from a woman's ovary and getting it fertilized by a sperm. After the fertilized egg starts to divide, it is transferred back into the woman's uterus.<sup>1</sup> PGD is the genetic testing of embryos, which increases the chances of having a successful IVF process and decreases miscarriages that may occur when the implanted embryo has (genetic) deformities.<sup>2</sup> These biomedical techniques considerably decrease the chance of having health-related diseases and are of great help for improving human well-being.

The main purpose of using advanced techniques such as IVF and PGD is to help infertile couples have children that they otherwise would have never had. Hence, many Muslim religious scholars permitted the use of ART in principle,<sup>3</sup> recalling the formation of the Standing Committee for Sharia Medical Ethics to observe the scientific development of ART and witness its religious and social implications.<sup>4</sup>

Besides infertility treatment, the processes of IVF and PGD can also be used for

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1 Mahdi Zahraa and Shaniza Shafie, "An Islamic Perspective on IVF and PGD, with Particular Reference to Zain Hashimi, and Other Similar Cases," *Arab Law Quarterly* 20 (2006): 161, <https://doi.org/10.1163/026805506777585685>.

See also: Kathryn Ehrich, Clare Williams, and Bobbie Farsides, "The Embryo as Moral Work Object: PGD/IVF Staff Views and Experiences," *Sociology of Health & Illness* 30 (2008): 777, <https://doi.org/10.1111/j.1467-9566.2008.01083.x>.

2 Ilan Tur-Kaspa and Roohi Jeelani, "Clinical Guidelines for IVF with PGD for HLA Matching," *Reproductive Biomedicine Online* 30 (2015): 115–19, <https://doi.org/10.1016/j.rbmo.2014.10.007>.

3 Marica C. Inhorn and Soraya Tremayne, "Islam, Assisted Reproduction, and the Bioethical Aftermath," *Journal of Religion & Health* 55 (2016): 423, <https://doi.org/10.1007/s10943-015-0151-1>.

4 G. I. Serour and B. M. Dickens, "Assisted Reproduction Developments in the Islamic World," *International Journal of Gynecology & Obstetrics* 74 (2001): 188–89, doi:10.1016/s0020-7292(01)00425-8.



selecting the gender in the embryo stage, where one to three embryos out of many intended with the specific gender are chosen to be implanted in the uterus and others are frozen for later use or destroyed.<sup>5</sup> This form of sex selection denotes preferring one gender over another for many social and economic reasons, which evoke the scenario of the pre-Islamic age, *‘Aṣr al-Jāhiliyyah*, when having girls used to be thought of as a source of shame, disgrace, and humiliation in the family. Hence, they were sometimes buried alive, which the Qur’an refers to as the phenomenon of female infanticide (*wa’d al-banāt*). The Qur’an reads, “And when one of them is informed of [the birth of] a female, his face becomes dark, and he suppresses grief. He hides himself from people because of the ill of which he has been informed. Should he keep it in humiliation or bury it in the ground? Unquestionably, evil is what they decide” (16: 58–59).

The practice of sex selection raises a number of questions; for instance, does this practice resemble the pre-Islamic notion of female infanticide? If not, would Islam allow sex selection for non-medical reasons? Is terminating the surplus male or female embryos in the process of selecting gender tantamount to homicide?

In order to answer the above questions systematically, first, we will present the pre-Islamic phenomenon of female infanticide (*wa’d al-banāt*) and the reasons behind such a practice to assess whether or not the modern form of sex selection is motivated by the same reasons. Then, we will address the viewpoints of contemporary Muslim scholars about whether modern sex selection for non-medical reasons is allowed and whether having the surplus embryos destroyed in the sex selection process is similar to homicide, just like the female infanticide in pre-Islamic Arabia.

## FEMALE INFANTICIDE OF PRE-ISLAMIC ARABIA

In order to demonstrate the infanticide phenomenon of pre-Islamic Arabia and the reasons behind such a practice, we mainly consult the Quranic exegeses and explore their interpretation due to the explicit verses mentioned in the Qur’an that describe infanticide of that time. In addition, we refer to the literature that provides insights into this phenomenon. Several verses in the Qur’an describe the custom of infanticide, which seems to have been widespread in the pre-Islamic Arab society for several reasons related to the nature and structure of that society. Moreover, nearly all the verses related to infanticide were revealed in the Meccan context which indicates the wrongdoings of the pre-Islamic Arab society.<sup>6</sup>

The Qur’an says: “And do not kill your children for fear of poverty. We provide for them and for you...” (Qur’an 17: 31). This verse indicates the occurrence of infanticide of

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5 Mohammed Ghaly, “The Beginning of Human Life: Islamic Bioethical Perspectives,” *Zygon* 47 (2012): 183, <https://doi.org/10.1111/j.1467-9744.2011.01245.x>.

See also: ‘Abdullah Bāsālāmah, “Fate of Bank Deposited Embryos,” *Islamic Organisation for Medical Science* (1987), [http://islamset.net/bioethics/vision/dr\\_abasalamah.html](http://islamset.net/bioethics/vision/dr_abasalamah.html).

6 Avner Giladi, “Some Observations on Infanticide in Medieval Muslim Society,” *International Journal of Middle East Studies* 22 (1990): 186, <http://www.jstor.org/stable/163739>.

both sexes but that of girls was more predominant in the pre-Islamic age. The truth of this can be found in al-Ṭabarī's interpretation of the verses of Chapter 81. He mentions a hadith report that states about Qays ibn Ḍāsim who informed the Prophet about burying eight daughters alive during the time of *Jāhiliyyah*.<sup>7</sup> Moreover, al-Qurṭubī stated that a person named Ṣa'sa'a is believed to have saved up to 70 girls by purchasing them from their fathers.<sup>8</sup>

Numerous superstitions and reasons can be noted, which are believed to have prompted such a morbid practice. Among them are the following:

### a. Poverty

Though the Qur'an in Chapter 17 states about pre-Islamic Arabia's killing of children of both sexes due to the fear of poverty, killing of daughters prevailed as found in the exegeses. This is because, with the adverse climate conditions of the Arab region such as frequent famines due to droughts and subsequent dearth of food and production, girls were viewed as less productive than boys. Fathers were concerned about more mouths to feed in the case of daughters, while yielding nothing for the family.<sup>9</sup> In addition, daughters were considered "incompetent" or rather "mere ornaments" whose uselessness was reflected through their wearing ornaments and inability to participate in useful activities such as arguments.<sup>10</sup> In this regard, the Qur'an points out a common protest of the era: "What! [Am I to have a daughter-] one who is to be reared [only] for the sake of ornament?" (Qur'an 43:18).

### b. Fear of Shame and Humiliation

Another reason why the Arab pagans used to commit female infanticide is due to fear of disgrace and humiliation that they may have to go through once their daughters are taken as captives and enslaved. It is also stated that fathers were concerned that they would be forced to marry off their daughters to people they did not like.<sup>11</sup> Tribes such as *Khuzā'ah*, *Mudār*, and especially *Tamīm* were known for this immoral practice.<sup>12</sup>

### c. Ritualistic Sacrifice

Another reason why daughters were sacrificed is due to the blind loyalty of pagan Arabs

7 Al-Ṭabarī, *Jāmi' al-Bayān fī Ta'wīl al-Qurān* (Beirut: Muassasah al-Risālah, 2000), 248, v. 24.

See also: Ibn Kathīr, *Tafsīr al-Qurān al-'Ajam* (Riyad: Dār al-Ṭayyibah, 1999), 335, v. 8.

8 Al-Qurṭubī, *Tafsīr al-Qurṭubī* (Cairo: Dār al-Kutub al-Miṣriyyah, 1985), 233, v. 19.

9 Muslim Women's League, "Women in Pre-Islamic Arabia," 1995, <https://www.mwusa.org/topics/history/herstory.html>.

10 Ibn Kathīr, *Tafsīr al-Qurān al-'Ajam*, 233, v. 7.

11 Azizah al-Hibri, "A Study of Islamic Herstory: Or How did We Ever Get into This Mess?" *Women's Studies International Forum* 5 (1982): 209.

See also: Al-Qurṭubī, *Tafsīr al-Qurṭubī*, 232–33, v. 19.

See also: Al-Rāzī, *Mafātiḥ al-Ghayb* (Beirut: Dār Ihyā' al-Turāth al-'Arabi, 1999), 66, v. 31.

12 Al-Qurṭubī, *Tafsīr al-Qurṭubī*, 117, v. 10.

See also: Al-Tha'labī, *Al-Kashf wa'l-Bayān* (Beirut: Dār Ihyā' al-Turāth al-'Arabi, 2002), 23, v. 6.

to their partners (*shayāfīn*) to whom they used to worship,<sup>13</sup> as the Qur'an points out: "And likewise, to many of the polytheists, their partners have made [to seem] pleasing the killing of their children in order to bring about their destruction and to cover them with confusion in their religion..." (6:137).

Some exegeses mentioned that aside from satans, the partners also included the ones (mediators) who used to serve the idols or the wicked people who would ordain Arab pagans' daughters to be slain.<sup>14</sup> Infanticide in *Jāhiliyyah* was glorified and made attractive. A pagan Arab would form an oath to God about sacrificing one of his children once he is granted a child of his own longing, as evidenced in the case of the Prophet Muhammad's grandfather who swore to God about sacrificing the Prophet's father Abdullah.<sup>15</sup>

#### d. III Health

A daughter exhibiting lack of good health or appearing ill, weak, or diseased was yet another reason that contributed to female infanticide in pre-Islamic Arabia. For example, people would bury their daughters alive if they were bluish in color, had many spots on their bodies, or were hairy as these were regarded as bad omens.<sup>16</sup>

From the above-mentioned Quranic verses and their interpretations, one can conclude that the pre-Islamic infanticide practice specifically targeted female children more due to the above-mentioned social, economic, and ritualistic reasons. This clearly indicates that there was a dominant preference for a particular gender, namely male children, which also took the form of putting the life of early-born female children to an end. Thus, in one way or another, one can speak of a primitive form of sex selection.

In the modern era of scientific and technological developments, biomedical advancements can help people to opt for sex selection by avoiding female embryos (and thus not killing any born female child as in pre-Islamic Arabia) and by choosing to implant male embryos in the uterus of the woman. The question arises as to whether sex selection of any gender is allowed for a non-medical reason from an ethical and religious viewpoint, which will be answered below.

### NON-MEDICAL SEX SELECTION AS VIEWED BY CONTEMPORARY MUSLIM RELIGIOUS SCHOLARS

Has biomedically assisted sex selection practice for non-medical reasons been undertaken? The answer is affirmative. In face-to-face interviews with 31 Arab women conducted by Bokek-Cohen and Tarabeih, various non-medical reasons for sex selection were mentioned

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13 Al-Ṭabarī, *Jāmi' al-Bayān*, 137, v. 12.

14 Al-Qurṭubī, *Tafsīr al-Qurṭubī*, 91, v. 7.

See also: Al-Ṭabarī, *Jāmi' al-Bayān*, 137, v. 12.

15 Al-Zamaksharī, *Tafsīr al-Zamaksharī* (Beirut: Dār al-Kitāb al-'Arabī, 1986), 70, v. 2.

See also: Al-Tha'labī, *Al-Kashf*, 194, v. 4.

16 Jawād 'Alī, *Al-Mufaṣṣal fi Tārīkh al-'Arab Qabla 'l-Islām* (Beirut: Dār al-Sāqī, 2001), 89, v. 9.

See also: 'Alī al-Ḥalabī, *Al-Sīrah al-Ḥalabiyyah* (Beirut: Dār al-Kutūb al-'Ilmiyyah, 2006), 68, v. 1.

by the interviewees who underwent the process of sex selection with the hope of having a boy. Some women said that the male heir will preserve the lineage and the family tree as opposed to the daughter who moves to her husband's family. Some other women spoke about utilitarian reasons, such as having sons who tend to stay close to their parents and take good care of them in their old age. Some women pointed out social and familial reasons. They said that the husband who has only daughters will lack respect in the society and would thus feel inferior due to name tagging. Furthermore, the mother-in-law will threaten that her son will get married to another woman. Another reason is the desire of family balancing (i.e. to not miss out on the unique mother-son relationship). One group of women gave excuses for preferring a baby boy to a baby girl, such as a boy would provide bone marrow to his sister or donate a kidney to his father.<sup>17</sup>

All of the above reasons for choosing to undergo a biomedical sex selection process provided by the interviewees are non-medical. With regard to non-medical reasons for sex selection, majority of Muslim scholars and physicians rule out its permissibility. A workshop organized by the International Islamic Centre for Population Studies and Research (IICPSR) at al-Azhar University strongly opposed the use of IVF and PGD for sex selection, and argued that this practice would open the door to discrimination against female embryos and fetuses.<sup>18</sup> Though selecting gender does not go against the will and power of God,<sup>19</sup> it is still prohibited in principle, excluding exceptional cases such as sex-related diseases.<sup>20</sup> This practice would go against the divine demographic order, create demographic imbalance in society, and may eventually be a reason for same-sex relations. In addition, there is no basis for allowing this practice as sex is not a disease that we need to avoid.<sup>21</sup>

Some Muslim scholars and physicians who stand by the opinion of the majority, however, have opined that particular social reasons may be considered to permit gender selection for certain individuals under very specific circumstances. For instance, the general prohibition of gender selection may lead some women to vulnerable situations in societies where having sons remain central to women's well-being and status. There are societies where women are devalued to an extreme extent, such as being subjected to mental and physical torture and being forced to end their marriages with divorce due to excessive birth of girls and no sons. In such circumstances, some scholars and physicians would speak of the permissibility of sex selection.<sup>22</sup> Moreover, family balancing may be considered acceptable for families where several girls have been delivered by the wife and

17 Ya'arit Bokek-Cohen and Mahdi Tarabeih, "Forbidden Medically Assisted Sex Selection in Sunni Muslims: A Qualitative Study," *RMBO* 41 (2020): 539–40.

18 Serour and Dickens, "Assisted Reproduction," 190.

19 'Umar al-Ashqār, 'Uthmān Shubayr, 'Abd al-Nāṣir Abu al-Baṣāl, 'Ārif 'Alī 'Ārif, and Muḥammad al-Baz, *Dirāsāt Fiqhiyya fī Qaḍāyā Ṭibbiyya Mu'āṣira* (Amman: Dār al-Nafā'is, 2001), 339.

20 Zahraa and Shafie, "An Islamic Perspective," 180.

21 Vardit Rispler-Chaim, "Contemporary Muftis between Bioethics and Social Reality: Selection of the Sex of a Fetus as Paradigm," *Journal of Religious Ethics* 36 (2008): 67–68, <https://doi.org/10.1111/j.1467-9795.2008.00336.x>.

22 Muslim Women's League, "Women in Pre-Islamic Arabia"

See also: Serour and Dickens, "Assisted Reproduction," 190.

there is no boy or vice versa.<sup>23</sup> However, these reasons may only be considered with the condition that there cannot be any prejudice against either sex and the process cannot involve a third person other than the married couple in both the sexual relationship and the resulting procreation.<sup>24</sup>

On the other hand, some Muslim scholars find sex selection unproblematic, stating that selecting gender for non-medical reasons should be permissible since there is no scriptural prohibition. This opinion was expressed by the late Azhārī scholar Muḥammad Ra'fat 'Uthmān (d. 2016). He premised his opinion on the juristic principle that everything in the universe is available for human exploitation and can be used by humans as long as it is not harmful.<sup>25</sup> Moreover, the proponents of sex selection for non-medical reasons also state that if asking or praying to God for having a son or daughter is allowed, it is also permissible to pursue it through other means.<sup>26</sup>

Possibly an additional argument for the proponents of sex selection is some writings in the Islamic tradition. Certain classical commentaries on hadith literature and works written by Muslim physicians, such as Ibn Sīnā (d. 1037) and Al-Rāzī (d. 925), provided instructions on how to procreate boys in particular. For example, they said that boys are born from the right side of the body and girls from the left side. A boy is conceived if the sperm is warm and enters the right side of the womb, which is also the warmer part as it is closer to the liver.<sup>27</sup> A hadith explains that when the seed of the man meets the seed of the woman, the seed that dominates determines the sex of the fetus.<sup>28</sup>

Remarkably, both the opponents and proponents of sex selection focus on either the good or bad consequences of this practice, without touching upon the moral status of the embryo. The following section aims to fill this gap.

## THE STATUS OF EMBRYO IN RELIGIOUS SCHOLARS' DISCOURSE ON THE BEGINNING OF HUMAN LIFE

As mentioned earlier, selecting sex through modern biomedical techniques such as IVF and PGD involves creating more than one embryo. This procedure raises concerns about the fate of surplus embryos that may be ultimately terminated. Whether the destruction of these embryos is an act of killing or not can be better understood from the views of classical schools of *fiqh* and contemporary scholars. The core issue here is how to

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23 G. I. Serour, "Islamic Perspectives in Human Reproduction." *Reproductive Biomedicine Online* 17 (2008): 36, <https://www.ncbi.nlm.nih.gov/pubmed/18983735>.

See also: Serour and Dickens, "Assisted Reproduction," 190.

24 Hassan Chamsi-Pasha and Muhammed Ali Albar, "Assisted Reproductive Technology: Islamic Sunni Perspective," *Human Fertility* 18 (2015): 107, <https://doi.org/10.3109/14647273.2014.997810>.

25 Rispler-Chaim, "Contemporary Muftis," 65–66.

26 Al-Ashqār, Shubayr, Abu al-Başāl, 'Ārif, and Al-Baz, *Dirāsāt Fiqhiyya*, 339.

See also: Rispler-Chaim, "Contemporary Muftis," 66.

27 Ibn Sīnā, *Al-Qānūn fī al-Ṭibb* (Beirut: Dār al-Fikr, 1994), 767–68, v. 2.

See also: Al-Rāzī, *Al-Hāwī fī al-Ṭibb* (Beirut: Dār al-Kutūb al-'Ilmiyyah, 2000), 167, v. 3.

28 Al-Nisābūrī, *Ṣaḥīḥ Muslim* (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1986), 252, v. 1, Hadith no, 315.

determine the exact beginning of human life. Scholars have varied in their opinions on the specific moment of the beginning of life.

### **a. Classical Scholars: Ensoulment is the Beginning of Human Life**

The classical schools of *fiqh* agree that life starts from the moment of ensoulment, i.e., after 120 days of gestation.<sup>29</sup> The basis of their claim is the famous hadith narrated by Ibn Mas‘ūd that mentions that the Prophet of Islam said: “Verily, you are aggregated in your mother’s womb for forty days, then blood clot for another forty days, then embryo for another forty days, then God sends angel ...”<sup>30</sup> Based on the classical opinion, it seems that surplus embryos in the IVF process do not possess human life because ensoulment happens only with the moment of ensoulment, i.e., before 120 days of gestation; but these embryos are not even implanted in the uterus yet. Thus, one can conclude that destroying surplus embryos is not an act of homicide because there is no human life that is put to an end.

### **b. Contemporary Muslim Scholars**

Contemporary Muslim scholars and physicians have three opinions regarding the specific beginning of human life. This difference can be credited to the modern biomedical advancements that contribute to shaping the opinions of these scholars.

#### ***The First Position: The Emergence of Humid Liver as the Beginning of Human Life***

Muslim physician Ibrahīm al-Sayyad opined that the sign of being alive is having a humid and warm liver with the functioning of the blood circulation system.<sup>31</sup> Al-Sayyad’s argument was based on the prophetic hadith speaking about taking care of every creature with a humid liver.<sup>32</sup> This is a minority opinion.

If this view is accepted, it is certainly evident that the surplus embryos in the IVF stage do not even reach the uterus of the woman, let alone the stage of blood circulation, which indicates that embryos do not have life according to this position.

#### ***The Second Position: Fertilization is the Initial Point of Human Life***

Many physicians and Muslim scholars opine that the beginning of life is marked when the ovum of a woman is fertilized by the sperm of a man, i.e., the conception.<sup>33</sup> Some state that life starts exactly at the very moment of conception, whereas others think of a moment

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29 Ibn ‘Ābidīn, *Hāshiyāt R’ad al-Mukhtār* (Beirut: Dār al-Fikr, 1992), 302, v. 1.

See also: Al-Qarāfī, *Al-Furūq* (Saudi Arabia: ‘Ālim al-Kutub, n.d.), 470, v. 2.

See also: Shams al-Dīn, *Nihāyah al-Muhtāj* (Beirut: Dār al-Fikr, 1984), 496, v. 2.

See also: Al-Zarkashī, *Sharḥ al-Zarkashī* (Dammam: Dār al-‘Obīkān, 1993), 334, v. 2.

See also: Ibn Hazm, *Al-Muḥalla* (Beirut: Dār al-Fikr, n.d.), 168, v. 8.

30 Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Beirut: Dār Ṭuk al-Najah 2001), 2036, v.2, Hadith no, 2643.

31 Ghaly, “The Beginning,” 179.

32 Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, 111, v.3, Hadith no, 2363.

33 Khālīd Al-Madhkūr, “Human Life: Its Inception and End as Viewed by Islam,” *Islamic Organisation for Medical Science* January (1985), <http://islamset.net/bioethics/incept.html>.

that takes place a little later, namely just when the fertilized ovum gets settled in the uterus.<sup>34</sup>

Egyptian physician Ḥassān Ḥaṭḥūt objected to the permissibility of getting rid of the embryo before ensoulment as it is against the discovery of modern medical knowledge, which demonstrates that embryogenesis is an entirely constant process, and thus identifying the exact beginning of life is impossible.<sup>35</sup> The proponents of this position say that if the scriptural texts in their apparent meanings are contradictory to modern science, they need to be reinterpreted metaphorically.<sup>36</sup> Moreover, they quote the classical scholar al-Ghazālī, stating that life should be respected from the beginning of pregnancy, and thus offense against this life is unethical.<sup>37</sup> The advocates of this position also say that the Qur'an (in Chapter Al-Insān: 2) uses the term *insān* to describe the fetus in the *nutfā* stage, which is the earliest stage of pregnancy.<sup>38</sup> Another argument put forward is the practical ruling in the Islamic law that considers pregnancy as a valid excuse to postpone the death sentence, without any differentiation between the period before or after the soul-breathing.<sup>39</sup>

If this opinion is chosen, it can be said that embryos have life as life starts when the ovum of a woman is fertilized by the sperm of a man, which happens in the IVF process. Thus, all the surplus embryos will be considered as having life, and hence killing them would raise ethical concerns about possible homicide. However, for some advocates of this position who delay the beginning of human life until the settlement of the fertilized ovum in the uterus, destroying the surplus embryos would not raise the concern of homicide.

### *The Third Position: Ensoulment is the Initial Point of Human Life*

In line with classical scholars, a great number of contemporary Muslim scholars and physicians advocate the thesis that ensoulment marks the beginning of human life. They argue that if death occurs when the soul leaves, life should start when the soul is breathed into the embryo.<sup>40</sup> The Jordanian religious scholar 'Umar al-Ashqār said that an embryo before ensoulment is dead.

The scholars mention that the prophetic traditions and their differences demonstrate that the soul is not breathed before 40 days as the angel does not visit the embryo before 40 days.<sup>41</sup> They say that the prophetic tradition of Ibn Mas'ūd clearly describes the stages of embryonic development and refers to the moment of ensoulment. Some proponents of this position criticize resorting to the metaphorical interpretation of Quranic verses and prophetic traditions relevant to the question of ensoulment and the beginning of human

34 Ghaly, "The Beginning," 180–81.

35 Ghaly, "The Beginning," 181–82.

36 Ghaly, "The Beginning," 181.

37 Ghaly, "The Beginning," 185.

38 Ghaly, "The Beginning," 183.

39 Ghaly, "The Beginning," 185.

40 Ghaly, "The Beginning," 192.

41 Ghaly, "The Beginning," 193.

life. They say that parts of these scriptural texts are definitive and thus are not open for various interpretations. However, they add that scientific knowledge is speculative in nature and thus can change over time.<sup>42</sup>

These scholars also mention that the advancement of modern medical knowledge makes it easier to detect the development of the nervous system and specifically the brain, which is a scientific sign that ushers the stage of ensoulment. However, there have been disagreements among the physicians who advocate the second and third positions about the exact time of the formation of the brain and its completion.<sup>43</sup>

From the above discussion on the beginning of human life, it is clear that majority of Muslim scholars are of the opinion that surplus embryos do not have human life because they are not even implanted in the uterus.

## ANALYTICAL REMARKS

From the discussion on the status of embryos that have not yet been implanted in the uterus, it is apparent that different opinions on the beginning of human life will have different implications with regard to choosing the sex of an embryo while ignoring the surplus embryos through biomedical techniques. If the second opinion that life starts exactly when a woman's egg is fertilized by a man's sperm is chosen, it is then seen that embryos in the IVF process would be deemed as human beings. Thus, all surplus embryos will be considered as having human life and destroying these embryos will raise serious ethical questions about possible infanticide. Therefore, it implies that the termination of surplus embryos in the process of selecting the sex due to gender preference may be considered infanticide, i.e., the killing of living beings. Nevertheless, further discussions from different angles are necessary and important to claim the act as infanticide.

However, the majority of contemporary Muslim scholars still support the view of classical Muslim jurists (*fuqahā*), which links the beginning of human life to the moment of ensoulment, which occurs after the lapse of 120 days of pregnancy. If accepted, this opinion will mean that surplus embryos in the IVF process have no human life. Thus, terminating those surplus embryos cannot be deemed as infanticide.

If this is the case, why do the majority of Muslim scholars oppose choosing the sex of an embryo for even non-medical reasons? Before answering this, it can be said that sex selection is not strictly infanticide because it does not involve terminating an already existing human life. However, the two practices still have some similarities. For instance, sex selection obstructs potential human life to take the normal course of growth, by choosing not to implant the female embryo in the uterus just because of its gender. Moreover, female infanticide was motivated by specific social customs that were strongly opposed by Islam.

While poverty was one of the reasons for female infanticide in pre-Islamic Arabia, biomedical sex selection may be undertaken in poor societies where boys are valued as productive and as breadwinners. Having daughters was regarded as a source of shame and

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42 Ghaly, "The Beginning," 187.

43 Ghaly, "The Beginning," 187–91.



humiliation in pre-Islamic Arabia as girls were made captives and enslaved during tribal raids, and were also eventually killed. Even without the phenomenon of pre-Islamic tribal war and violence, having daughters can still be a source of societal insult in some communities and people now opt for the biomedical sex selection process for the birth of baby boys. Though ritualistic sacrifice of daughters and their killing due to ill health by pagan Arabs cannot be seen, sex selection for the birth of baby boys for various socio-economic, familial, and other utilitarian reasons is being done by a group of people in the contemporary time.

Hence, sex selection implies the same preference for a specific gender for more or less the same reasons besides other numerous (non-medical) reasons that have emerged due to the complexities of modern time. Thus, we can see that the scholars' opposition towards sex selection for non-medical reasons is associated with the arguments related to social shame and humiliation that may come to people's minds, the bad consequences of the practice such as preferring one gender over another (as mentioned earlier), and the fear of widespread misuse of these techniques. Moreover, such practices at the public level can become an attempt to change the universal order of God.<sup>44</sup>

## CONCLUDING REMARKS

The main question of the research was: is non-medical sex selection a modernized form of the ancient and ethically abhorrent infanticide? From the above discussion, we note a variation between the involvement of pre-Islamic Arab societies in predominantly female infanticide, and the factors that influenced such practices such as the fear of poverty, ritualistic purposes, and especially social shame and humiliation.

Regarding the modern biomedical process of sex selection, which involves creating more than a single embryo, and thus the surplus embryos are terminated, we can see that the majority of Muslim scholars relate the beginning of human life to the moment of ensoulment and provide sanctity to the implanted embryos, and therefore they do not consider surplus embryos as having life. In contrast, the minority give sanctity to the non-implanted embryos, considering the life to begin at the moment of conception.

Taking the majority opinion implies that surplus embryos have no life, and thus there is no infanticide in the sex selection process. However, the similarities between infanticide and sex selection are seen from another angle, i.e., they lie in the prevention of a potential life from having a normal course of growth due to sex selection by choosing not to implant the embryo of a specific gender, and in the reasons that motivate to undergo sex selection. Hence, the majority of Muslim scholars are collectively against it, due to the negative consequences of this practice.

Islam encourages medical treatment. This is reflected in the hadith: "There is no disease that God has created, except that He has also created its remedy."<sup>45</sup> Thus, sex selection for medical reasons, such as avoiding inherited diseases that would affect a

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44 Rispler-Chaim, "Contemporary Muftis," 71.

45 Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, 122, v.7, Hadith no, 5678.

specific gender, is not a controversial issue among contemporary Muslim scholars who permit this practice. However, selecting gender for non-medical reasons such as feeling shame or humiliation due to the birth of a specific gender is inherently wrong and essentially a manifestation of pre-Islamic Arab societies when girls were buried alive due to the same reasons; their practice was a form of sex selection. Islam ascertains categorical negation of such practice and ensures that there is no kind of discrimination and preference of a gender over another. However, Islam acknowledges the asking and prayer of parents for a baby of a specific gender, but they must not give preference with regard to care and treatment that would indicate discrimination.

The classical accounts and some hadith narrations that describe how to try to procreate intended gender babies do not involve the current process of IVF and PGD, which produce more than one embryo and result in the ultimate termination of embryos. Moreover, these accounts demonstrate for the parents to try them, rather than experiencing the feeling of shame and sorrow for the birth of a specific gender, not to mention tolerating the act of putting the life of born girls to death or obstructing their implantation in the uterus in the first instance. Moreover, these also prove that social and cultural importance of procreating boys may have led the scholars and the physicians inclined to respond. In addition, the classical discussions on *du'ā* (seeking to God) is to make the person attached to God rather than technology.

Selecting gender in the IVF and PGD processes somehow involves destroying surplus fertilized embryos that may be assumed as potential human beings, which raises the question about the process of sex selection even for non-medical reasons. Along the same lines, Bāsālāma advocates that embryos have a sanctity that must not be violated by killing or by implantation into a surrogate mother's uterus, nor should they be exposed to laboratory experiments because such experiments might be the beginning of a human disaster.<sup>46</sup>

Such selection may mean the misuse of biomedical techniques and creating an imbalance in God's order of society if there is widespread practice. Moreover, performing this process may also entail the notion of playing God, as this involves creating intended gender not for the process of curing sex-related inherited diseases but rather for mere expectation, which violates God's intention and will. Conversely, it is said that nothing done by a human goes beyond the will of God. Selecting gender also does not go beyond the scope of the will and power of God.<sup>47</sup> However, human beings have been given the freedom to do good and bad. If they will do bad, despite the action not going against the power of God, they still have to face the recompense for indulging in God's prohibitions.

Moreover, widespread sex selection may lead to harmful consequences. For instance, human intervention will probably be the cause of determining a specific gender of the population. Countries such as China and India are involved in the process of sex selection plus abortion, which is resulting in the deficit of women and excess of men.<sup>48</sup>

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46 Bāsālāma, "Fate of Bank Deposited Embryos."

47 Al-Ashqār, Shubayr, Abu al-Baṣāl, 'Ārif, and Al-Baz, *Dirāsāt Fiqhiyya*, 339.

48 Gregory Pence, *Medical Ethics: Accounts of Ground-Breaking Cases* (New York, NY: McGraw-Hill

The author agrees with the opinion of the scholars who advocate banning sex selection for non-medical reasons in principle, assuming that this practice is an entry to gender discrimination, a modernized form of the *jāhili* infanticide, and the reason for the destruction of surplus embryos. However, we think that the general ban can lead to some other negative consequences such as oppression against women in societies where women would be threatened, humiliated, or sometimes divorced if sons cannot be delivered. Therefore, for the greater benefit of women, the general prohibition should not be strictly and unconditionally upheld. Hence, the particular case of sex selection for non-medical reasons should be permitted or forbidden based on the merit of each individual case. This should be observed by a committee which is well informed of the Sharia medical ethics and understands the religious and social implications of medical practices.<sup>49</sup> Above all, it is important to further investigate sex selection, the resultant termination of surplus embryos, and infanticide from both Islamic and medical perspectives.

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Education, 2014), 98.

49 Serour and Dickens, “Assisted Reproduction,” 188.

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## RESEARCH ARTICLE

# To Report or Not to Report: A School Counselor's Ethical Dilemma Concerning Child Abuse

Zehra Hazratji

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## ABSTRACT

Child abuse is a crime, and reporting such abuse is required by law in many professions. School counselors are obligated to report abuse or can face legal repercussions such as fines or lawsuits or even the loss of their jobs, depending on school policies. This paper will explore the various outcomes of reporting and not reporting physical abuse of a Muslim child by a Muslim counselor in the United States, based on analyzing the factors of the US law, Islamic law, culture, and ethics. Three main dimensions to this predicament will be examined, which are the concept of disciplining children and whether beating is an effective and acceptable technique both Islamically and ethically, the legal perspective and its possible consequences, and the Islamic juristic viewpoint based on the above-mentioned factors. Delineating these matters will clarify the repercussions of either course of action the counselor decides to take.

**Keywords:** Islamic ethics; school counseling; child abuse; Islam; discipline

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## INTRODUCTION

Sarah is a licensed school counselor in Massachusetts, USA, who discovers that Sarmad, an eight-year-old Muslim child, is being physically abused at home. Sarah is a Muslim herself and active in the Islamic community where she frequently encounters Sarmad's parents. Being a refugee from Iraq, Sarmad has been working with Sarah at school, but one day she notices that he is not himself. Sarah is able to confirm, with hesitation from Sarmad, that he often gets beaten at home and that the physical abuse has become more violent and intense lately. She fears for his safety and physical well-being but also fears the outcome of reporting the abuse. Sarah knows that the definition of abuse varies culturally, but in this case, reporting the child would likely result in his being removed from his home and placed in foster care. It is also probable that his siblings will likewise be removed and that they may all be placed in different homes. These foster homes will almost certainly be non-Muslim homes, and she worries that the children will lose their faith and be raised as non-Muslims. Additionally, she worries about facing his parents in the mosque when they discover that she reported them. If she does not report, she will face legal consequences, as she is required by law to report child abuse. Sarah finds herself in a very difficult situation with complex legal, ethical, and religious outcomes regardless of whether she reports or does not report Sarmad's case to the authorities.

## CONCEPTUALIZING THE DILEMMA

To navigate this dilemma and determine the outcomes of reporting and not reporting, various elements must be carefully analyzed. This paper will examine three main dimensions to this predicament, which are the concept of disciplining children and whether beating is an effective and acceptable technique both Islamically and ethically, the legal perspective and its possible consequences, and the Islamic juristic viewpoint based on the above-mentioned factors. Delineating these matters will clarify the repercussions of either course of action Sarah decides to take.

## BEATING AS DISCIPLINARY ACTION

The technique of beating as a disciplinary tool and the question of whether beating is inherently bad depend on the extent of beating. In the context of this dilemma, beating is referred to that which is causing physical and psychological harm, which we can argue is inherently bad from both Islamic and ethical perspectives. While the main source of ethical value in Islam is revelation, the Qur'an also mentions concepts of which the ontology can be discovered through reason.<sup>1</sup> Hourani, in his *Reason and Tradition in Islamic Ethics*, states that "In spite of the heavy emphasis on reliance on revelation, the use of independent reason in ethical judgements is never ruled out explicitly in the

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1 Hourani 1985.

Qur'an."<sup>2</sup> This reasoning would therefore apply to the concept of beating that causes such harm as being inherently bad, which is also a universal value as it falls under the "Golden Rule" of respecting and not hurting others.<sup>3</sup>

Child abuse is defined as "serious physical injury or injuries inflicted (by) other than accidental means."<sup>4</sup> This violence is inherently unethical from all perspectives, and numerous Islamic texts illustrate this specifically from an ethical voluntarism viewpoint. One such text is a famous tradition of the Prophet (PBUH) that jurists also codified as a legal maxim; it states that "there should be neither harming nor reciprocating harm."<sup>5</sup> A book published by Al-Azhar University in cooperation with UNICEF, titled *Children in Islam: Their Care, Upbringing and Protection*, states that:

...disciplining the child should take place without the use of violence or abusive language, however; children should be brought up with pride and self-confidence. It is in this light that we understand the saying of the Prophet, Peace Be Upon Him: "May Allah have mercy on a parent who helps his (or her) child be grateful and kind to him (or her)."<sup>6</sup>

The authors also elucidate that "given that it is not permissible to incur harm, no parent...has the right to smack a child; this would inevitably inflict psychological as well as physical damage. Both psychological and physical damages have been banned by the Islamic *Shari'a*."<sup>7</sup> The book further states that corporal punishment should be avoided as a disciplinary means, in favor of other techniques.<sup>8</sup> This concept of not resorting to corporal punishment, specifically if it is harmful or will result in more harm than benefit, is also evident in the discourses of early Muslim scholars. Abu'l Hasan al-Qabisi (d. 1012 CE) advocated that the best approach to discipline is to communicate with the child with kindness, because "the child, despite his immaturity, is a human being who is, unlike an animal, endowed with the gift of reason and the ability to know the causes of things."<sup>9</sup> Similarly, Abu Hamid al-Ghazali (d. 1111) advised against frequent rebuking of children as "recurrent admonition and rebuke may adversely affect a child's ability to respond to 'gentle advice and normal communication,'" and Ibn Khaldun (d. 1406) likewise adopted this view and cautioned about the harmful consequences of severe discipline.<sup>10</sup> Thus, it is clear that abusive beating would be ontologically and epistemologically wrong in Islam.

Aside from the Islamic perspective, many studies have also indicated the ineffectiveness of corporal punishment. While the concepts of discipline vary across

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2 Hourani 1985, 43.

3 Kinnier, Kernes, & Dautheribes 2000.

4 Sussman 1974, 252–53. This definition is according to The Children's Bureau Model Act.

5 Ibn Majah 2007, 338.

6 55.

7 Al-Azhar University 2005, 56.

8 Al-Azhar University 2005.

9 Kamali 2013, 147.

10 Kamali 2013, 148.



places and cultures, severe beating is universally denounced as it violates the worldwide principle that inflicting harm is unethical. This is evident as the United Nations, in Article 19 of the UN Convention on the Rights of Children, advocates that children must be protected from all forms of physical violence.<sup>11</sup> Studies have demonstrated that the negative outcomes of spanking are:

...associated with decreased internalization of morals, diminished quality of parent-child relations, poorer child and adult mental health, increased delinquency and antisocial behavior for children, and increased criminal and antisocial behavior for adults; spanking also was associated with an increased risk of being a victim of abuse...<sup>12</sup>

Children who were spanked "...were more angry, aggressive, and stressed than children who were not disciplined in this way."<sup>13</sup> It is noteworthy that these studies refer to spanking and not to the use of severe force that causes even greater physical harm. More extreme forms of corporal punishment "can exert biochemical, functional, and structural changes in the brain (e.g., changes in cerebral volume and increased or decreased reactivity to various neurotransmitters)," according to Glasser (2000), as reported by Kazdin and Benjet.<sup>14</sup> Thus, it is clear that corporal punishment, let alone abuse, may not be the most effective means of discipline due to the negative corollaries that ensue from it as is agreed upon both Islamically and ethically.

## LEGAL STATUTES REGARDING REPORTING CHILD ABUSE

In almost all states in the United States, school counselors are categorized as mandatory reporters of child abuse.<sup>15</sup> In the state of Massachusetts where Sarah works, the penalty for failing to report child abuse is a fine that does not exceed \$1000; however, if the result of the abuse is serious bodily injury or death, the fine is up to \$5000 and/or a maximum of 2.5 years imprisonment.<sup>16</sup> Failure to inform could also result in civil lawsuits, as a counselor could be sued for negligence if a child is injured.<sup>17</sup> However, despite the requirement to report abuse, research shows that counselors face many dilemmas which affect whether or not they choose to report. Feelings of guilt, the inability to determine what constitutes abuse based on cultural differences, lack of training, religious differences, and not wanting to interfere with disciplinary techniques may all contribute to a counselor not making the report.<sup>18</sup> As a result of all these factors, the decision to report can be very

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11 UNICEF, 1989.

12 Kazdin, & Benjet, 2003, 101.

13 Kazdin, & Benjet, 2003, 102.

14 2003, 102.

15 Sandberg, Crabbs, & Crabbs 1988; Remley & Fry 1993; U.S. Department of Health and Human Services, Children's Bureau 2019; Bryant & Milsom 2005; Knapp 1983.

16 U.S. Department of Health and Human Services, Children's Bureau 2019, 13.

17 Remley & Fry 1993, 254.

18 Fields & Nunnelley 1999; Bryant & Milsom 2005.

traumatic for the counselor, as “individuals worry, ‘Will I break up the family? Have I done the right thing? Will the parents be angry? Will I see the child again? Will I have to go to court? Will I lose my job?’”<sup>19</sup> Regardless of these feelings, the law requires that “counselors who suspect child abuse have no option; they must become informants.”<sup>20</sup> It is therefore advised that counselors fulfill their legal obligation because the mandatory reporting laws were ratified to protect children from harm.<sup>21</sup>

What are the aftermaths of reporting child abuse? Understanding the entire process demonstrates why counselors like Sarah may still hesitate to report despite legal fines and possible imprisonment. Fields and Nunnelley (1999) state that:

When abuse is reported, a certain amount of guilt for making the accusation is present, along with anxiety and stress associated with the required procedures and possible court experiences. There is always empathy and grave concern for the child, who often exhibits frustrating behavior patterns that are hard to understand. Because of these conflicting emotions, lack of training, and so few support systems for the persons reporting child abuse, individuals may want to ignore suspected abuse.<sup>22</sup>

In addition to the emotional turmoil faced by the counselor, victim, and their family, there are legal actions that take place. Child Protection Services investigates the report, and a caseworker is sent to assess the situation. The child may be removed from home temporarily and placed in a shelter, foster home, or with a relative.<sup>23</sup> Depending on the severity of the plausible harm to the child, the family may be required to cooperate with in-home counseling services so that the child can eventually be returned home. However, if the child has been seriously harmed and there is a high risk of further harm and the child’s safety is threatened, he/she will be removed and placed in foster care. In these severe situations, a reunion with the family is unlikely.<sup>24</sup> If the child is placed in a home in another district, they will have to attend a new school and no longer work with their counselor.<sup>25</sup> Obviously, the relationship between the counselor and the child’s family is strained after the report is made, and even the relationship between the child and the counselor may be affected negatively as the child may blame the counselor for the difficult changes in their circumstances.<sup>26</sup> These dynamics create a role conflict and the counselor “...must determine the extent to which he or she can be a positive force in the life of the child abuse victim.”<sup>27</sup>

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19 Fields & Nunnelley 1999, 78.

20 Remley & Fry 1993, 253.

21 Remley & Fry 1993; Fields & Nunnelley 1999.

22 74.

23 U.S. Department of Health and Human Services 2013; Remley & Fry 1993; Fields and Nunnelley 1999.

24 U.S. Department of Health and Human Services 2013.

25 Remley & Fry 1993.

26 Remley & Fry 1993; Fields and Nunnelley 1999.

27 Remley & Fry 1993, 258.

Thus, it is apparent that the counselor faces several quandaries based on the legal consequences of reporting child abuse, and someone like Sarah will have to deal with the guilt of breaking up the family, the embarrassment of seeing Sarmad's parents in the mosque when they come to know that she reported them, the risk of him being placed in another district and not being able to counsel him, or even that he sees her as a traitor and responsible for the disruption in his life. Additionally, she wrestles with the Islamic perspective as regards to reporting.

## ISLAMIC JURISTIC PERSPECTIVE

As a Muslim, Sarah has an added conflicting factor in her decision. In Islamic legal theory, this dilemma can be assessed in light of the higher objectives of the *Sharī'a* (*maqāṣid al-Sharī'a*). The *Sharī'a* pursues the preservation of the essential interests of human beings as a top priority. The five objectives of the *Sharī'a* are the preservation of faith, life, intellect, lineage, and wealth, and this order of importance is attributed to Al-Ghazali.<sup>28</sup> It is clear according to this classification that the preservation of faith takes priority over the remaining interests. However, there was some debate among scholars as to whether or not life should precede faith, but the majority of jurists maintained that faith takes precedence because all of the five interests are essentially interconnected and depend on each other. The preservation of life is for the ultimate purpose of worshipping God and obeying Him, and the remaining interests of intellect, property, and lineage are associated with the preservation of life.<sup>29</sup> An important distinction in this hierarchy was illustrated by Draz (d. 1958) who explicated that the precedence of faith over life is in the protection of the essentials of the faith over life, rather than the branches which may be compromised at times to give priority to life.<sup>30</sup> Thus, it is evident why the preservation of faith is first and foremost as "a person without faith is a person without life."<sup>31</sup> The scholars agreed upon the ranking of the preservation of life after faith but differed in the ranking of intellect or lineage.<sup>32</sup>

As regards ensuring the preservation of these five essentials, legal scholars discussed safeguarding them by establishing and strengthening them, as well as by averting all harm that might compromise them. An instrument that strengthens the preservation of faith is the Islamic duty of enjoining good and forbidding evil, as it averts any harm that may affect faith. In fact, Al-Shatibi (d. 1388) stated that enjoining good and forbidding evil ensures the preservation of all of the essentials from the perspective of averting harm that may affect them.<sup>33</sup> This duty is not confined to scholars but instead is "...incumbent on

28 Al-Ghazali 1937, 287; Al-Shatibi 1997.

29 Al-Yubi, 1998; Atiyya 2003.

30 Atiyya 2003, 35–7.

31 Al-Yubi, 1998, 193–4.

32 Al-Yubi, 1998, 314.

33 Ibn Zughayba 1996, 175.

Muslims at large.”<sup>34</sup> The protection of faith is also achieved by alienating and rejecting what removes or changes it.<sup>35</sup>

The preservation of life is safeguarded within the *Sharī‘a* as there are numerous rulings that ensure its benefit and repel harm. These rulings mandate that human beings are protected from harmful physical and emotional elements, are provided with what is required for survival, that their limbs and body are protected from losing their function, and that harm is removed before it befalls a person.<sup>36</sup> Based on these decrees, it is evident that physical abuse goes against the objective of the *Sharī‘a* in its preservation of life.

Preservation of one’s intellect is also one of the essential aims of the *Sharī‘a*, as it is used to reflect the existence of God as well as what makes a person accountable for their actions. Scholars mention that the protection of intellect refers to safeguarding it from physical and psychological harm. This is achieved by prohibiting what distorts the intellect by material things such as intoxicants, as well as what causes spiritual and psychological harm.<sup>37</sup> The psychological trauma that results from abuse, as well as the trauma that may result from being removed from home, are aspects that would need to be considered in determining a ruling in Sarmad’s case.

The last essential that has relevance to the problem at hand is the preservation of lineage. Scholars mention the preservation of lineage in terms of linking a child to their biological parents, as well as not leaving the child to be lost without a guardian to guide them and ensure the establishment of the other essentials, faith being the primary one.<sup>38</sup> In the case of Sarmad, it is clear that if he is placed in a non-Muslim foster home permanently, the preservation of his lineage from both aspects will be in jeopardy.

Taking into account the objectives of the *Sharī‘a* in the preservation of faith, life, intellect, and lineage, Sarmad’s case proves to be quite difficult as all of these essentials are at risk. Furthermore, Sarah must consider the duty of enjoining good and forbidding evil as well as the requirement to abide by the civil law. As a Muslim living in a non-Muslim country, Sarah is obliged to abide by the law of the land as long as that law does not violate the *Sharī‘a*.<sup>39</sup> Nevertheless, the fundamental issue is that being placed in a non-Muslim foster home would be detrimental to the preservation of faith.

## ETHICAL REASONING

Given the complexity of issues in Sarmad’s case of whether or not to report child abuse, Sarah finds herself torn between prioritizing the safeguarding of Sarmad’s faith or his physical and psychological well-being and her own professional career. The more she ponders her options, the more questions she has than answers.

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34 Cook 2001, 488.

35 AlYubi 1998, 195, 206.

36 Ibn Zughayba 1996, 177–9.

37 Al-Yubi, 1998, 236–7; Atiyya 2003, 39–40; Ibn Zughayba 1996, 181.

38 Ibn Zughayba 1996; Atiyya 2003; Al-Yubi 1998.

39 Islam Question and Answer 2018.

## Option 1: To Report Child Abuse

Legally, Sarah is required to report the abuse as she may encounter serious consequences if he is critically harmed, and could be held accountable for failing to report. She could face fines, imprisonment, or lose her job. At the same time, many counselors do not report abuse and are able to escape the penalties, but it is a grave risk. Islamically, she is also required to follow the law of the land she lives in. Child abuse is Islamically forbidden, and she has a religious duty to enjoin good and forbid evil, but do these factors take precedence when Sarmad's faith itself is at stake? If she reports abuse, Sarmad will most likely be removed from his home and perhaps his siblings will be removed as well. The whole family will be split, and she will be blamed as the cause of this tragedy. She will feel an enormous amount of guilt, and her reputation at the mosque will be tarnished. Conversely, she fears for Sarmad's safety, both physical and psychological, if he continues to be beaten. Yet, there is also a possibility that reporting the abuse will have worse psychological effects, as "child abuse is a terrible experience for children; the process that follows a report, however, sometimes is more traumatic than the abuse."<sup>40</sup> The trauma of being taken away from his family may have severe psychological effects, which would be the equivalent to jeopardizing his intellect. Sarah's principal concern is that if she reports abuse and Sarmad is removed from his family, he will lose his faith if he is not reunited with them later. She will have to bear the immense burden of his "going astray." His lineage may also be lost, as he will not have someone to ensure his Islamic upbringing, and he may even forget his connection to his biological parents if he remains in foster care for the remainder of his childhood. Thus, while reporting the abuse is her legal obligation and will keep her safe from official consequences, she will live with the guilt of breaking up a Muslim family in her community, and with fear that she will have to answer to God if Sarmad loses his faith, lineage, and intellect, both of which are immense causes of stress and will continually affect her own well-being.

## Option 2: Not to Report Child Abuse

Islamically, the preservation of faith takes precedence over everything else, as without faith, nothing else will bring happiness in this world or the next. Islam also safeguards life, intellect, and lineage as they ultimately support the preservation of faith. Additionally, causing harm is forbidden, whether physical or psychological, and violates the right of a child upon his/her parents. If Sarah chooses not to report abuse, Sarmad will not be removed from his home and placed in foster care, so his faith is protected. However, his life and intellect will be harmed because of physical and emotional trauma, which are a significant concern for Sarah. Furthermore, since the five essentials are connected, the negative physical and psychological effects of abuse may affect Sarmad's faith regardless. She will also face the risk of legal penalties if she is found guilty of not reporting child abuse. Moreover, she feels a sense of religious duty to enjoin good and forbid evil by advising Sarmad's parents that this abuse is not Islamically or legally acceptable. The

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40 Remley & Fry 1993, 253.

primary issues Sarah confronts in not reporting are the concern about Sarmad's physical and psychological well-being and the legal repercussions she may encounter for failing to uphold the law.

It is clear to Sarah that, morally, she has a responsibility to act even if she does not report. The legal, religious, and ethical repercussions of both reporting and not reporting are conflicting, but in all cases she has a moral obligation to try and better the situation. The least she can do is begin by fulfilling her religious and moral duty to enjoin good and forbid evil by talking to Sarmad's parents and informing them about the psychological, physical, and legal ramifications of their abuse. She may enlighten them that Islamically their actions are not condonable and that she will report the abuse, which will result in legal consequences. This may be a reasonable first step in informing them that their actions are unacceptable and explaining the laws and regulations regarding such actions in the United States. It is possible that this admonition and warning may suffice in improving the situation and she may not have to resort to reporting, which would result in more severe action.

## CONCLUSION

Sarah finds herself immersed in an overwhelming ethical predicament in which faith, moral values, and legal obligations are intertwined, and struggles to choose the best course of action. She is pulled by her faith in different directions as the Islamic legal discourse indicates that both reporting and not reporting have some religious justification. Legally, she would be liable for not reporting, which could affect her career. Not reporting guarantees the preservation of Sarmad's faith, and there is a chance that with some admonition, his parents may stop abusing him, yet the legal consequences still remain a threat. Reporting would most likely result in his losing his faith and family, and Sarah would have to live with the guilt and fear of being responsible for these outcomes. Her moral conscience distresses her as she is religiously and ethically obligated to help Sarmad, yet it is unclear which option will truly result in what is best for him and his future. Applying the Islamic legal maxim "in the presence of two harms/evils the one whose damage is greater is avoided by committing the lesser harm" (*idha ta'aradat maḥṣadātān rū'iyā a'ḥamuhuma ḍararan bi irtikab akhaffihima*) in this dilemma suggests that perhaps less harm would result from not reporting, provided that she highlights the consequences of the abuse to his parents and advises them to stop.

## AUTHOR

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## RESEARCH ARTICLE

# Labor Rights of National Women in the GCC

Nataliya Lukova

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**ABSTRACT:**

As part of the transition towards knowledge-based economies, the “Vision 2030” strategies of several GCC countries outline measures for skilling the national workforce. These measures aim to increase the employability and productivity of nationals and reduce dependency on migrant workers. This paper aims to investigate one of these trends—growing female labor force participation, and more specifically, the labor rights of women (nationals only) within the GCC. It traces the history of the legal framework and regulations in terms of employment status and wage rates of GCC female nationals and how these rights have evolved over the past forty decades. The paper ultimately highlights persistent (and differing) gender gaps in economic and political participation, illustrating the different stages in transition within the region and in response to different factors, including globalization.

**Keywords:** Female employment, Gulf, empowerment, political change, social change, female labour, gender pay gap, equality.

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## INTRODUCTION

In the Gulf Cooperation Council (GCC) countries of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE), professional skills are a critical asset that has the capacity to transform individuals, businesses, and societies in a dynamic, globalized world. As part of the transition towards knowledge-based economies, the “Vision 2030” strategies of several GCC countries outline measures for skilling the national workforce. These measures aim to increase the employability and productivity of nationals and reduce dependency on migrant workers.

The present research paper aims to investigate exactly one of these trends—growing female labor force participation. More specifically, it discusses labor rights of women (nationals only) within the GCC. This paper looks at the period from the establishment of the GCC union in 1981 to 2019. The demographic coverage is women nationals of the GCC countries between 18 and 60 years old. The primary aim of this paper is to trace the history of the legal framework and regulations in terms of employment status and wage rates of GCC female nationals and how these rights have evolved in the past 38 years.

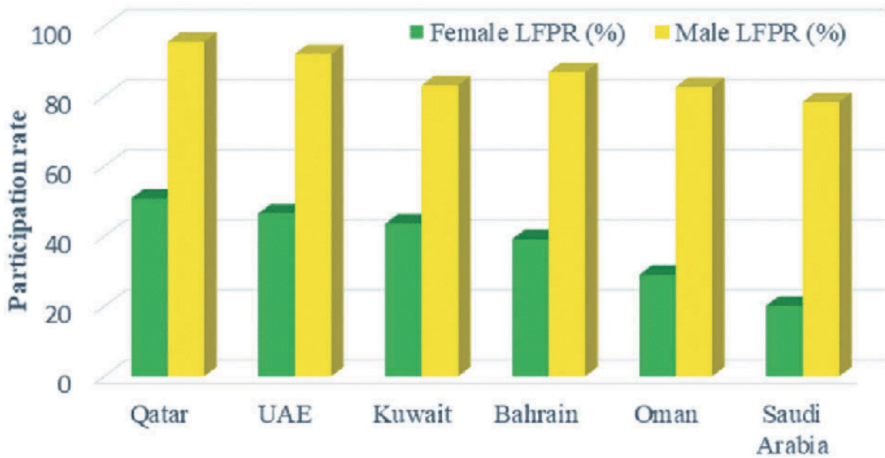
Between 1981 and 2019, women’s participation in the labor force doubled in Saudi Arabia, Qatar, Kuwait, and Bahrain; it nearly tripled in the UAE and Oman. The gender gap in the labor participation rate is the widest in Saudi Arabia and the narrowest in Kuwait and Qatar.<sup>1</sup> According to the national employment trends in GCC countries, the participation of female nationals in the workforce is 44% in the UAE, 33% in Bahrain, and 16% in Saudi Arabia. Qatar women’s participation is 36%, according to the data from 2019.

Kuwait was the first of the six GCC countries that tried to foster women’s participation in the workforce and involve them equally in political life<sup>2</sup> with the amendment of Election Law No. 35/1962 in 2005, which granted women the right to vote and run for office, while Saudi Arabia still showed lower trends in this direction. According to a study conducted by Rakan Alharbi in 2015, “The religious leaders called in Saudi Arabia the ulema, and these religious leaders recommend rules based on their interpretations of Islamic Shari’a law.” The law, until September 2011, stated that only men aged 30 years and older were allowed to participate in the Consultative Assembly, while the women were prohibited from participation. In September 2011, King Abdullah changed the law, allowing up to

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1 The GCC states can be classified into three categories in terms of female labor force participation (FLFP; Figure 1). The first category involves those countries that are characterized by a “moderate” percentage of women’s participation in the labor market. This category includes only Kuwait, which has the highest female participation in the labor market (47%). The second category involves Qatar and Bahrain with relatively limited rates of women’s participation in the labor market, accounting for approximately 35% of all working-age females. The third and final category consists of three countries (Oman, Saudi Arabia, and the UAE), which is characterized by a low FLFP rate. Shawkyy Mansour, “Modernization and Female Labour Force Participation in Oman: Spatial Modelling of Local Variations.” *Taylor & Francis Online* (2020).

2 Marwa Shalaby, *Women’s Political Representation in Kuwait: An Untold Story*, A Report by the Women’s Rights in the Middle East Program (Kuwait: James A. Baker III Institute for Public Policy of Rice University, 2015).



**Figure 1.** Gender gap in the labor force participation rate (LFPR) in GCC countries. Source: Mansour 2020.

30 women to be active participants within the Consultative Assembly because many Saudi citizens were against the violations of women’s rights in Saudi Arabia. Some of these trends are legal ambiguities and clash between existing and newly enacted laws, as well as between negative social and cultural dimensions in gender equality and women’s rights.<sup>3</sup> Even though a positive start was made in 2011 by ensuring a partial role for Saudi women in political and social life, the Kingdom is still considered at international and regional levels the least eager to embrace positive changes towards women empowerment.

Nevertheless, with regards to the promotion of Islamic religion and the social, traditional, and cultural understandings about equal gender participation, the percentage of female nationals involved in the labor force has grown statistically, with positive legislative initiation in some GCC states.<sup>4</sup>

There are a number of reasons for the increased level of women’s participation in the workforce across the GCC countries. These include an increased number of women entering higher education—more women are graduating from universities and entering different positions; and are subject to changing trends in fertility and marriage, with globalization and the continued Western influence in the region that present concepts such as a nuclear family model, women empowerment, and women involvement. In addition, new patterns of consumption and increased economic need at the household level, as well as the greater availability of public sector jobs, also play a role. According to a study

3 Rakan Alharbi, *Women’s Rights in Saudi Arabia: Example of Political Life and Employment* (King Fahd University of Petroleum and Minerals, 2015), 14.

4 Gail Buttorff, Bozena Welborne, and Nawra al-Lawati, “Measuring Female Labor Force Participation,” *Baker Institute for Public Policy* (2018), 1–6.

conducted in Bahrain, urbanization, globalization, and the economic growth of the Arabian Peninsula have influenced women's role (mostly in Kuwait, Bahrain, Oman, and Qatar), who have started to contribute to the household equally as men.

There is also another very important reason that is related to political and social movements, i.e., the "Arab Spring,"<sup>5</sup> in proclaiming rights, all of which have played a critical role in shaping the demand for female performance.

## LEGAL FRAMEWORK FOR WOMEN LABOR RIGHTS IN QATAR, BAHRAIN, SAUDI ARABIA, THE UAE, OMAN, AND KUWAIT

The labor rights of GCC women nationals have significantly progressed since the establishment of the cooperation union in May 1981. A research conducted between 1981 and 2019 by the International Labour Organization (ILO) showed that the number of GCC women nationals in employment has grown with every legal and social change enacted within the member states. One of these significant historical moments that transformed the whole Arab world was the Arab Spring (end of 2010), which attracted international and regional attention to three important issues within the MENA region: insufficiency of a knowledge-based society (i.e. equity and empowerment of women in education, greater number of educated citizens, equal educational rights for both genders, and access to education), indigence in political freedom and democracy (for instance, Saudi Arabia still does not consider women as equal citizens and prevents them from equally participating in political life), and women's empowerment (i.e. equity and rights in labor and social laws that serve both genders).<sup>6</sup>

The effect of the Arab Spring on women is a complex phenomenon that led to many social and political changes in the MENA region. The Arab Spring was a series of pro-democracy uprisings that enveloped several Muslim countries, including Tunisia, Morocco, Syria, Libya, Egypt, and Bahrain. The profound impact on the domestic political, economic, and security dynamics in the six GCC countries was also apparent, and as a result, legal and social changes were also applied in women empowerment and rights.<sup>7</sup>

A good example for women's empowerment and promotion of equality in employment is Bahrain. Bahrain has the longest history of women's movements in the Gulf region<sup>8</sup> compared with the other five states. Article 12 of Bahrain's Constitution clearly asserts equal rights and opportunities for all employees regardless of gender. Nevertheless, there is still a practice of discrimination in the workplace, and women are denied senior positions

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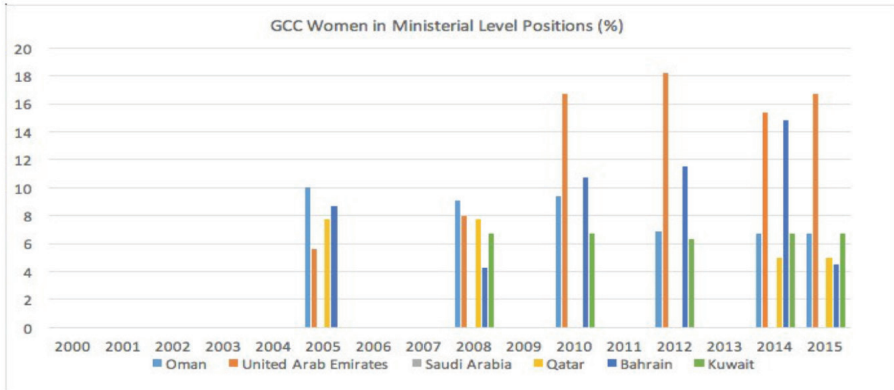
5 May Seikali and Khawla Mattar, *The Silent Revolution: The Arab Spring and the Gulf States* (Berlin, Germany: Gerlach Press, 2014).

6 UNDP, *Arab Human Development Report (AHDR)*, United Nations Human Development Programme, 2011.

7 Seikali and Mattar, *The Silent Revolution*.

8 Sabika Muhammad al-Najjar, "The Feminist Movement in the Gulf," *Al-Raida*, no. 100 (Winter 2003), 68–11.

in both private and public sectors, such as taking ministerial positions (Figure 2).<sup>9</sup> According to the study “Women and Gender in the Middle East and North Africa: Mapping the Field and Addressing Policy Dilemmas at the Post-2011 Juncture,” irrespective of the given rights for voting or available legal labor norms in terms of women’s rights to run for office but lacking a quota system, it becomes much more difficult for women to take a place in the parliament as, for example, in the case of Kuwait where nationals of the country were one of the first with representation in the parliament.<sup>10</sup>



**Figure 3.** GCC women in ministerial positions. Source: World Bank.

Labor laws in most of the GCC countries prohibit discrimination against women; however, discrimination remains systemic for leadership positions and in certain sectors in the corporate and political spheres such as high management or political leadership positions. Although women do hold positions in the government and in the private sector, the percentage of women appointed for high management posts remains underrepresented.

In an attempt to break the gender discrimination and/or present international compliance with human rights and women empowerment as a result of post-Arab Spring, King Hamad Bin Isa al-Khalifa of Bahrain appointed a small number of loyalist women for government positions. As of December 2013, there were three female elected ministers in Bahrain: Mai

9 *Women in Business and Management: Gaining Momentum in the Middle East and North Africa: Regional Report*, International Labour Organization (Beirut: ILO, 2016), [https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms\\_446101.pdf](https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_446101.pdf); Knowledge Group, *GCC Women in the Workforce: Status, Challenges, Aspirations: Research Findings, Analysis, and Recommendations*. Knowledge Group (Abu Dhabi: 2018). [https://www.knowledgegroup.co/en-us/ResearchInsights/Publication/WhitePapers/Documents/KG\\_Women%20in%20the%20workforce%20research\\_UAE\\_SM.pdf](https://www.knowledgegroup.co/en-us/ResearchInsights/Publication/WhitePapers/Documents/KG_Women%20in%20the%20workforce%20research_UAE_SM.pdf); OECD, *Better Skills, Better Jobs, and Better Lives: A Strategic Approach to Education and Skills Policies for the United Arab Emirates* (2015), <https://www.oecd.org/education/A-Strategic-Approach-to-Education-and%20Skills-Policies-for-the-United-Arab-Emirates.pdf>

10 Katerina Dalacoura, “Women and Gender in the Middle East and North Africa: Mapping the Field and Addressing Policy Dilemmas at the Post-2011 Juncture,” *MENARA Final Reports*, 3 (Barcelona: 2019).

Al-Khalifa, Minister of Culture; Fatima Al-Blooshi, Minister of Human Rights and Social Development; and Samira Rajab, Minister of State for Information Affairs.

However, the gap in gender discrimination between some of the Gulf countries is still a cultural and social phenomenon, not legislative lagging. For example, Oman's labor law norms proclaim equality with respect to job opportunities for both genders. Moreover, in Article 12 from "The Social Principles" of Royal Decree Number 101/1996, gender-based discrimination in the labor sector is prohibited.

However, Kuwait is even more liberal in terms of gender labor equality. The first promulgation of equality in labor rights was in 1959, with the Amiri Decree No. 43 in 1960. As one of the most progressive member states of the GCC, Kuwait has enhanced its employment policies in terms of gender sensitivity and stated that all Kuwaiti citizens (regardless of their gender) are entitled to equal employment.<sup>11</sup>

Similar to Kuwait, the UAE labor law does not treat female nationals differently but as equal citizens.<sup>12</sup> Emirati women are entitled to the same wages and maternity benefits compared to their male counterparts, but the legislator has enforced some employment limitations (with exceptions for some professions such as working in healthcare and administrative and technical positions) for employers in terms of night work and strenuous jobs.

Unlike the positive legislative performance of Oman, Kuwait, and the UAE in labor, promoting gender equality at the workplace, and the same pay rate for all women and men as per legislative decrees, Article 93 from the Qatar Labor Law can be considered exhibiting a gender gap in the legislation. The norm mandates that women and men are entitled to receive equal payment only if they perform the same work. The legislation has left this inequality gap even though reforms were made in legislation in 2004.<sup>13</sup> This norm promotes gender-based inequality against women. It may be that either gap was left in the legislation unconsciously, not realizing the grammatical structure of the norm, or it is believed that women are not able to deal with the same workload as men.

Similar to Qatar, in Saudi Arabia, where the gender gap in female force involvement has the highest negative rates,<sup>14</sup> some positive movement has been made. The new labor law enacted in 2005 proclaimed that every "citizen has the right to work"<sup>15</sup> by virtue of the

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11 Article 51, *Law No. 6 of the year 2010 (Kuwait Labour Law)*: "a worker (any) will get complete end of service compensation at the end of the contract period"; or wage rates related norms: "in terms of performance of the same type of work women are paid same rates as men."

12 "Chapter II: Employment of Workers, Juveniles and Women Section I Employment of Workers," *Federal Law No. (8) of 1980*: "Work is a right of the United Arab Emirates Nationals. Others may not be employed in the United Arab Emirates except as provided for in this Law and its executive orders."

13 "Law No. 14 of the Year 2004," *Qatar Labor Law*: "A working woman shall be paid a wage equivalent to the wage payable to a man if she performs the same work and shall be availed of the same opportunities of training and promotion."

14 The World Bank provides data for Saudi Arabia from 1990 to 2018. The average value for Saudi Arabia during that period was 17.59% with a minimum of 14.21% in 1992 and a maximum of 23.37% in 2018.

15 "Article 3," *General Provision of the Royal Decree M/51*: "Work is the right of every citizen. No one else may exercise such right unless the conditions provided for in this Law are fulfilled. All citizens are equal in the right to work."

Saudi Arabian national citizenship law. Women in Saudi Arabia were previously forbidden from voting in elections or being elected to any political office; however, in 2011, King Abdullah allowed women to vote in the 2015 local elections and to be appointed to the Consultative Assembly. In 2011, there were more female university graduates in Saudi Arabia than male, and female literacy was estimated to be 91%, which was still lower than male literacy but far higher than 40 years earlier.<sup>16</sup> In 2017, King Salman allowed women to access government services such as education, healthcare, and driving without the need for consent from a guardian. In 2018, the percentage of women in the workforce doubled in the GCC according to a Human Rights Development Report issued in the same year.

However, contrary to the law, very often there are cultural rather than legal constraints that constitute women's principle barrier to entering employment or, if employed, to receive equal opportunities for professional development and promotion.

## EMPLOYMENT STATUS AND EDUCATION OF WOMEN IN BAHRAIN, THE UAE, QATAR, SAUDI ARABIA, KUWAIT, AND OMAN

In the past few decades, the standard of education has been a key factor preventing women's progress. Despite the high budgetary allocation for educational systems and free education, almost 9 out of 10 students (50% of which are females) would first have to take one or two years of foundation-level preparation courses to succeed in university.<sup>17</sup>

A study conducted in 2009 by the European University Institute (EUI)<sup>18</sup> shows that education in humanities and religious studies do not adequately prepare GCC nationals to compete against expatriates for jobs in various sectors in the economy. Inadequate education, together with the social and cultural boundaries of traditional Gulf societies, have put constraints on women's personal and professional development. The tendency in job preferences among Gulf women often dominates their educational choices in vocationally oriented subjects and limits them to jobs that do not favor high management or leadership skills to enter managerial or political positions.<sup>19</sup>

Despite the persistent deficit in women's rights in Gulf societies, notable progress has been achieved in some states during the last decade. Legislations have been reformed and women have been given opportunities for professional development. Gulf states

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16 According to Ernst and Young's calculation, GCC governments have committed US\$27 billion to boost their educational sectors. Apart from these major investments, they have also "bet on economic diversification" through other means. Saudi Arabia, for example, invested US\$3.5 billion in Uber Technologies Inc. to modernize their modern infrastructures and create employment for local populations. <https://www.naseba.com/who-we-are/our-blog/ma-activity-tech-investment-gcc-headersdiversification-takes-centre-stage/>.

17 The Emirates Centre for Strategic Studies and Research, *Education and the Requirements of the GCC Labour Market* (Abu Dhabi: 2016).

18 Bechir Lamine, *Towards an Arab Higher Education Space: International Challenges and Societal Responsibilities*, UNESCO Regional Bureau for Education in the Arab States (Beirut: UNESCO, 2010).

19 Steffen Hertog, *National Employment, Migration and Education in the GCC* (Gerlach Press, 2013).

undertook the initiative to modify their labor laws in a direction towards gender equality. Some countries, such as Kuwait, Bahrain, Oman, and the UAE, succeeded more than others. However, Qatar and Saudi Arabia still need to perform in this direction in terms of balancing the involvement of both genders equally in the workforce, standardizing privileges, and access to equal professional development and equal wage rates.

Curiously, in the Gulf countries, female participation in the labor market displays sector limitations and paradoxes. Such limitations can be seen in the political realm,<sup>20</sup> although some of the GCC member states have shown positive changes in this direction (Bahrain, UAE, and Kuwait).<sup>21</sup> In 2005, for the first time, women were permitted to run for office in parliamentary elections in Kuwait. Bahrain had, for the first time, three female ministers in 2004 and 2005. The first female judge was appointed in the UAE in 2019.<sup>22</sup> In Oman, the achievements were in a different direction, changing the law concerning testimony.<sup>23</sup> This gave Omani women equal rights in their work dispute statements.

Legal changes in Saudi Arabia and Qatar came about 10 years later than the other GCC countries. The changes in women's equal participation in social and economic life influenced by the Arab Spring in 2011 saw the first positive legislative changes for Saudi women nationals in 2017 with the amendments of some laws related to freedom for women by the current Crown Prince Mohammed bin Salman. Women have become more visible in public life with the changes applied in mobility.<sup>24</sup>

The political disagreement between Qatar and Saudi Arabia in 2017 has become a reason for the constant competition between the two states in terms of development. This political situation has influenced the continuing positive impact on the development and empowerment of women in the two member states. In the agendas of "Vision 2030," both Saudi Arabia and Qatar foresee changes that can positively impact their development.<sup>25</sup>

## GENDER PERCEPTIONS IN WAGE RATES WITHIN THE GCC'S LABOR MARKET

Persistent wage gap within the GCC's labor market is one of the main issues identified in women's equitable participation in the workforce.<sup>26</sup> Wage gaps are continuous between male and female employees, in both public and private sectors.

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20 The amendment of Kuwait Election *Law No. 35/1962* in 2005.

21 Gail Buttorff, Bozeno Welborne, and Nawra al-Lawati, "Measuring Female Labor Force Participation," *Baker Institute for Public Policy* (2018), 1-6.

22 His Highness Shaikh Khalifa Bin Zayed Al Nahyan issued Federal Decree No. 27 of 2019 appointing two female judges at the Federal Judiciary.

23 Sultanate of Oman, *Royal Decree 68 of 2008*, Muscat.

24 Kingdom of Saudi Arabia, "Royal Decree of Crown Prince Mohammed bin Salman 10/10/1439AH-24/06/2018," Riyadh.

25 General Secretariat for Development Planning, "Qatar National Vision 2030," (Doha: 2008); Kingdom of Saudi Arabia, "The Kingdom of Saudi Arabia's Vision 2030," Riyadh.

26 World Economic Forum, *The Global Gender Gap Report 2018: Insight Report* (Geneva: World Economic Forum), [http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf)

In the whole GCC region, particularly in Bahrain and Kuwait, families have started to rely more on women's financial support than men's support. Women have thus a greater voice and have gained greater respect in the family.<sup>27</sup> Government efforts to reduce dependence on foreign labor in the Arab Gulf states have provided poor, less educated women with increased job opportunities.<sup>28</sup>

Bahrain's case for wage rates is an example of relatively small differences in terms of pay rates based on gender.<sup>29</sup> Women and men in the public sector earn almost the same on average (BD 781 for men and BD 758 for women), whereas in the private sector, the difference is up to 32% in favor of men. The difference might be a matter of gap in legislation or violation of rules from employers based on legal ignorance or cultural gender-based perceptions.

Kuwait is also an example of significant differences in wage rates based on gender, especially in the private sector, where wages of men are 63% higher than of women.<sup>30</sup> Despite the slightly more liberal and long-standing labor law, Kuwait still performs negatively in terms of differences in wages. Men and women employed in the public sector have a 41% difference in favor of men. The average monthly salary of Kuwaiti men in the government sector was KD 1,807 per month in the first quarter of 2019, compared to KD 1,279 for Kuwaiti women.<sup>31</sup>

In the case of Qatari males, their average monthly salary was QR 31,405 (QR 7,851.25 for 41 working hours per week) while Qatari females earn QR 23,223 (QR 5,805.75 for 38 hours per week). At the level of occupation, the highest average monthly wages are for "legislators, senior officials, and managers" with an average of QR 33,000, followed by "specialists" with QR 24,000. In addition, women's representation in terms of numbers is far lower than that of men in Qatar.<sup>32</sup>

In July 2019, when the announcement of the second periodic report of Qatar was made, submitted under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Qatar representative HE Minister of State for Foreign Affairs Sultan bin Saad al-Muraikhi presented the development of Qatar in terms of the legislative, institutional, policy, and strategy progress towards strengthening and promoting the human rights infrastructure. Regardless of the developments made by Qatar in the past few years, several recommendations, including work to strengthen national mechanisms,

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27 Khalid Al-Azri, *Social and Gender Inequality in Oman: The Power of Religious and Political Tradition* (New York: Routledge, 2012); Nadje Al-Ali, "Gendering the Arab Spring," *Middle East Journal of Culture and Communication*, 5, no. 1 (2012): 26–31; Sarah Kelly, "Recent Gains and New Opportunities for Women's Rights in the Gulf Arab States," *Freedom House Report, Women's Rights in the Middle East and North* (2009).

28 *Women in the United Arab Emirates: A Portrait of Progress* (UAE, 2008).

29 Mitchell Belfer, *Fighting the Gender Wage Gap: The Bahrain Experience*, World Economics (2018), [https://www.worldeconomics.com/Blogs/Fighting%20the%20Gender%20Wage%20Gap%20The%20Bahrain%20Experience\\_b0694078-97d9-40d0-9a5a-76bbccc7ca24.blog](https://www.worldeconomics.com/Blogs/Fighting%20the%20Gender%20Wage%20Gap%20The%20Bahrain%20Experience_b0694078-97d9-40d0-9a5a-76bbccc7ca24.blog)

30 Central Statistics Bureau, *Statistics for 2018*, Kuwait.

31 Central Statistics Bureau, *Statistics for 2019*, Kuwait.

32 State of Qatar, *Ministry of Development Planning and Statistics* (2016).



deal with women's issues and the continuation of the country's efforts to review and amend laws and legislations in order to conform to the provisions of the convention. Qatar is one of the countries where pre-existing laws still contradict the positive amendments, which the new policies tried to emphasize in terms of women empowerment and equal involvement in the social, economic, and political life.

While Qatar is making an effort to achieve equity in employment for women, UAE has already a clause in the labor law, in which Article 32 states: "A working woman shall be entitled to the same wage as that of a working man, if she does the same work." The UAE does not have a specific act that regulates this Article, but the norm is assumed as relatively applicable for all related laws in employment rights within the country, regardless of gender. Discrimination is not permitted in any form, for any reason, and under any circumstance, and actions based on discriminative practices are criminalized beyond one's strength, with fines and possible imprisonment.<sup>33</sup>

In Saudi Arabia, development and increase of the female workforce went through big changes between 2011 and 2017, which are still in progress. Saudi women are in the 141st place in the gender pay gap worldwide.<sup>34</sup> They receive 56% less salary than their male counterparts. One of the possible reasons for this, like Qatar, is the fact that the country has not stated minimum wage rates for the private sector, which has the highest percentage of female occupation. Minimum wages have been established only in the public sector, but Saudi women do not or rarely take position in this sector.

The promise made by Saudi Crown Prince Mohammed bin Salman to invest in education and equal opportunities for men and women as part of Saudi Arabia's Vision 2030 is thought-provoking for possible changes, which have emanated with the Arab Spring that started to transform the region.

Although Saudi Arabia is building upon its promise for social and legislative development in the field of wage rates, a small member of the GCC (Oman) has already succeeded in this field. Unlike Qatar and Saudi Arabia, the Omani legislation has regulated its wage rates. Oman's minimum wage is RO 225 per month (USD 592) plus an allowance of RO 100 per month (USD 263) for citizens.<sup>35</sup> The Sultanate of Oman is an excellent example for law enforcement of guarantees for equal wage payment for women and men. The gap between the two genders is minimum when considering the rest of the Gulf member states.

Officially, women and men are supposed to receive equal payment for the same job, but women's upward mobility is quite restricted and senior positions are mainly held by

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33 United Arab Emirates, "Article 6 Decree Law No. 2 "On Combatting Discrimination and Hatred," (Abu Dhabi: 2015): "Any person, who commits any act of discrimination of any form by any means of expression or by any other means, shall be sentenced to imprisonment for a period not less than five years, and by a fine not less than five hundred thousand dirhams and not exceeding one million dirhams or either one of these two penalties."

34 The Global Gender Gap Report 2018.

35 Sultanate of Oman, *National Centre for Statistics & Information*, (Oman: 2017). <https://www.ncsi.gov.om/Pages/AllIndicators.aspx>

men.<sup>36</sup> The cultural perception that women are more emotional than men and better suited to household responsibilities remains a serious obstacle for ambitious women looking for executive and management positions.

While the analyses made on labor laws within the GCC's member states clearly state that women (GCC nationals only) do have the legal status and right to work, the traditional thinking and cultural prevalence of patriarchal societies within the GCC states are still the main obstacles for the professional and personal development of women.

## RESEARCH METHOD

The main research approach was in the direction of mixed methodology of both qualitative and quantitative data processes. For the purpose of building the analytical part of the present study, document and book reviews were conducted. The statistical information presented was analyzed mainly from graphs and diagrams from World Bank sources, as well as from other published studies, which collated comparative information on women's employment between 1981 and 2019 within the GCC countries.

The results of the mixed research approach conducted involved reviewing around 15 legal documents translated into English, among which are six main labor legal acts of the countries: the Constitutions of Oman and Kuwait; the legislative royal decrees of Oman, the UAE, and Saudi Arabia; and two Visions of Saudi Arabia and Qatar. The statistical approach was to collate and compare data from the World Bank website and the statistical bureaus of Kuwait, Qatar, and the UAE. No such data was available for the other three countries.

The literature review involved analyzing books related to employment and educational requirements, the history of women empowerment in the Gulf countries, as well as articles and journals related to the movements of the Arab Spring in the GCC. Important sources for building a strong analysis related to women labor rights were the review of legal reports, articles, and suggestion policies by international bodies. The external reports were mainly from organizations such as the European Council, the Human Rights Watch, and the ILO. Another planned source collection was to conduct research within the official websites of the governmental bodies regulating labor in the six GCC countries and to review them. The number of used resources included books, articles, official legal documents, official internal and external reports, and official country websites.

The main obstacle foreseen in this research study was the language barrier. Most of the legal and official documents of the public regulative bodies within the GCC are in Arabic. Very few of the sources have been translated into English and are for public use.

This research paper aims to emphasize the importance of the involvement of women in the labor market and the development trends in labor legislations, as well as to initiate thoughts for more policy changes and social and cultural review of the current problems that the GCC women nationals face in employment.

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36 State of Qatar, "The Labour Law No. 3 of 1962," (Doha: 2019). <https://almeezan.qa/LawView.aspx?opt&LawID=2599&language=en>

## CONCLUSION

Socially and culturally, the Gulf region is changing rapidly. Many of the states acquired wealth during the 1960s and the 1970s due to rising oil revenues,<sup>37</sup> which enabled the economic development and the establishment of states with free education, healthcare, and social services. However, persistent (and differing) gender gaps in economic and political participation illustrate the different stages in transition within the region. The gradual enhancement of women's position is the "product" of social and economic change as well as a factor that enforces the need for continuation of social development that pays dedicated attention to the position of women.

In some of the Gulf member states, such as Kuwait, women have been actively contributing to Islamic identity politics<sup>38</sup> by embracing Islamic dress and rigorous morality and traditional customs while pursuing education and careers. The process of globalization in the Gulf region has resulted in an increase in women's economic participation. A significant role in women's development was also played by the recommendations from international stakeholders, which emphasized equal human rights and the need for changing legislations (or social and cultural norms) in order to meet the needs of women and to empower them.

The investigated legal resources showed that the legal employment framework in the GCC countries can be a matter of social and cultural perceptions in legislation and does not respond to the high qualification and skillsets upon graduation that women nationals might have. The gap in legislation or contradiction of pre-existing norms reflects on equal women labor participation.

In summary, we can conclude that women's issues within the GCC countries have increasingly become a public issue, and a discourse on gender equality is continuously developing in all fields.

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37 UNDP, "Chapter 17: From the Home to Society," *Arab Human Development Report 2005* (Amman: National Press, 2015), 5.

38 Natalan J. DeLong-Bas, ed., *The Oxford Encyclopedia of Islam and Women* (Oxford: Oxford University Press, 2013).

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## RESEARCH ARTICLE

# Shariah Appraisal of Margin Trading

Mubarak Musa

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## ABSTRACT

The Islamic finance industry has shown remarkable growth in the last 30 years. However, this growth has mostly been restricted to the banking sector while the Islamic capital market is still at its nascent stage. Several countries have attempted to bridge this gap by introducing various Islamic alternative products to their respective capital markets. However, investors have not been receptive to these alternatives due to the lingering controversies surrounding their permissibility. This study attempts to study margin trading from a Shariah perspective. To achieve that, a step-by-step assessment of margin trading was conducted and the relationship between the brokerage firm and the investor was characterized as *qard*. Two case studies of Islamic margin trading were selected and analyzed from a Shariah viewpoint. The study concludes that the conventional margin trading facility is not Shariah-compliant due to the element of *riba*. There are also some Shariah concerns in the two Islamic margin trading alternatives that were analyzed in the study.

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**Purpose** – There has been a significant increase in the number of retail investors during the current pandemic. The emergence of several commission-free trading platforms has been highlighted as one of the major forces behind it. This increase has also resulted in a rise in the number of people using the margin trading facility. The popularity of margin trading has not extended to Arab and Muslim states even though several companies in Muslim-majority countries such as Saudi Arabia, Qatar, and UAE have introduced Islamic margin trading. The reason for this is that literature addressing the Shariah rulings on margin trading in English is scant. Therefore, this study is a modest attempt to bridge that gap.

**Methodology** – This study is qualitative in nature. Qualitative data were collected and analyzed to reach a ruling on margin trading. This study relies on the literature of four major jurisprudential schools of thought and on the opinions of Islamic institutions and contemporary scholars.

**Findings** – Margin trading offered by conventional financial institutions are not permissible. All the Shariah alternatives of margin trading that were analyzed in this study had Shariah issues and concerns. However, the margin trading alternative offered by The Group Securities in Qatar offers a ray of hope about the viability of using *qard* to structure margin trading.

**Originality/Value** – This paper to the best of my knowledge is the first independent paper in English that attempts to appraise the practice of margin trading from a Shariah perspective.

**Keywords:** margin trading, *qard*, *rahn*, shares, Shariah

## 1. INTRODUCTION

### 1.1 Background

The stock market in Muslim countries remains significantly underdeveloped and highly illiquid despite the abundance of wealth and resources. The adoption of the stock market in its conventional state without any alteration of its modes and structure to conform with Islamic law is one of the reasons for its failure and non-acceptance among the Muslim population.

Muslim-majority countries have taken different initiatives to address this problem. This includes relaxing the rules restricting foreign investors from holding a proportionate part of a company and incentivizing family-owned businesses and companies to list on the stock market. Additional attempts have been made to offer more Islamic-compliant instruments.

Margin trading and short selling have been regarded as controversial instruments in the stock market since time immemorial. An investor who believes that the stock price of a company is undervalued and will likely increase in the future will want to have such stocks to benefit from the future increase in price. In this case, the investor borrows the cash from a brokerage firm. The investor then sells the stocks in the market when the price

of the stocks increase. The purchased stocks are also held with the lender as collateral for the loan.

Recently, few Islamic financial institutions and hedge funds have rolled out what they claim to be Shariah-compliant margin trading. The proponents of these Islamic alternatives view them as ingenious moves that will help facilitate the growth of Islamic hedging and stock markets. Conversely, the detractors of these Islamic alternatives view them as mere replications that attempt to “Islamize” conventional products using existing Islamic contracts. This accusation could be detrimental to the development and acceptance of such Islamic alternatives.

## 1.2 Research Motivation

There is an ever-growing interest in academic circles regarding the role of margin trading. These varying interests stem from the controversies surrounding margin trading. Most papers addressing this topic tend to focus on the role of margin trading in liquidity enhancement and market efficiency. There seems to be a great paucity of English literature assessing the efficacy of margin trading from a Shariah perspective. This study is a modest attempt towards bridging this gap.

## 1.3 Research Methodology

This study is qualitative in nature. Qualitative data were collected and analyzed to reach a ruling on margin trading. The study relies on the literature of four jurisprudential schools of thought and on the work of modern Islamic academics and scholars. A proper Shariah assessment of margin trading can only be performed by looking at the margin trading agreement of each financial institution. The selection for the case study is based on the brokerage firms or other financial institutions that made the margin trading agreements available on their websites.

## 1.4 Literature Review

The paper by Muhammed ElGari,<sup>1</sup> which was presented at the 18th session of the OIC Islamic Academy for deliberation and discussion, is probably the best paper that provides a detailed description on the mechanism of margin trading. The author discusses the various parties involved in margin trading and its rationale and purposes. He asserts that margin trading is a form of gambling in price. He believes that it is not possible for shares to be the item of loan contracts. Short selling is briefly discussed in a few paragraphs in which the author states that when a broker stipulates to retain and benefit from the stocks borrowed, this will be construed as *riba* (interest) and therefore not permissible. He further states that high competition has led Islamic banks to offer margin trading using *Murabaha* (cost-plus financing). In Islamic margin trading, the client identifies certain shares and

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1 Mohammed Ali Elgari, “Tijarat Al-Hamish,” 2006, <https://iefpedia.com/arab/wp-content/uploads/2009/06/d8aad8acd8a7d8b1d8a9-d8a7d984d987d8a7d985d8b4-d985d8add985d8af-d8b9d984d98a-d8a7d984d982d8b1d98a.pdf>.



specifies the amount and quantity. The bank purchases these shares with the hope of selling it to the client at a cost-plus mark-up. The bank also mandates the client to purchase additional stock, which will be held as security. This is like the conventional margin trading in which the broker asks the client to deposit a margin in a margin account. While discussing the Shariah ruling of margin trading, the author states that the combination of debt and sale in one contract is impermissible regardless of whether the loan is with or without interest. The author is also of the view that the normal practice in which the client purchases stocks and pays off his loan on the same day without incurring any interest is permissible from an Islamic point of view.

Alsuhaibani and Abdullah started by describing what margin trading is and how it works in different markets.<sup>2</sup> They highlighted the position of the Fiqh Academy on the impermissibility of margin trading when interest or other charges are involved. The authors examine the benefits that are accrued to the broker in margin trading in return for extending loans. They describe the *fiqh* rulings on margin trading when the transaction is devoid of the element of interest. They conclude by stating that with regards to the benefits in margin trading, the broker is the sole benefactor and the client's benefit is negligible and insignificant compared to that of the broker. Advancing an interest-free margin by the broker to the client will not make it Shariah-compliant as it involves one or more prohibited benefits.

Most of the papers analyzed in this section have provided a detailed description of the mechanism of margin trading but have failed to provide practical applications of Islamic margin trading. This study helps bridge this gap and analyzes some contemporary practices of margin trading.

## 2. MARGIN TRADING

### 2.1 Introduction

The process of borrowing money from a broker or bank to purchase stocks is called margin trading. The US Securities and Exchange Commission defines margin trading as “borrowing money from your broker to buy a stock and using your investment as collateral.”<sup>3</sup> Margin trading allows an investor to invest beyond his capacity by paying only part of the required amount of the deal.<sup>4</sup> The brokerage firm funds the remaining amount. An investor has to open a margin account with his broker to avail this loan.<sup>5</sup> The

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2 Mohammad Alsuhaibani and Al-Omrani Abdullah, “Benefits of Brokers’ Loans: An Islamic Law Perspective,” *Journal of King Abdulaziz University: Islamic Economics* 22, no. 1 (January 1, 2009): 3–40, <https://doi.org/10.2139/ssrn.2275926>.

3 The U.S. Securities and Exchange Commission, “SEC.Gov | Margin: Borrowing Money to Pay for Stocks,” April 17, 2009, <https://www.sec.gov/reportspubs/investor-publications/investorpubsmarginhtm.html>.

4 eBharati V. Pathak, *Indian Financial System* (Pearson Education India, 2014), 219.

5 D. R. D. Davis, *Economic Secrets of the New Retirement EnvironmentTM* (Xlibris US, 2009), 66, <https://books.google.com.kw/books?id=cfyNAAAAQBAJ>.

broker asks the investor to deposit a certain percentage of the value of stocks that the investor seeks to borrow. This amount is called the *initial margin*. The stocks purchased on this margin are held with the broker as collateral and assurance about the ability of the investor to repay the loan. The brokerage firm usually finances margin trading by borrowing money from banks at a low interest rate. This interest is called the *call rate*. The broker in turn lends the amount to the investor by charging him a higher interest rate. The difference between the two interest amounts is the profit of the brokerage firm.

## 2.2 Mechanism of Margin Trading

A broker will ask an investor to deposit an initial margin when he expresses the wish to use the margin trading facility and the two parties will sign a margin trading agreement. This agreement defines the roles and responsibilities of each party. It also determines the interest rate the borrower pays on the margin loan. To finance this, the broker borrows the required amount from a bank and pays a broker call rate. The broker then adds one half of one percent to it which the borrower must pay.<sup>6</sup> This interest is called the *margin rate*, which is compounded on a daily basis.<sup>7</sup>

The agreement also contains a determination of two important margins. The first of these margins is the initial margin which is a percentage of the security the investor wishes to purchase. This margin is deposited in the margin account and could be in the form of securities or money. The level of the initial margin differs across different jurisdictions and is used by regulators as a tool to control the amount of margin loans. The other type of margin is the maintenance margin, which is a minimum amount of equity the investor is required to maintain in the margin account of the market value of shares. The investor's equity is the amount remaining in the margin account after the loan amount and other costs have been subtracted. The broker purchases the identified security on behalf of the investor and holds it as collateral for the loan. If the market value of the security falls below the required maintenance margin, the broker issues a margin call to the investor in which he will be required to deposit additional funds. It is the sole responsibility of the borrower to watch and monitor the margin to ensure full compliance.

## 2.3 Jurisprudential Characterization of Margin Trading (*Takayif Fiqhi*)

Margin trading is a complex contemporary issue that did not exist during the time of the jurists. Normally, a person seeking to determine the ruling of any incident will refer to *fiqhi* literature to see the opinion of scholars on the issue. However, since margin trading has no precedence, arriving at a *fiqhi* ruling will require using a method called jurisprudential characterization.<sup>8</sup>

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6 Michael T. Curley, *Margin Trading from A to Z: A Complete Guide to Borrowing, Investing and Regulation*, vol. 352 (John Wiley & Sons, 2008).

7 Security and Exchange Board of India SEBI, "Discussion Paper on Margin Trading and Securities Lending" (Discussion paper, India, 2002), [https://www.sebi.gov.in/reports/reports/dec-2002/discussion-paper-on-margin-trading-and-securities-lending-pdf-file-\\_13312.html](https://www.sebi.gov.in/reports/reports/dec-2002/discussion-paper-on-margin-trading-and-securities-lending-pdf-file-_13312.html).

8 Shubair defined *takayif fiqhi* as a process "to determine the true nature of new occurrences so as to

### 2.3.1 Characterizing the Relationship between the Broker and the Lender

Margin trading implies borrowing funds to purchase securities. *Fiqhi* literature has special chapters that discuss all matters related to borrowing and lending.

## 2.4 Ruling on Minimum Margin and Initial Margin

Stock market regulation stipulates that investors should have a minimum amount of money in their accounts before entering into a margin agreement. In Qatar, for example, the Qatar Financial Market Authority (QFMA) stipulates that the borrower should provide at least 60% cash fund of the expected value of the trading position.<sup>9</sup> In other jurisdictions, investors are required to deposit the minimum margin before the margin account is opened.

It is important to note that the initial margin in the futures market is different from stock trading.<sup>10</sup> The initial margin in the futures market serves as collateral for the margin loan.<sup>11</sup> However, in stock trading, this margin is part of the transaction value the borrower deposits with the broker.<sup>12</sup>

The initial margin from a Shariah perspective is permissible since it serves as part payment for the shares. The minimum margin that is an additional collateral for the margin loan is also permissible. According to the Maliki<sup>13</sup> and an opinion of the Hanbali,<sup>14</sup> there is no problem with collateral preceding the act of borrowing. They argue that *rahn* (collateral) is just a security for a loan, and therefore it can come before or after the loan just like a guarantee (*daman*).

### 2.4.1 Pledging of Shares

Stocks purchased on margin are collateralized for the margin loan. This requires a jurisprudential analysis to assess the permissibility, or otherwise, of using shares as collateral for loans.

*Rahn* is the Arabic term for collateral and pledge. It refers to a “property provided in lieu of a debt to a creditor that enables him to take the debt out of the pledged property in cases where the debtor is unable to settle the debt.”<sup>15</sup> The permissibility of *rahn* has been

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categorize them under an original fiqhi precept bearing certain characteristics in Islamic jurisprudence, with a view to establishing those characteristics in the new occurrences by virtue of the essential similarities between the original precept and those occurrences” Muḥammad Uthman Shubair, *Al-Takyif al-Fiqhī Li al-Waqā' i' Al-Mustajiddah Wa Taṭbīqātuhu al-Fiqhiyyah* (Damascus: Dār al-Qalam, 2014).

9 Qatar Financial Markets Authority, “Margin Trading Rule” (Qatar Financial Markets Authority, 2019), [https://www.qfma.org.qa/English/RulesRegulations/RulesDox/Margin\\_Trading\\_Rules\\_%202019.pdf](https://www.qfma.org.qa/English/RulesRegulations/RulesDox/Margin_Trading_Rules_%202019.pdf).

10 Muhammad Al-Bashir, *Risk Management in Islamic Finance: An Analysis of Derivatives Instruments in Commodity Markets*, vol. 1 (Brill, 2008), 157.

11 Mubarak bin Sulaiman Al Sulaiman, *Ahkam Attaamul Fil Aswaq Almaliya Almu'asira*, 1st ed. (Riyadh: Kunuz Ishbiliya, 2005), 990.

12 S. Gurusamy, *Capital Markets, (9780070153301)*. (McGraw Hill, 2009), 426.

13 Muhammad al-Dasuqi, *Hashiyat Al-Dasuqi*, vol. 1 (Cairo: Dar Ihya al-Kutub al-Arabi, n.d.), 3:245.

14 Abdullah bin Ahmad Ibn Qudamah, *Al-Mughni* (Riyadh: Dar alam al-kutub, 2015), 4:241.

15 Ibn Qudamah, 6:23..

established in the Quran,<sup>16</sup> Sunnah,<sup>17</sup> and by Muslim consensus.

The relationship between the debtor and the creditor is that of trusteeship. The pledgee (*murtahin*) is only liable for the destruction of the pledged property in case of negligence and transgression. The debtor is responsible for the expenses of the pledged property during the *rahn* period.<sup>18</sup>

The discussion of the *fuqaha* (jurists) on using undivided shares of an asset as collateral is critical to understanding the Shariah ruling on pledging shares. This is because a share represents an undivided share in the ownership of the capital of a corporation. *Fuqaha* have differed on the issue of collateralizing undivided shares of a property.

The underlying property must be saleable and valuable to be considered as a valid object of a *rahn* contract. The general classical principle is that whatever that can act as a subject of sale can be pledged.<sup>19</sup> Accordingly, the stocks of non-compliant Shariah companies cannot be the subject of *rahn*.

For pledging an undivided property, the major Islamic *fiqh* school of thought (*madhahib*), including the Zahiris, are divided into two positions. The Malikis,<sup>20</sup> Shafi'is,<sup>21</sup> Hanbalis,<sup>22</sup> and Zahiris<sup>23</sup> view the permissibility of using an undivided share of a property as the subject of *rahn* regardless of whether the property is divisible or not. The Hanafis, on the other hand, see the impermissibility of pledging an undivided property irrespective of whether the subject is capable of division or not and whether it was pledged to the undivided property partner or to a third party.

After assessing the positions of the two groups on the issue of permissibility of an undivided property as the subject of *rahn*, in my opinion, the position of the first group that sees the permissibility of using an undivided property as the subject of *rahn* is the preferred view (*Arjah*). The evidence provided by them is comparatively stronger than the rest.

Against this background, it can be concluded that using shares as collateral is permissible and does not infringe any Shariah precepts. This is in accordance with the general principle of *fiqh* which states that any property that can be a subject matter of a sale can also be pledged. This also represents the position of the International Islamic Fiqh Academy<sup>24</sup> and the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), which clearly states that "it is permissible to mortgage the financial papers and Sukuk which can be issued and transacted according to Shari'ah."<sup>25</sup>

It is also permissible for the broker to hold the stocks with him as collateral. Scholars

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16 Surah Al-Baqarah (2:283).

17 Al-Bukhari (n.d., 2:888 Hadith no. 2378).

18 McMillen (2015).

19 Ibn Qudamah (2015).

20 See Anas (1994).

21 Al-Shafi'i (1973).

22 Ibn Qudamah (2015).

23 Ibn Hazm (1970).

24 International Islamic Fiqh Academy, "Ruling on Stock Market," *مجمع الفقه الإسلامي الدولي*, May 14, 1992, <http://www.iifa-aifi.org/1845.html>.

25 AAOIFI, "Shariah Standards," 2017, <http://aaoifi.com/shariaa-standards/?lang=en..>

are unanimous on the permissibility of collateralizing a loan.<sup>26</sup> Their opinion strictly applies to a non-*ribawi qard* since an interest-based loan is not permissible and cannot be collateralized.

### 2.4.2 Benefiting from Pledged Stocks

The stocks purchased on margin are held as collateral. These stocks are used by brokers to generate additional interest. The interest generated is shared between the broker and the client.

Scholars have distinguished between benefiting from the pledged property that has been pledged due to a loan contract and a pledge due to a sales contract. They differ on the issue of whether the permission of the pledger to the pledgee to benefit from the pledged property will make such benefits permissible. The first group of scholars claim that it is impermissible to benefit from the pledged property if the debt is from a loan, but permissible if it is from a sale contract.<sup>27</sup>

The second opinion on this matter is that benefiting from the pledged property is permissible. These scholars do not distinguish between sale or loan contract. This is the view of some Hanafi Jurists.<sup>28</sup> Their argument is that the pledger owns all the benefits of the pledged asset. Therefore, if he chooses to give away this ownership to the pledgee, then it is normal. It will be regarded just as a donation from the pledger to the pledgee.<sup>29</sup> It can be argued that even though the pledger owns all the benefits of the pledged property, giving these benefits to the pledgee will mean that upon settlement of the debt, the pledgee would have received more than he had given out in the loan.<sup>30</sup>

The third opinion on this matter is that it is categorically impermissible to benefit from the pledged property regardless of whether the pledged property has resulted from debt or sale. This is the opinion of some Shafi'is<sup>31</sup> and Zahiris.<sup>32</sup> They argue that the pledgee does not own the corpus of the pledged property as it only serves as a security against a claim. Therefore, it is impermissible for him to benefit from it.<sup>33</sup>

Some contemporary scholars have claimed that such benefits could be permitted if the pledgee pays the market value of the benefits. The pledger would therefore be compensated for these benefits, and the pledgee will not be getting any additional benefits. This eliminates any suspicion of *riba*.<sup>34</sup>

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26 Ibn Abidin and Muhammad Amin al-Dimashqi, "Rad Al-Muhtarala al-Dur al-Mukhtar," *Beirut: Dar Al-Fikr; 1412*), 1995, 10:68; Ibn Juzayy, *Al-Qawanin al-Fiqhiyyah* (Beirut: Dar al-Kutub al-Ilmiyya, n.d.), 342; Abu Ishaq Ibrahim bin Ali bin Yusuf Al-Sharazi, *Al-Muhazzab Fi Fiqh al-Imam al-Syafi'i* (Beirut: Dar al-Kutub al-Ilmiyya, 1995), 3:184..

27 Al-Dardir (1995, 4:245); al-Dasuqi (n.d., 1:3:246).

28 Al-Sarkhasi (1987, 21:106); Zadah (1998, 2:606).

29 Al-Sarkhasi (1987, 21:106); Zadah (1998, 2:606).

30 Musa (2013).

31 Ibn Hajr Al-Haitami (2016, 5:52).

32 Ibn Hazm (1970, 8:89).

33 Itfish and Thamini (1973, 11:220).

34 Abozaid (2018).

The most preferred view, in my opinion, is the first view that sees the impermissibility of benefiting from the pledged property if the pledge is a result of a loan and not a sale contract. Allowing a lender to benefit from the pledged property even by paying the market price of such benefits will likely open the door to evil. Some individuals and institutions can attempt to exploit this and use it as a stratagem to circumvent the prohibition of *riba*. The practice of modern Islamic financial institutions is a great testimony to this. Therefore, it can be considered not permissible for the brokerage firm to benefit from the collateralized stocks held in the margin account as such benefits amount to *riba*.

### 2.4.3 Increase in the Value of Collateralized Stocks

The main purpose of an investor conducting margin trading is to capitalize on the future increase in the market price of stocks. Since securities purchased on margin are collateralized, an increase in the value of these securities will mean that the total value to the *rahn* (collateral) has increased. Another form of increase is when a company announces a stock split, which increases the number of stocks outstanding, but the market capitalization remains the same. Scholars of different *fiqh* schools of thought have discussed the issue of the growth of *rahn* in their *fiqhi* literatures. Their discussion is mainly about whether this growth will be combined with the old pledged property to serve as collateral for the debt.

The *fuqaha* have distinguished between two types of growth in the pledged property. The first type is the connected or endogenous (*muttasil*) growth, which is growth that is inseparable from the corpus of the pledged property such as beauty, knowledge, or weight. All the four major schools of thought agree that the connected growth, which is inseparable, also serves as a pledged property.<sup>35</sup> The other type of growth is the separable growth, which is exogenous to the pledged property such as stock split and appreciation in stock price. Jurists are divided into two groups on whether the sudden increase in the pledged property will be joined to equally serve as a pledge to the initial debt. The majority of *fuqaha* of the Hanafis,<sup>36</sup> Malikis,<sup>37</sup> Shafi'is,<sup>38</sup> and Zahiris<sup>39</sup> state that exogenous addition in the pledged property is not part of the *rahn* and the ruling of *rahn* does not apply to it. Applying this to the context of margin trading will mean that the broker does not have the right to keep any addition in the case of increase in stock price, and such addition must be returned to the borrower. The second jurist opinion forwarded by Hanbalis<sup>40</sup> states that the *rahn* ruling applies to any appreciation in the pledged property, and both the appreciation and principal will be considered as collateral for the debt. This means that an appreciation in the price of the collateralized stocks in margin trading will also be regarded as collateral for the margin loan. The AAOIFI adopts the second opinion and considers all appreciation to automatically serve as collateral with the principal.

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35 See Al-Kasani (1967, 152); Al-Sharazi (1995, 105).

36 Al-Kasani (1967).

37 Anas (1994).

38 S. M. al-Khatib Al-Sharbini and al-Khatib (1995).

39 Ibn Hazm (1970).

40 Ibn Qudamah (2015).

In my view, the second opinion is the weightiest. Adopting this will further strengthen the pledgee's claim. In the context of margin trading, the broker is entitled to hold any appreciation in stock prices until when the position has been closed. Furthermore, unlike the market of goods in which prices are stable, the stock market is characterized somewhat by the arbitrariness of stock price movements. The value of the investor's portfolio will change several times during a trading session, which means that adopting the first opinion will be cumbersome and tiring. However, the parties can agree that the pledger can withdraw some part of the security when it reaches a certain level.

#### 2.4.4 Ruling on Margin Trading

Margin trading as currently practiced in various stock markets is impermissible from a Shariah perspective. Brokers charge interests on margin loans and restrict borrowers to trading using their platforms to benefit from the margin loans. This is inimical to the Islamic precepts, which prohibit *riba* and benefiting from loans. Contemporary Muslim scholars and Islamic finance experts are unanimous on the impermissibility of margin trading. The OIC Fiqh Academy in its 18th session held in Makkah on margin trading stated that margin trading is impermissible as it entails several Shariah concerns.

If a person transgresses against Islamic commandments and enters into margin trading agreement, will the contract be regarded as void and therefore will not have any legal standing or implication? Or will it be considered as valid but with only rectification needed? The answers to these questions lie in the argument of scholars on the validity of a loan with invalid stipulation. The first opinion is that the loan is valid while the stipulation is void and should be obliterated. This is the view of the Hanafis<sup>41</sup> and the most popular opinion of the Malikis,<sup>42</sup> as well as an opinion in the Shafi'i<sup>43</sup> and Hanbali<sup>44</sup> schools of thought. This is also the view of several contemporary scholars and academics. They base their opinion on the hadith narrated by Aisha, in which Barira, a slave at the time, came to Aisha to seek her help to emancipate herself. Aisha agreed to help her, but the masters of Barira stipulated that the loyalty (*wala'*) of Barira is kept with them upon emancipation. Aisha asked the Prophet about such a stipulation, which was against the practices of those days. The Prophet asked her to accept the contract but nullified the stipulation. This shows that a contract with an invalid stipulation is valid. The second opinion is that both the contract and the stipulation are void. This is the position of the Malikis<sup>45</sup> and a view in Shafi'i<sup>46</sup> and Hanbali schools of thought. They base their opinion on the claim that the contract is predicated on such stipulations and does not occur without them. Therefore, if

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41 Al-Sarkhasi, *Al-Mabsoot*, 14:35.

42 Al-Dardir, *Al-Sharh al-Saqir*, 3:104; Anas, *Al-Mudawwana al-Kubra*, 4:132.

43 Muhammad Khatib al Al-Sharbini, "Mughni Al-Muhtaj," *Jilid III, Beirut: Dâr al-Fikr*, 1997, 2:31..

44 Ala' addin bin Hasan bin Sulaiman Al-Mardawi, *Al-Insaf Fi Ma'rifat Al-Rajih Minal Al-Khilaf Ala Mazhab Al-Imam Al-Mubajjal* (Kuwait: Gharas Linnashr wattauzi'i, 1956), 11:230.

45 Al-Dardir, *Al-Sharh al-Saqir*, 3:104.

46 Al-Mardawi, *Al-Insaf Fi Ma'rifat Al-Rajih Minal Al-Khilaf Ala Mazhab Al-Imam Al-Mubajjal*, 11:23.

the stipulation is impermissible, then the contract will be impermissible.<sup>47</sup> Based on the above discussion, it can be concluded that margin trading is valid when it occurs, but the parties deserve retribution for engaging in a sinful and illicit activity.

### 3. ATTEMPTS TO CONSTRUCT SHARIAH-COMPLIANT MARGIN TRADING AND SHORT SELLING

There have been several attempts to develop Shariah-compliant margin trading. Most of these attempts have taken place in countries with developed capital markets. The growth of the Islamic finance industry and the increase in the sophistication of Muslim investors are the major driving forces behind this growth. This section contains a jurisprudential assessment of Islamic margin trading practices to ascertain their permissibility.

#### 3.1 Islamic Margin Trading

We have seen that margin trading as practiced in the conventional equity market contains several Islamic concerns. Different financial institutions have attempted to provide an Islamic alternative by overcoming the shortcomings of conventional margin trading. They employ the Islamic concepts of *Murabaha* and *qard* in structuring these alternatives. This study will assess Islamic margin trading offered by two financial institutions: The Group Securities (Qatar) and Mawarid Securities (UAE).

#### 3.2 The Group Securities

The Qatar Financial Market Authority issued rules on margin trading in 2014. Up until October 2016, The Group Securities was the only brokerage firm authorized to conduct margin trading in the Qatar Stock Exchange.<sup>48</sup> The margin trading facility offered by the firm is distinct in that there is only one margin trading agreement that has been structured in a way that will cater to the needs of both conventional and more conservative Muslim investors. To open a margin account with The Group Securities, a client must have an active account with the firm. The account opening occurs at their main office in Qatar.<sup>49</sup>

The two parties have to sign a margin trading agreement that contains the following details:

1. The company provides free financing to clients for a period of 7 working days. The client who can close a position during the 7-day window will not have to pay any interest. The client pays 60% of the initial margin into the margin trading account, with the firm providing the remaining amount.

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47 bi al-Hassan Yahya bin Abi al-Khayr Salim al-'Imrani, *Bayan Fi Madhab Al-Imam al-Shafi'i*, 1st ed., 13 vols. (Jeddah: Dar al-Minhaj, 2000).

48 Satyendra Pathak, "Margin Trading: The Group Draws Massive Response," *Qatar-Tribune* 6 (2016), <http://www.qatar-tribune.com/news-details/id/27244>.

49 The Group, "Margin Trading," accessed March 13, 2020, <https://www.thegroup.com.qa/Margin.aspx?lang=en>.



2. Only stocks listed in the Qatar Stock Exchange are allowed for margin trading. The list contains stocks of both Islamic and conventional financial institutions.
3. The firm gives clients rebate commission and speculation reward trading through the margin trading account.

### **Shariah Concerns in the Structure of The Group Securities**

1. It is impermissible for a client to enter a contract whereby one will have to pay interest after the grace period granted to him even if the client is relatively sure on his ability to repay the loan during the grace period. The Islamic Fiqh Council in its resolution on margin trading stated that “the contract involves an obvious *riba*, which is represented by the addition to the amount of the loan which is called ‘overnight charges.’”<sup>50</sup> The Islamic Fiqh Council’s resolution prohibits margin trading even though the client is not charged any interest if the position is closed before the trading session ends.

Contemporary scholars and institutions have also discussed this condition in the context of a person who borrows money using credit cards with the intention of paying back during the grace period. Banks and other financial institutions provide credits to people through unsecured credit cards, where creditors are not charged if they pay within a certain period. This is, in practice, similar to the margin loan facility provided by the firm. The majority of Muslim scholars see the impermissibility of entering into such loan contracts as it entails provisions and conditions on charging interest. The International Islamic Fiqh Academy in its resolution no. 108 (2/12) on credit cards concluded that “it is impermissible in Shariah to issue an unsecured Credit Card or use it if its conditions include imposition of interest. This is so even if the card bearer has the intention to pay within the grace period that precedes imposition of interest.”<sup>51</sup> The client receives all ownership rights associated with the purchase of stocks. He receives cash dividends, voting rights, and all other rights a stock owner receives.

2. The list contains some companies whose shares can be sold on margin that are not Shariah-compliant. Some companies operate in industries that are deemed non-compliant by all Shariah scholars. It is therefore inadmissible to purchase these stocks on margin using the firm’s platform.

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50 The Islamic Fiqh Council, “The Islamic Fiqh Council 18th Session Examination of the Issue of Margin Trading” (2006).

Overnight charges are interest paid for holding a position overnight. This interest is calculated on a daily basis.

51 International Islamic Fiqh Academy, “International Islamic Fiqh Academy Resolution on Credit Cards,” Pub. L. No. 108 (2/12) (2000).

## Concluding Remarks

The margin trading offered by The Group Securities is impermissible for the following reasons:

1. The stipulation that the investor should pay interest after 7 working days from the trade execution day is inadmissible from a Shariah perspective. Even though the loan is initially an interest-free loan, it might turn to a *ribawi* contract if the investor fails to repay the loan during the assigned time frame. Moreover, as a rule of law, anything conducive to *haram* (forbidden) is itself *haram*.
2. The contract is also inadmissible as it involves a combination of loan and brokerage, which is a commutative contract (*mu'awada*). The *raison d'être* for prohibiting such a combination is that the broker might seek to benefit from the credit given to the client. This is clear from the incentive packages offered by the firm such as the rebate commission and the speculation reward, which are meant to induce people to trade more. This increases the volume of trade and subsequently increases the commission the firm receives.
3. Finally, the fact that the company does not perform any Shariah screening and does not seek to distinguish Shariah-compliant stocks from non-compliant ones makes the practice questionable.

## 3.3 Mawarid Securities

Mawarid Securities is marketed as a fully Shariah-compliant brokerage company domiciled in the United Arab Emirates (UAE). It offers a range of Shariah-compliant investment instruments.

Mawarid's Islamic margin trading employs the Islamic concept of *Murabaha*. The relationship between the broker and the investor in conventional margin trading is that of a creditor and a debtor. From a Shariah perspective, this is adapted as a *qard* contract. However, Mawarid's margin trading is adapted as a sale contract, with Mawarid acting as the seller and the investor as the buyer. The client after approaching Mawarid Securities is asked to sign several forms, some of the contents of which are mentioned below.

### The First Form: *Murabaha* Trading Request and Promise to Purchase Form

The client signs a *Murabaha* margin trading request form, which contains his name, the *Murabaha* value, and duration. The document states that the client will purchase the stocks upon their acquisition by Mawarid. Attached to this document is the purchase document in which the client undertakes purchasing the stocks when they are acquired by Mawarid. The promise-to-purchase form contains a page with Attachment 1 as its heading, which contains the name of the client, the financier, the date, and the details of the stocks. The promise-to-purchase agreement contains several clauses as follows:

1. The client promises to purchase stocks as contained in Attachment 1 the moment the company legally acquires them.
2. The promisor is liable for any shortfall if he refuses to purchase the stocks after the stocks have been acquired by the company. The company will deduct the actual

cost it incurs from the amount deposited by the client and recourse back to the client in case of an insufficient amount.

3. If the client fails to sign the *Murabaha* agreement three days after the company has acquired the shares without any justifiable reason, and the company sells the shares, the company will be indemnified for any shortfall.
4. The company can purchase the stocks under the name of the client and place them in the client's account before the two parties sign the *Murabaha* agreement. The client does not own the shares as Mawarid maintains the full ownership of the shares before the *Murabaha* agreement is signed.
5. The agreement is guided by the UAE law, and anything missing from the promise-to-purchase form will be regulated by the UAE law.
6. The client gives the company absolute authorization to handle his stock account, which enables the company to sell shares available in the margin trading account.

### **The Second Form: The *Murabaha* Agreement**

The *Murabaha* agreement contains a page with Attachment 2 as its heading, which includes the details of the stocks, the seller, and the buyer. The section of stock details consists of the name and number of stocks, the cost of the sold share, the profit, and the total cost of the *Murabaha* contract. The seller's details consist of his name, the authorized signature, the job title, and the date of the signature. The purchaser's details consist of his name, the date, and signature.

The *Murabaha* agreement includes several clauses as follows:

1. The seller sells the shares, and the details of the shares will be available in Attachment 2.
2. The buyer agrees to pay the full purchase price and any other guarantees required.
3. The client agrees to take the full risk and responsibility of the stocks starting from the date of the agreement.
4. If the client fails to make any installment payment or provides falsified guarantees, all the remaining installments become due.
5. The client agrees to pay registration and transfer of ownership expenses and all other expenses associated with the contract.
6. The client pays a 12% late penalty in the event of late payment. The amount received is disbursed to charity under the supervision of the fatwa board.
7. The client approves of having the company deduct the monthly installments directly from his account.
8. The client will sign a new *Murabaha* agreement when the client deposits additional funds after the margin call.
9. The laws of the UAE shall apply to this contract in the event that there is no provision in it to the extent that they do not conflict with the provisions and principles of Islamic Shariah as determined by the Fatwa and Shariah Supervision Authority of the seller.

### The Third Form: The Master *Murabaha* Agreement

The document contains several key pieces of information about the two parties. The company provides its address and name of the contract. The client, on the other hand, provides detailed information about himself, such as name, account number, and other information.

There is a section in the document on the rules and regulations of margin trading. This section has several clauses. The first clause is about the definitions of relevant terms. The second clause is about the nature of margin trading as practiced in conventional institutions, including the definition of margin trading and the role of maintenance and the initial margin.

The third clause is about the nature of Islamic margin trading as offered by Mawarid. The following are some of the key points and comments on these clauses:

- The broker purchases certain stocks that have been identified by the client. The price consists of the stock price plus a mark-up. The stocks purchased and other assets are held as collateral in the margin trading account.
- The maintenance margin must always be within a satisfactory level.

The fourth clause is about the risk of margin trading. It identifies several risks the client faces in the margin trading process.

The fifth clause is about maintenance and initial margins. The initial margin is set at 50%, while the maintenance margin is set at 30%. The company will begin to liquidate the margin trading account if the price of the securities is at the 30% maintenance level.

### Shariah Concerns in the Mawarid Structure

1. The client signs a binding promise. Muslim jurists in general agree that promise (*wa'd*) per se is recommended (*mustahab*) and that fulfilling a promise is a good attribute. However, classical jurists are divided on the binding nature of non-commutative *wa'd*. The Hanafi,<sup>52</sup> Shafi'i, and Hanbali<sup>53</sup> schools of thought and Ibn Hazm<sup>54</sup> of the Zahiri school of thought are of the opinion that *wa'd* is recommended (*mustahab*) but not legally binding or enforceable in the court of law (*qada'a*).<sup>55</sup> Although the promisor is not penalized, he is encouraged to fulfill his promise as breaking of promises is not a noble act.<sup>56</sup> They base their opinion on the hadith narrated by Zaid bin Arqam in which the Prophet (pbuh) said: "If a person promises something to his brother with the intention to fulfill it but then does not do so, and

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52 Al-Kasani, *Badai' Al-Sanai'*, 7:84–85; Badr al-Din Abi Muhammad Muhamud bin Ahmad al-'Ayni, *Umdat Al-Qari Sharh Sahih Al-Bukhari* (Beirut: Sharikah wa Matba'a Mustapha Albabi Alhalabi, 1972), 11:60.

53 Mansur Ibn Yunus Al-Buhuti, *Sharh Muntaha Al-Iradat* (Beirut: Alam al-Kutub, 1996), 3:481.

54 Ibn Hazm, "Al-Muhalla," *Juz IX. Beirut: Dar Al-Alaq* 6 (1933):278.

55 Abu Zakaria Yahya bin Sharaf Al-Nawawiyy, *Rawdat Al-Talibin*, ed. Adil Ahmad and Ali Mi'wad (Beirut: Dar al-Kutub al-ilmiyya, 1992), 5:390.

56 Ibrahim bin Muhammad Ibn Muflih, *Mubdi' Fi Sharh Al-Muqni'*, 1st ed. (Beirut: Dar al-Kutub al-ilmiyya, 1997), 9:15.

does not come at the appointed time, there is no sin upon him.”<sup>57</sup> The second opinion is that *wa'd* is binding and the promisor is legally obligated to fulfill the promise.<sup>58</sup> Ibn Arabi states that fulfilling a promise in all circumstances is the preferred opinion to him, except when one has a valid reason not to do so.<sup>59</sup> These scholars mention several *ahadith* and verses to support their stand. Among them is the hadith narrated by Abu Huraira that the Prophet (pbuh) said: “There are three signs of a hypocrite: When he speaks, he lies; when he makes promises, he breaks it; and when he is entrusted, he betrays that trust.”<sup>60</sup> A third group of scholars take a middle stance between the two polarizing positions. They further diverge into two groups. One group states that a promise is recommended. However, it will be binding if it is linked to a cause (*sabab*) regardless of whether the promisee has undertaken a commitment due to the promise. The other group states that the promise becomes binding if it is linked to a cause and the promisee has undertaken certain commitment due to the promise.<sup>61</sup> This opinion was adopted by the Islamic Fiqh Academy in its fifth session held in Kuwait in 1988, which stated that “a promise is religiously obligatory on the promisor except when there is a valid excuse. It will be legally binding if a promise is made conditional upon the fulfillment of an obligation, and the promisee has incurred some liability. The obligation in this case is determined either by implementing the promise, or by compensating the damage caused due to failure to fulfill the promise without an excuse.”<sup>62</sup>

### Choosing the Weightiest Opinion

After analyzing the opinions of scholars on this matter and the evidence advanced by each group, the preferred opinion seems to be that *wa'd* is not binding unless if it is made conditional upon the fulfillment of an obligation and the promisee has incurred some liability so as not to inflict harm on the promisee. This opinion strictly applies to non-commutative contracts.

Contemporary Muslim scholars have differed on the issue of binding *wa'd* in the *Murabaha* contract. Their opinions can be categorized into three broad groups. The first group states that a binding unilateral or bilateral promise is impermissible.<sup>62</sup> The

57 Sulaiman Abu Dawud, “Sunan Abu Dawud,” *Dar Al-Fikr*, 2000, 5:168 Kitab al-Adab, Bab fi al-'iddah, Hadith no. 4977.

58 al-'Ayni, *Umdat Al-Qari Sharh Sahih Albukhari*, 12:12; Abu Hamid Muhammad ibn Muḥammad Al-Ghazali, *Ihya Ulummuddin*, 1st ed. (Beirut: Dar ibn Al-Hazm, 2005), 3:133; Ibn Al-Arabi Abubakar, *Ahkam Alquran*, 3rd ed. (Beirut: Dar al-Kutub al-ilmiyya, 2003), 4:1788; Al-Mardawi, *Al-Insaf Fi Ma'rifat Al-Rajih Minal Al-Khilaf Ala Mazhab Al-Imam Al-Mubajjal*, 11:152.

59 Abubakar, *Ahkam Alquran*, 4:1800.

60 Al-Bukhari, *Sahih Al-Bukhari*, 2:262 Kitab al-Shahadat, Hadith no. 2682; Muslim bin al-Hajjaj Al-Naisaburi, *Sahih Muslim* (Beirut: Dar al-Kutub al-'Ilmiyah, 2010), 1:78 Kitab Al-Iman, Bab Bayan Khisal Al-Munafiq Hadith No. 2682.

61 Muhammad al-Amin Shanqiti, *Adwa' al-Bayan Fi Idah al-Qur'an Bi-al-Qur'an* (Beirut: Dar ibn Al-Hazm, 2015), 3:438.

62 See Bakr bin Abdullah Abu Zayd, *Murabaha Lil Amir Bishira* (Dar Al-Amal, n.d.), 17; Rafic Yunus

second opinion is that a binding promise is permissible in the *Murabaha* contract.<sup>63</sup> The third opinion is that a unilateral promise is permissible while bilateral promises are impermissible. The latter is the opinion of the OIC Fiqh Academy and the AAOIFI.

In my opinion, the position of the OIC Fiqh Academy and the AAOIFI is the most preferred opinion. Adopting the first opinion will expose Islamic financial institutions to great risk because clients will likely breach their promise if there is a change in market conditions and purchasing the goods after it has been acquired by the financial institution is unfavorable to them. The second opinion, on the other hand, is not acceptable because bilateral promises in *Murabaha* are not permissible.

Therefore, the provision of Mawarid to seek compensation for the damage caused by the breach of promise by the investor is unacceptable and in accordance with the position of the OIC Fiqh Academy and the AAOIFI.<sup>64</sup>

Mawarid *Murabaha* agreements have a penalty clause. Contemporary jurists have differed on the acceptability of including penalty clauses in debt contracts. The majority of jurists believe that penalty clauses in debt contracts constitute *riba* and are therefore impermissible.<sup>65</sup> The Islamic Fiqh Council in its 11th session held in Mecca in 1989 ruled on the inadmissibility of such a condition as it is regarded as *riba*.<sup>66</sup> This is also the position of the Islamic Fiqh Academy. However, the AAOIFI<sup>67</sup> and the Shariah boards of several banks have approved such a condition if the financial penalty proceeds are given to charity.

In my opinion, due to a large number of delinquent clients, adopting the first opinion will likely put many Islamic financial institutions out of business as investors and depositors will avoid them. Some have suggested using the judicial institution to punish willful defaulters, but such a solution is costly and takes a lot of time. Therefore, the penalty clause inserted by Mawarid is permissible according to the second opinion and Mawarid should ensure the proper disbursement of such funds.

As the owner of the stocks, the company always assumes full liability of the stocks upon purchasing them. Therefore, registering the stocks in the name of the client is permissible as it is merely to facilitate the ease of transferring of ownership of the stocks to the client upon

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AL-Masri, "The Binding Unilateral Promise (Wa'd) in Islamic Banking Operations: Is It Permissible for a Unilateral Promise (Wa'd) to Be Binding As an Alternative to a Proscribed Contract," *Journal of King Abdulaziz University : Islamic Economics* 15 (2002): 32; Al Sulaiman, *Ahkam Attaamul Fil Aswaq Almaliya Almu'asira*, 891; Abdullah bin Mohammed bin Abdullah Al-Umrani, "Al-Mustajaddat Fi Ahkam Wa Tatbiqahu Ala Ba'i Al-Murabaha," *Majallat Al-Ulum Al-Shar'iya*, no. 32 (2014): 107.

63 Yusuf Al-Qaradawi, *Bay' Al-Murabaha Lil Amir Bi Al-Shira Kama Tujrihi Al-Masarif Al-Islamia*, 3rd ed. (Cairo: Maktabat Wahba, 1995), 89; Husam Al-Din Afana, *Yas'alunak 'Anil Mu'amalat Maliya Mu'asira* (Dar Al-Amal, 2018), 61.

64 AAOIFI, "Shariah Standards" Shariah Standard No. 8: Murabaha for a Purchase-Orderer.

65 Afana, *Yas'alunak 'Anil Mu'amalat Maliya Mu'asira*, 3:230.

66 Abdullah Ibn Munay, "Matl Alghani Zulm," *Majallat Albuhs Alfiqhiya Al-Mu'asira*, no. 12 (February 1992): 29.

67 AAOIFI, "Shariah Standards," 89 Number: 2/1/8.

signing the *Murabaha* agreement. However, transferring the stock directly to the account of the client before the *Murabaha* agreement has been signed is not permissible. The fatwa of the Shariah board of AlBilad Bank has stated that “transfer of stocks to the investor’s portfolio prior to ratification of the *Murabaha* agreement is not permissible.”<sup>68</sup>

The International Islamic Fiqh Academy in its sixth session held in Jeddah in 1990 issued a fatwa approving the stipulation that the outstanding installment will become due if the client fails to make any payments. Other contemporary Islamic scholars also give a similar fatwa.<sup>69</sup> However, the Permanent Committee for Scholarly Research and Ifta rule that such a condition is impermissible as it defies the essence of the contract.<sup>70</sup>

The shares in the margin trading account are held as a pledge for the deferred purchase price. In contrast to hypothecation where the borrower uses the securitized property, the client in this margin trading agreement cannot use the shares before the settlement date (*rahn alhiyazi*). Muslim jurists have differed on the permissibility of pledging the sold property if the price of the property is deferred. The opinion of the majority of the scholars of the Hanafi, Maliki, and Shafi’i schools of thought and the most popular opinion of the Hanbali school of thought are that the seller cannot hold the sold property as a pledge for deferred payment.<sup>71</sup> A second opinion of the Hanbalis is that the sold property can be pledged against the payment of the deferred price.<sup>72</sup> This opinion was adopted by the Islamic Fiqh Academy in its 14th session held in Qatar in 2003, which stated that “the seller may require the buyer to pledge the sold property with him to ensure his right to collect the deferred installment.”<sup>73</sup> This is also the position of the AAOIFI.<sup>74</sup> Accordingly, the provision set by Mawarid to keep the pledge property is permissible.

## Concluding Remarks

The *Murabaha* Islamic margin trading satisfies all but one of the requirements of a valid *Murabaha* as set by several Islamic bodies. The main issue with the *Murabaha* structure

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68 Bank AlBilad, *Al-Dawabit Al-Mustakhlasa Min Qararaat Al-Hai’a Al-Shar’iyya Libank AlBilad*, 1st ed. (Riyadh: Dar Al-Maiman, 2013), 29.

69 Muhammad Taqi Usmani, *Buhus Fi Qadaya Fiqhiya Mu’asira*, 2nd ed. (Damascus: Dar al-Qalam, 2003), 34; Husam Al-Din Afana, *Bay’ Al-Murabaha Lil Amir Bi Shira- Dirasa Tatbiqiyya Fi Dau Tajruba Sharkat Bait Al-Mal Al-Falastini Al-Arabi* (Palastine: Sharkat bayt Al-Maal Al-falastini, 1996), 121; Dibyan bin Mohammed Al-Dibyan, *Almu’amalat Almaliyya Asalat Wa Mu’asara* (Riyadh: Maktaba Almalik Fahad Alwataniya, 2010), 537.

70 Permanent Committee for Scholarly Research, *Fatawa Al-Lajna Al-Da’ima Lilbuhus Ilmiyya Wal Ifta*, ed. Ahmad bin Abdullah Al-Darwish (Riyadh: Dar Al-Ma’ yid lil Nashr wattauzi’, 2003), 15:275.

71 Al-Sarkhasi, *Al-Mabsoot*, 12:192; Al-Kasani, *Badai’ Al-Sanai’*, 5:249; Muhammad bin Abdullah al-Kharashi., *Sharh mukhtasar Khalil lil Al-Kharashi* (Beirut: Dar Al-Fikr, n.d.), 5:159; Al-Mardawi, *Al-Insaf Fi Ma’rifat Al-Rajih Minal Al-Khilaf Ala Mazhab Al-Imam Al-Mubajjal*, 4:460; Al-Nawawiyy, *Rawdat Al-Talibin*, 3:183.

72 Al-Mardawi, *Al-Insaf Fi Ma’rifat Al-Rajih Minal Al-Khilaf Ala Mazhab Al-Imam Al-Mubajjal*, 4:460.

73 International Islamic Fiqh Academy, “Qarar bisha’an Mushkilat al-Muddakharat fil Al-Mu’assat Al-Maliyya Al-Islamiyya,” Pub. L. No. 133 (7/14) (2003), <http://www.iifa-aifi.org/2131.html>.

74 AAOIFI, “Shariah Standards,” 213 Shariah Standard No. 8: *Murabaha*.

lies in the fact that the stocks are not properly possessed by the company before the ratification of the *Murabaha* agreement. It will be therefore appropriate that the company holds the securities in the portfolio before transferring it to the client after the *Murabaha* agreement has been signed.

#### 4. CONCLUSION

The recent coronavirus pandemic has resulted in a huge stock market drop. This has brought back the debate on the role of margin trading and short selling in a financial crisis. The results obtained in different academic studies on margin trading and short selling are mixed. Some claim that margin trading and short selling facilities lead to volatility and instability in the stock market. Many researchers, on the other hand, argue that margin trading and short selling are critical for an efficient market because they help bring market prices closer to their fundamental levels and increases liquidity.

Many pensioners and individuals have lost millions of dollars due to the crisis. Short sellers, on the other hand, have been cashing big from the crisis, with reports showing some hedge funds making billions of dollars from betting on the fall in stock prices; however, there is no contribution towards the development of the stock market or the economy in general.

This study attempts to assess conventional margin trading and short selling from a Shariah perspective. To achieve this objective, the study characterizes the relationship between the client and the broker in margin trading as *qard*. This leads to the conclusion that the margin trading facility offered by conventional financial institutions is impermissible. The study also arrives at several conclusions with respect to margin trading as follows:

1. It is impermissible to charge interest in return for offering margin financing.
2. The stipulation that the stock purchased on margin must be traded through the lender is impermissible. Shariah prohibits the combination of a loan with a sale contract.
3. Undivided share in a property can be the subject matter of *rahn*. Therefore, it is permissible to collateralize the shares of corporations.
4. The broker cannot benefit from the securities held as collateral. Dividends and any additional benefits of the collateralized stocks belong solely to the client.
5. The client cannot receive any interest from the collateralized stocks in the form of rebate as this constitutes *riba*.
6. A pledgee can sell the pledged property with the permission of the pledgor. Therefore, it is permissible for the broker to sell the pledged stocks if the client fails to pose additional funds after the margin call has been issued.

Two Shariah alternatives of margin trading were also assessed. Unfortunately, however, all the Shariah have several Shariah issues and concerns. The Islamic concepts of *qard* and *Murabaha* were used for developing these alternatives. However, these novel practices showed that structuring a fully Shariah-compliant margin trading is feasible. In this regard, after addressing several Shariah concerns in the conventional margin trading,



Mubarak Al Sulaiman stated that it is possible to structure and develop a Shariah-compliant margin trading using the concept of *qard* if the financing is interest-free and from a third party other than the broker.<sup>75</sup> We have already seen the structure of The Group Securities that offers an interest-free loan with a 7-day grace period. The 7-day interest-free margin loans provided by the firm offer a ray of hope and show the economic viability of using *qard* to structure margin trading. The government can partner with brokerage firms during the time of an economic downturn and contraction to offer an interest-free margin loan to high-net investors. Such packages will help revitalize the economy and restore investor confidence.

Using *Murabaha* to purchase order is an ideal way to provide an Islamic-compliant margin trading. It overcomes several bottlenecks of using *qard* structure and provides necessary incentives to both financial institutions and clients. The major Shariah concern in Mawarid's margin trading can easily be resolved. Mawarid should also take a proper possession of the stocks by transferring them to its portfolio before selling them to the client. Therefore, a viable *Murabaha* alternative already exists in the market and other financial institutions wishing to provide *Murabaha* margin trading can replicate it.

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75 Al Sulaiman, *Ahkam Attaamul Fil Aswaq Almaliya Almu'asira*, 997.

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## RESEARCH ARTICLE

# Islamophobia: A New Phenomenon or Part of a Continuum

Adam Folorunsho Olowo

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**ABSTRACT**

Following the September 11, 2001, attack in the United States, the negative perception of Islam among Westerners worsened, the wildfire of hateful speech against Muslims—particularly the Arabs and their civilization—became fully fueled, and the ceiling of somewhat acceptable hate speech against them rapidly escalated. It has become a truism to say that Muslims live in an exceptionally unstable time, and as the world continues to become even more unpredictable, it is difficult to imagine a time in history in which Muslim-West discourse is of greater need of attention than now. While Islamophobia is a concept that was coined in the 20th century representing the fear and hatred of Muslims as individuals, a group, or a concept, Muslims or Islam have been held culpable for a number of humanity's shortfalls, and the hatred towards them is as old as the religion itself. This paper, therefore, advances the conversation about Islamophobia, and perhaps most notably, elucidates the discussion of whether or not Islamophobia is a 20th-century creation or part

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of a continuum of anti-Muslim sentiments throughout history. This paper also engages critically with previous studies concerning Islamophobia in the West and provides historical evidence from a religious perspective that justifies the assertion that Islam and Muslims have been victims of hate speech right from the onset. An overlying objective of this paper is also to highlight the continuities and discontinuities of Islamophobia from the medieval period to the modern period, in a bid to identify how the term has developed over time and the different ways by which the ideology can be combated—most especially through dialogue. Ultimately, this paper employs a historical approach and it relies heavily on secondary sources.

**Keywords:** Islamophobia, Islam, hate speech, West, continuities and discontinuities

## I. INTRODUCTION

While there has been a growing concern over the continued expansion and proliferation of discriminatory practices against Muslims over the past few decades, the adverse implications of such practices, particularly on life, property, and human relations, are something that cannot be overemphasized. It has become a truism to say, or think, that we live in an exceptionally unstable time, and as the world continues to get even more unpredictable, it is difficult to imagine a time in history in which Muslim-West discourse is of greater need of attention than now. Whether or not what has become known as Islamophobia today is a creation of 19th-century Western scholars has been heavily contested in academia and attracted divergent views. However, one idea that stands uncontested by scholars and researchers in the field is that the Iranian revolution of 1979 was the first step in a bizarre sequence of events that set in motion what became known as Islamophobia in recent history. Therefore, to say that Islamophobia suddenly came into being in the wake of the 9/11 event would be wide of the mark, for although the trauma caused by the event helped bring the problem to the fore, the history of anti-Muslim sentiments is far older than the 21st century. Ever since, the West<sup>1</sup> has displayed unwavering determination to rid Europe, and perhaps the world, of Muslims' influence which it has considered to be not only dangerous but also incompatible with the modern Western ideal.

From Ayatollah Khomeini's theocracy in Iran to Salman Rushdie's *The Satanic Verses*, and from 9/11 in the United States to 7/7 in the United Kingdom, coupled with other terrorist attacks such as hijackings, suicide bombings, and hostage situations, the vision of Islamic fundamentalism has forced Westerners to see Islam and Muslims in general as an existential threat to Western hegemony and control. The implication of the climate of fear caused by these events is a monolithic understanding of the Muslim world, seeing them not as a diverse community of believers but solely through the lenses of extremism and terrorism. While this may perhaps be justified in the context of ISIS or Boko Haram, it fails to do justice to the complex realities of the Muslim world, which consists of a great

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1 The West as used here describes a people, a place, an ideology, and even a religion (Christianity).

number of pacifists and liberal followers. These stereotypical perceptions of the Islamic world have seriously intensified in the past few decades, manifesting itself in numerous ways, taking on different forms, and seeing Muslims across Europe live in constant fear of persecution.

In this regard, this study is less about the criticism of Islamophobia or anti-Muslim sentiments and more about understanding the phenomenon itself and its historic origin. This paper, therefore, advances the conversation about Islamophobia, perhaps most notably, elucidates the discussion of whether or not Islamophobia is a 20th-century creation or part of a continuum of anti-Muslim sentiments throughout history. This paper also engages critically with previous studies concerning Islamophobia in the West and provides historical evidence from a religious perspective that justifies the assertion that Islam and the Muslims have been victims of hate speech right from the onset. An overlying objective of this paper is also to highlight the continuities and discontinuities of Islamophobia from the medieval period to the modern period, in a bid to identify how the term has developed over time and the different ways by which the ideology can be combated most especially through dialogue. Ultimately, this paper employs a historical approach and it relies heavily on secondary sources.

## II. CONTEMPORARY ISLAMOPHOBIA

Before 9/11, the stage was already set for discriminatory attitudes against individuals or groups that orient around the Islamic tradition. By the 18th century in Europe, an emergent meaning and understanding about Islam was already in circulation, fueled by the information and documented experiences that were derived from the travelogues of European aristocracy and privileged elite who toured the land of the Orient.<sup>2</sup> These travelogues, according to Edward Said, became increasingly popular in European societies, forming a sizable number of reports that helped form the “Orientalist tradition.”<sup>3</sup> It, however, did not come as a surprise that this body of literature maintained many of the stories and myths circulated by the Crusaders in the 13th century, where Islam or better still “the Orient,” was not only presented as the direct opposite of the West or “the Occident” but also demonized and criticized for many of its beliefs and practices.

As European countries continued to consolidate their hegemony over large stretches of land outside Europe, dominating major portions of the African continent and the Middle East, such expeditions further endorsed the fact that Islam constitutes the most pervasive and perhaps the most powerful ideological force in the world, which could one day overthrow Europe from its position of power.<sup>4</sup> The existence of Islam as a universal religion and transnational force covering almost a fifth of the entire world population continues to pose an existential threat to the West, forcing them to commence an academic

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2 Christopher Allen, *Islamophobia* (Ashgate Publishing, Ltd., 2010), 29.

3 Edward W. Said, *Orientalism* (Vintage, 1979).

4 John L Esposito, *The Islamic Threat: Myth or Reality?* (New York: Oxford University Press, 1999), 4, <http://catdir.loc.gov/catdir/enhancements/fy0602/99028443-d.html>.

enquiry into the Orient with the intention of gaining an understanding of Islam and probably transform it.<sup>5</sup> This group of Western academicians, which Edward Said described as “Orientalists,” oversaw the dissemination of information that presents Islam and the Muslim world as an inferior civilization—a backward group of individuals that are irrational, violent, and barbaric with no regard for human life nor peaceful co-existence.<sup>6</sup> This pessimistic representation of the Muslim world informs today’s dichotomous relationship of Islam and the West, and by the end of World War II, conditions were already ripe for discriminatory behaviors towards Muslims in and outside of Europe and America.

While Orientalism and its discourses remain incredibly important to Muslim-West relations, the categories of understanding Islam and the manner of approaching Muslims had significantly changed by the second half of the 20th century. What used to be an academically driven area became largely politicized, requiring military action from both ends of the spectrum. The Iranian revolution of 1979 under the leadership of Ayatollah Khomeini was a significant point in the chain of events that created a backlash in the United States against Islam, seeing a large-scale opposition to what Lester Kurtz termed as the “Westoxification of Islam.”<sup>7</sup> Stereotypical attitudes towards Muslims were further reinforced in the United Kingdom and perhaps all over Europe after the devastating event of the Rushdie Affair in the late 1980s. In what was interpreted to be an act of blasphemy against the last prophet of Islam, Muhammad, Salman Rushdie’s *The Satanic Verses* attracted heavy criticism from the Muslim world to a point where a *fatwa* (nonbinding legal opinion) was issued for the author’s death.<sup>8</sup> These events and few others further reified the existing fear and mistrust of the Muslim community, the culmination of which led to the neologism “Islamophobia.”

The origin of the term as a neologism and a concept has been a subject of debate over the past few decades. While many traced its origin back to the United Kingdom, others would argue for America or even France. Notwithstanding, the term Islamophobia became widely publicized in the Runnymede Report of 1997, providing its first definition and awarding it its sociopolitical discursive resonance.<sup>9</sup> In this report titled *Islamophobia: A Challenge for Us All*, *Islamophobia* is defined as “the dread, hatred, and hostility towards Islam and Muslims perpetuated by a series of closed views that imply and attribute negative and derogatory stereotypes and beliefs to Muslims.”<sup>10</sup> Since then, Islamophobia has been regularly adopted by the media, NGOs, political analysts, and the people to label

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5 Allen, *Islamophobia*, 30.

6 Allen, 31.

7 See Lester R Kurtz, *Gods in the Global Village the World’s Religions in Sociological Perspective* (California: SAGE Publications, 2016).

8 Allen, *Islamophobia*, 41.

9 Christopher Allen, “Contemporary Islamophobia Before 9/11: A Brief History,” *Islamophobia and Anti-Muslim Hatred: Causes and Remedies*, 7th ed., vol. 4 (London: Westgate House, 2010), 15.

10 John L Esposito and Ibrahim Kalin, *Islamophobia: The Challenge of Pluralism in the 21st Century* (Oxford; New York, N.Y.: Oxford University Press, 2011), 8.

a reality that contextualizes Islam and Muslims as objects of aversion, irrationality, and barbarism in a contemporary liberal world.<sup>11</sup> The somewhat acceptable negative stereotypical attitudes towards Muslims intensified in the wake of the 9/11 attack in the United States, and was bolstered by the 7/7 event in the United Kingdom, the Danish cartoon controversy of 2005, the Israeli-Palestinian conflicts, and the more recent murder of Samuel Paty in France. The culmination of these events fed the wildfire of Islamophobic attitudes in the West, and retrospectively, “Westernophobia” in the Muslim world.

Over the years, Muslims in Europe have been placed under immense scrutiny, having to deal with explicit and implicit acts of Islamophobic nature that mark them as either terrorists or extremists. Islamophobic discourse became common and legitimate in the media, in politics, and even in education. A perfect example of this is the British National Party (BNP) political campaign organized shortly after 9/11 in Britain themed *Islam Out of Britain*, geared at exposing the threat that Islam and Muslims constitute to the British society in a pamphlet titled *I.S.L.A.M.*, meaning; intolerance, slaughter, looting, arson, and molestation of women.<sup>12</sup> In 2002, a report published by the European Monitoring Centre for Racism and Xenophobia (EUMC) highlighted the pattern of discriminatory practices against Muslims in the EU after 9/11.<sup>13</sup> This report justified the obvious fact that anti-Muslim sentiments have become more extreme, with Muslims becoming indiscriminate victims of both verbal and physical attacks across Europe and the West in general.<sup>14</sup>

The retaliatory measures adopted by both the European governments and the people saw numerous mosques desecrated, Islamic schools destroyed, a dramatic increase in intelligence surveillance, banning of Islamic organizations, discriminatory immigration policies, and above all loss of life. Women as the most visually identifiable adherents have been reported to be the greatest victims of Islamophobic attacks, without forgetting Muslim men with whom even Sikh men, due to their visible turbans and beards, had to share in their predicament. With the media, far-right political leaders, and even Western intellectuals taking the front seat in this unpleasant reality, the question that arises here is whether or not this has always been the case for Muslims throughout history.

### III. A NEW PHENOMENON OR PART OF A CONTINUUM

Despite Islamophobia being a concept coined in the 20th century representing hatred of Muslims as individuals, a group, or tradition, it is believed that the actual history of anti-Muslim sentiments goes far deeper than that. The sudden rise in modern-contemporary prejudicial treatment of the Muslim community makes it appear distinctive and disconnected from the influence of history, a stance that many scholars have already taken. While it is, on the one hand, true that over the years Islamophobic acts have taken on

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11 Erik Bleich, “Defining and Researching Islamophobia,” *Review of Middle East Studies* 46, no. 2 (2012): 181.

12 Allen, *Islamophobia and Anti-Muslim Hatred*, 88.

13 See *The Summary Report on Islamophobia in the EU after 11 September 2001*

14 Allen, *Islamophobia*, 103.



different forms that are mostly shaped by the time and place in which they occur, it is on the other hand important to note that throughout history, there are also salient elements that always repeat themselves. Understanding that the history of Islam and the West goes as far back as the medieval period in the Byzantine Empire, it is, therefore, argued that a retrospective review of the history of their relations would help contextualize the current “hot spots” of Muslim–West relations. Are the negative attitudes and actions against Islam and Muslims a new phenomenon, or are they part of a continuum of Islamophobia throughout history?

The medieval Muslim–West encounters were majorly carried out under the banner of religion but within a political climate. This section is less about giving a comprehensive historical analysis of Muslim–West relations and more about singling out key historical moments that may have had significant influence, and therefore, elucidates the provenance of contemporary misconceptions of Islam and Muslims in general. Therefore, a major aspect of this section will cover Muslim–Christian relations in the Middle Ages, the period in which both traditions not only stood as the world superpowers but also geographically separated. A lot of what will be discussed here may seem externally theological, but internally they shed light on the expansionist project of the Eastern Arab Muslims and Western Christendom.

The Muslims already posed a big threat to Western Christendom long before they even realized it. The first and foremost reaction of Western Christendom to the emerging of Islam was to interpret it through the lenses of their scriptural traditions, seeing the Islamic invasion as a fulfillment of prophecy.<sup>15</sup> This was the stance taken by the Monophysite Armenian Bishop Sebeos, who in 661 gave a description of the Prophet and Islam. He suggested that God intended to fulfill in the Arabs the promise made to Abraham and his son, in which the Arabs were destined to establish control over the territory that God had granted Abraham.<sup>16</sup> As it became clear that the Muslim Arabs demanded much more than territorial control, conforming to a supersessionist or proselytic theology that seeks not only to correct but also to replace Christianity as an Abrahamic religion, different interpretations—albeit stereotypical—about Islam and Muslims began to develop. This moment marked what may be described as the beginning of “medieval Islamophobia.”

In a letter drafted by Maximus the Confessor (d. 662) to Peter the Illustrious in the mid-7th century, bemoaning the tribulations inflicted by the barbarian invaders (the Arabs), while warning Peter to remain constant in his prayers, he said: “What could be more dire than the present evils now encompassing the civilized world? To see a barbarous nation of the desert overrunning another land as if it were their own, to see our civilization laid waste by wild and untamed beasts who have merely the shape of human form.”<sup>17</sup> He

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15 See The Book of Genesis

16 John Victor Tolan, *Medieval Christian Perceptions of Islam: A Book of Essays* (New York: Routledge, 2000), 13; John Moorhead, “The Earliest Christian Theological Response to Islam,” *Religion* 11, no. 3 (July 1, 1981): 226.

17 John Victor Tolan, *Saracens: Islam in the Medieval European Imagination* (New York: Columbia University Press, 2002), 43.

went on to describe Arabs as followers of the anti-Christ who take great pleasure in human blood, a description that found resonance with John of Damascus's view of Islam.<sup>18</sup> The 9th century in Western Christendom was a significant period in the history of Muslim-Christian relations, one that saw an increased interaction between the Muslim and Christian communities and a significant rise in the circulation of confrontational and stereotypical tracts. One such tract is the *Apology of al-Kindi* that, although with questionable authenticity, provides context to the unpleasant ambience of the Muslim-Christian encounter. In this document, al-Kindi launches several harsh attacks on different aspects of Islam, questioning the status of Muhammad as a prophet, his treatment of women, and above all his war-like personality.<sup>19</sup> These attacks may seem theological at first, but considering the inestimable position that religion occupies in the entire setting of Western Christendom (Roman Empire), there is no doubt that these tracts had significant implications on how Muslims and their religion were perceived.

The climate of fear created by the spread of Islam forced Christians to project a negative evaluation of Islam in a bid to halt the growing tide of conversion that threatened the growth of Roman Christendom. This fear and disdain manifested itself in numerous ways, a constant feature of which was the vilification of the personage of the last prophet of Islam, Muhammad. Examples of this are widespread in numerous 9th- and 10th-century chronicles and polemical literature. In the chronicles of Theophanes the Confessor, he condemned Muhammad's revelation as emanating from epileptic fits, and criticized him for spreading violence and barbarism across the land.<sup>20</sup> The stereotypical project of Theophanes was carried even further by Nicetas of Byzantium, who in his texts titled *Refutation of the Book Fabricated by the Arab Muhammad* qualified Muhammad as an impudent impostor and subjected him to a kind of psychoanalysis in a way that questions his mental state.<sup>21</sup> It is, however, important to note that the majority of what was documented about Muhammad and Islam during this period was learned in absentia, reflecting lack of knowledge and, according to John Esposito "luxuriated in ignorance of triumphant imagination."<sup>22</sup> One would assume that the long years of the Crusaders in the Middle East would enlighten the discourse positively; unfortunately, all of what they did strengthened the misconceptions and reinforced the negative stereotypes that were already in circulation about Muslims and Islam years before the Crusades.

In the post-Reformation period, where secular principles were beginning to gain traction in the West, the study of Islam and the Muslim world began to transcend the

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18 Hugh Goddard, *A History of Christian-Muslim Relations* (Chicago, Ill: New Amsterdam Books, 2000), 38.

19 Goddard, 53.

20 Robert G. Hoyland, "The Earliest Christian Writings on Muhammad: An Appraisal," in *The Biography of Muhammad: The Issue of the Sources* (Leiden: Brill, 2000), 276.

21 Goddard, *A History of Christian-Muslim Relations*, 57.

22 Esposito, *The Islamic Threat*, 45.

theological dimension to include the civilizational and cultural aspects.<sup>23</sup> With great reverence for rationality, Enlightenment scholars such as Voltaire were forced to re-interpret and re-contextualize Islam from a more secularized perspective in order to champion their Enlightenment principles. Posing Enlightenment rationalism against the presumed irrational Orient, important writers of the Enlightenment were forced to maintain many of the earlier stereotypical accounts about Islam and Muhammad.<sup>24</sup> In *Fanatisme ou Mahomet le Prophete*, Voltaire portrayed Muhammad as the opposite of all that is good: a theocratic tyrant, a model of fanaticism the like of which the world has never seen.<sup>25</sup> The preoccupation with the Islamic civilization in the Enlightenment period informs the rise in academic enquiry into Islam and the Muslim world. Enlightenment literature provides later Orientalists with good standing in the process of designating Islam as Europe's inevitable other. In one of his lectures, the French Orientalist Ernest Renan defended the power of science (reason) by dismissing Islam as irrational and Muslims as static and backward, incapable of learning or opening themselves to innovative ideas.<sup>26</sup> These negative stereotypes of a backward, inferior, violent, irrational, and anti-Western religious tradition, on the one hand, provide justification for Western imperialism in the Muslim land, and on the other hand, serve as references for emerging modern-contemporary scholars.

With the scientific breakthrough of the 20th and 21st centuries, it is difficult to imagine a better time in history where stereotypical attitudes and anti-Muslim sentiments can have more profoundly damaging effects than now. As the medieval perceptions of Islam and Muslims continue to recur in contemporary evaluations of Islam, the previously nonexistent social media has made the Islamophobic industry a lucrative one. Presently, social media has become the fastest and the most profitable propaganda machine in history, disseminating stereotypical images and misunderstandings about Muslims and Islam, the majority of which stands in continuity with medieval Christian polemical literature. The horrors of 9/11, 7/7, the Danish cartoon controversy, Boko Haram in Nigeria, and many other Islamist terrorist attacks provide justification for contemporary anti-Muslim sentiments, resulting in a backlash of Islamophobia across the European landscape in which all Muslims, regardless of their conceptual or geographical origins, are viewed through the lenses of terrorism and extremism.<sup>27</sup> The same applies to political spaces in France, Germany, as well as the United Kingdom, the United States, Spain, the Netherlands, and other European countries having to revisit their security and social policies including immigration, religious freedom, and intelligence in fear of the Muslim populace. In the midst of it all are intellectuals in various Western communities—the Spanish Antonio Elorza, the Italian Oriana Fallaci, the Dutch Herman Philipse, the French Caroline Fourest, the American Robert Spencer, and many more—all of whom

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23 Allen, *Islamophobia*, 29.

24 Allen, 29.

25 Allen, 29.

26 Esposito, *The Islamic Threat*, 46.

27 See Elizabeth Poole, *Reporting Islam: Media Representations and British Muslims*. (I.B. Tauris, 2009).

present a shared position of the warlike feature of Islam, and therefore, its incompatibility with modern-Western ideals.<sup>28</sup>

It has become abundantly clear, from the above, that the fear and hatred of Islam is as old as the religion itself. Despite being coined in the 20th century, history has shown that Islamophobia is not an entirely new phenomenon. Understanding that different cultures, time, and places have shaped Islamophobia over the years, nevertheless, some elements remain fundamental to Islamophobia throughout history and they continue to repeat themselves. If so, what separates contemporary Islamophobia from historical narratives? What have contemporary Islamophobes added or changed? What are the continuities and discontinuities of Islamophobia in the medieval and contemporary period?

#### IV. CONTINUITIES AND DISCONTINUITIES

In view of the fact that anti-Muslim rhetoric and discrimination have always existed in the history of Muslim-West relations, the plausibility of a consistent pattern in the content and themes of classical and modern literature would not be an impossible idea. In this section, this study seeks to explore how classical texts continue to inform modern scholarship of Islamophobia. More precisely, it seeks to establish a pattern of continuity of anti-Muslim discourse in classical and modern literature and to examine how the discursive content of these themes continue to evolve and change over time. This, on the one hand, is done in an attempt to establish a thematic connection between classical and modern interpretations of the Islamic tradition, and on the other hand, to deduce newly emerging questions and concerns which were previously non-existent in the classical period. To do this, three particular themes have been selected for analysis: violence, otherness, and the status of Muhammad. The focus on these themes will make it possible to broaden our knowledge of Islamophobia as a phenomenon, to widen the scope or lenses by which the subject is conceived, and to create a pattern of understanding that transcends the usual reductionist approach, which attempts to treat contemporary Islamophobia in isolation from its actual historic origin.

##### a. Thematic Analysis: Violence, Otherness, and the Status of Muhammad

The subject of violence features predominantly in the history of Islam and the West in the same way that it constitutes one of the perennial themes that have a high profile in both classical and modern-contemporary discourses on Islam. In the wake of the initial encounter of Islam and Christianity in the Byzantium, the first news of Islam that circulated Western Christendom has to do with its militaristic composition and its barbaric nature. The contention that Islam spread by the sword (force), according to Kate Zebiri, was an important subject for early generations of European scholars because it contradicts sharply with the Christian ideal model of Christ (the Prince of Peace), and it justifies the

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28 Jocelyne Cesari, "Islamophobia in the West: A Comparison between Europe and the United States," in *Islamophobia: The Challenge of Pluralism in the 21st Century* (London: Oxford University Press, 2011), 35.

motive to dismiss the new religion on the ground of heresy.<sup>29</sup> The “violent narrative” of Islam is a foundational theme, something that was heavily discussed in the chronicles of the Byzantine historian Theophanes the Confessor (d. 817) and Nicetas of Byzantium in the 9th century. Similar narratives and expressions were carried even further in the Crusaders’ accounts of Islam (10th–13th centuries), the Reformation,<sup>30</sup> and post-Reformation period<sup>31</sup> (16th–18th centuries), and in the modern-contemporary period.<sup>32</sup> Despite an established continuity of the narrative from the historical survey of violence as a theme, it is important to bear in mind that the expression has undergone significant changes over the years as well. Violence as expressed in earlier texts has more to do with the spread of Islam and the adopted method of subjugating weak territories. In sharp contrast to the classical view of violence as being backed by a powerful empire, the contemporary conception of violence is usually associated with the structure of the Islamic law and policy that appears to be incompatible with modern-Western values. Although the latter is not completely absent from Western consciousness, the alleged violence of Islam mostly corresponds to the rise of political Islam, radical jihadist activism, and what appears to be “Islamic extremism.”

Issues surrounding the status of Muhammad are a recurrent theme in the early period of Muslim-Christian/Western encounters, and it remains a matter of serious concern in the modern-contemporary discourse on Islam and the West. As the Islamic model of an ideal being and “the Seal of the Prophets,” there was an immediate need for early Christians to vilify the personage of Muhammad for two particular reasons: to preserve the legacy of Jesus Christ as the son of God and Christianity as the dominant religion. The earliest Christian reference to the Arab Prophet Muhammad appeared first in the chronicles of Thomas the Presbyter, which was supposedly composed around 640.<sup>33</sup> In it, Muhammad was presented as a military leader who withstood the Persians and gained control of their land, an expression that found resonance in later texts of Christian historians and philosophers such as Bishop Sebeos, Theophilus of Edessa (d. 785), and the Nestorian Christian of Arab descent al-Kindi.<sup>34</sup> By the 11th century in Western Christendom, distorted portraits or caricatures of Muhammad were already widespread in a way that portrayed him as violent, barbaric, promiscuous, licentious, and above all mentally derailed. Such rhetoric comes through very clearly in the Crusaders’ account of Islam and

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29 Kate Zebiri, “Orientalist Themes in Contemporary British Islamophobia,” in *Islamophobia: The Challenge of Pluralism in the 21st Century* (London: Oxford University Press, 2011), 175.

30 Martin Luther described Islam as “a movement of violence in the service of the anti-Christ; it cannot be converted because it is closed to reason; it can only be resisted by the sword, and even then with difficulty”. See Albert Hourani, *Europe and the Middle East* (London; Basingstoke: The Macmillan Press, 1990).

31 See Voltaire “Fanatism”

32 See Robert Spencer, *The Truth about Muhammad: Founder of the World's Most Intolerant Religion* (Washington, DC: Regnery Pub., 2007); Ergun Mehmet Caner and Emir Fethi Caner, *Unveiling Islam: An Insider's Look at Muslim Life and Beliefs* (Grand Rapids, Mich.: Kregel Publications, 2009).

33 Hoyland, “The Earliest Christian Writings on Muhammad: An Appraisal,” 277.

34 Hoyland, 278; Goddard, *A History of Christian-Muslim Relations*, 53.

Muslims, examples of which have been further spelled out in post-Reformation literature up until the present time. The French Enlightenment philosopher Voltaire wrote a great deal about this subject in his book *Fanaticism or Mahomet the Prophet*, the description of which remains evident in the academic and political spheres of the contemporary landscape.<sup>35</sup>

As Islam continues to spread across and beyond the Arabian Peninsula, conquering major portions of Roman and Persian empires and encountering different religions along the line, the “otherness” of Islam as a tradition, a culture, and a way of life was one that posed a great challenge to Western Christendom. Originating from an uncivilized, crude, and barbaric tribe of the Middle East and defying the usual order of revealed prophets—all of whom are Banī Isrāīl (Children of Israel)—the thought of accepting Islam as a continuation of Christianity was an inconceivable reality for early Christians. The theme of “otherness” as constructed in the early centuries of Muslim-Christian/Western encounters was viewed from a religious lens leading to a conception of Islam as either heretical or a harbinger of the apocalypse.<sup>36</sup> Such narratives have undergone significant changes over the course of the century, especially since the Reformation period that foresaw the separation of the Church and the State. The theme of otherness has taken on a different narrative in the modern-contemporary discourse on Islam, one that is discontinued from its typical religious or theological context to an understanding that considers otherness in terms of national identity, social cohesion, and immigration.

Trying to map out the continuities and discontinuities of Islamophobic rhetoric from the early medieval period to the modern-contemporary period by looking at only three themes can hardly do justice to the broad area of the specialization. However, it is believed that an analysis of these themes—violence, the status of Muhammad, and otherness—would help broaden our understanding of Islamophobia as a phenomenon and open new areas of discussions that are yet to be explored.

## **b. New Images of Islamophobia**

In a contemporary world where discrimination and racism are seriously abhorred, Islamophobic discourse has become common and legitimate in almost every segment of the Western landscape. The discourse surrounding Islamophobia today has taken on new forms that were previously non-existent in the history of Muslim-Christian/Western encounters. The fear of Islam became the driving force behind many modern Western anti-Muslim policies that are majorly expressed in security legislation, immigration, prosecution, and oppression. Bearing in mind that Islamophobia today is a constellation of new ideas and old ideas, new trends have developed over the years that shape the contemporary Islamophobic discourse. These trends can be observed under two different categories: multiculturalism and the media.

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35 Refer to the Danish Cartoon controversy of 2005, Samuel Paty’s Murder in France, and Spencer, *The Truth about Muhammad*; Caner and Caner, *Unveiling Islam*.

36 Zebiri, “Orientalist Themes in Contemporary British Islamophobia,” 176.

## *Multiculturalism*

The flexibility of Islam as a religion and its compatibility with modern-Western values has become something of particular interest in the current debate about multiculturalism. In view of the challenge posed by Islam and Muslims to the secular-liberal ideal of Western modernity, there has been a growing concern over the presence of Muslims in the West and particularly their ability to blend or integrate into Western society. The majority of what Islam and Muslims represent appears to be antithetical to all that the West stand for, and as multiculturalism treads even deeper into Western societies, it has initiated new ways of thinking about society and identity, one that is designed to stereotype Muslims as the “incompatible other.”<sup>37</sup> The implications of this are widespread and written over all the newly adopted anti-terror and security legislation policies that are often conflated with immigration, gender and hijab (veil), and human rights issues.

In the wake of 9/11 in the United States, policies concerning immigration changed significantly to target Muslim communities from gaining easy access into Western countries. This move was motivated by the rising tide of Islamophobia across the Western landscape, in which the fear and anxiety make Muslims appear in Western consciousness as either a terrorist or a potential one in the making. Such anti-Muslim immigration policies are observable in countries like France, Germany, the United States, and the Netherlands.<sup>38</sup> Furthermore, gender and hijab also have a high profile in the contemporary discourse on Islam and multiculturalism, and receives proportionate attention from the media. An area that provides motive and justification for Islamophobic acts revolves around the patriarchal design of the Islamic law that, according to Western Islamophobes, supposedly awards little to no significance to the female gender. Issues such as child marriage and polygamy are oft-cited as evidence of Islam’s backwardness and to challenge its readiness for a multicultural world. The discussion about female emancipation also takes into consideration the notion of the hijab as a religious symbol which Islamophobes believe to be restrictive and at times pose a security threat.<sup>39</sup> Entrenched in the discourse of Islam and multiculturalism is the issue of freedom of expression, which many would agree is one of the most complex, problematic, and ever-recurring issues in recent times. The question of whether or not people are free to express hate and prejudice about other cultures is still an ongoing debate; however, the issue continues to be a major source of controversy in the modern-contemporary Islamophobic discourse. The Rushdie Affair of 1989, the Danish cartoon of 2005, and the recent decapitation of Samuel Paty in France are representational of the local and international outbursts that issues of free expression can precipitate.

## *The Role of the Media*

None of the different tools employed by the West in promoting stereotypical and anti-Muslim rhetoric is as fast and effective as social media. Given its broad coverage and wide

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37 Esposito and Kalin, *Islamophobia*, 5.

38 See Joselyn Cesari

39 Kate Zebiri, “The Redeployment of Orientalist Themes in Contemporary Islamophobia,” *Studies in Contemporary Islam* 10, no. 1–2 (2008): 24.

reach, social media has earned its place as the most virulent and profitable propaganda machine in history. Most mainstream media would strenuously deny promoting negative stereotypes of any kind; however, the one-sided and often discriminatory media coverage of events pertaining to Islam and the Muslim community has become a dynamic breeding ground for Islamophobic narratives.<sup>40</sup> This trend is evident in most Western media outlets, in places like France, Germany, the Netherlands, and the United States where negative stereotypical images of Islam and Muslims are reported as part of news coverage in live debates, TV programs, political speeches, and even religious sermons.<sup>41</sup> Poole, in her study on British Muslims and global Muslims, linked the stereotypical tendency of the media to what she termed “associative negative behavior.” According to her, “the associative negative behavior of global Muslims is seen to evolve out of something inherent in the religion, and therefore, transposed upon every Muslim (British or not) rendering them a potential terrorist.”<sup>42</sup> A similar climate exists in France where, according to Geisler, the media prefers to spread populist public attitudes and prejudices over informative and balanced knowledge of Islam. This is also the case in Spain and Italy, where the vast majority of the country’s media outlets operate on the myth of Islamic martyrdom, rendering all Muslim nationals as “internal enemies” in need of an extensive criminal system.<sup>43</sup>

## V. COMBATING ISLAMOPHOBIA THROUGH INTEGRATIVE DIALOGICAL FRAMEWORK

In a globally connected world where religious and political differences can have an increasingly damaging effect on global welfare, several peacebuilding initiatives and techniques have been developed over the years geared towards promoting peaceful co-existence and harmony among conflicting parties. One such initiative is the “pyramid of action” developed by John Paul Lederach in his book *Building Peace: Sustainable Reconciliation in Divided Societies* (1997). Lederach advances an integrated peacebuilding model that incorporates a system of dialogue at a structural and progressional level. At the structural level, the model takes the form of a pyramid scheme that enables the implementation of dialogical initiatives in three hierarchical levels of the society, encompassing all groups and incorporating all actors. It is believed that this model, if applied to an Islamophobic setting, will prove effective in identifying and linking actors at the top, middle, and grassroots level of the community, therefore enabling an all-inclusive dialogical process to promote understanding and tolerance in a multicultural and multireligious setting. This pyramid of action will be discussed in the following paragraphs.

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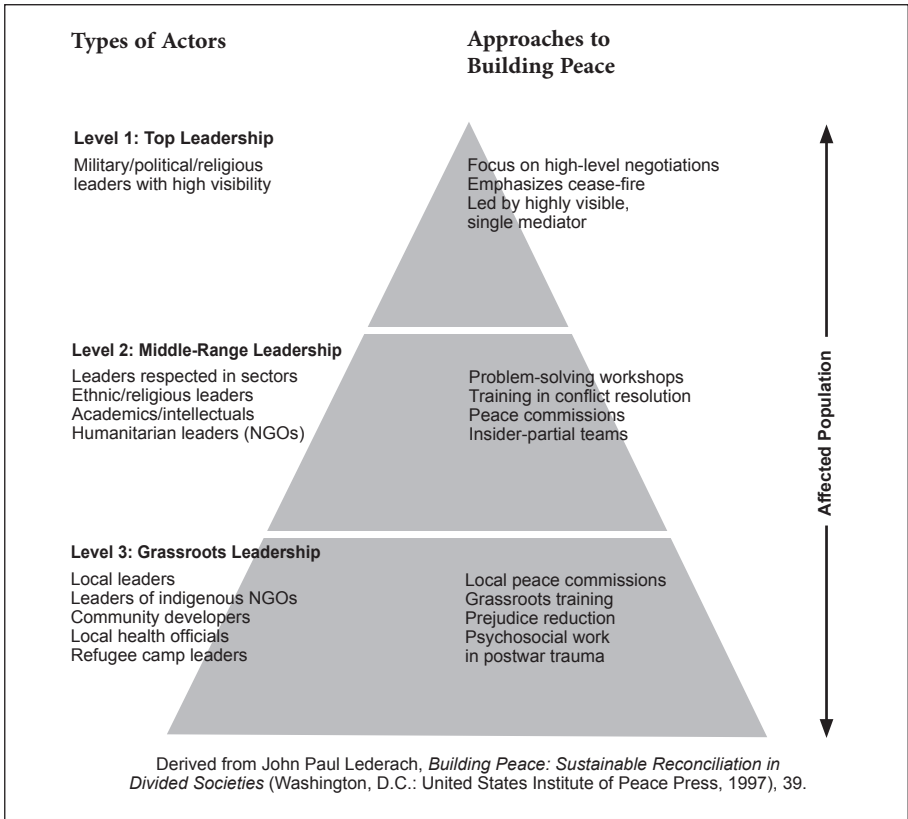
40 Esposito and Kalin, *Islamophobia*, 12.

41 Esposito and Kalin, 12.

42 Poole, *Reporting Islam*.

43 Allen, *Islamophobia*, 116–17.





**Figure 1:** Approaches to Peacebuilding derived from John Paul Lederach’s *Building Peace: Sustainable Reconciliation in Divided Societies*.

### a. Top Level

At the apex of the pyramid are key political, religious, and traditional leaders. In any medium- or large-scale conflict, this group of people stands at the top of the chain serving as spokesmen or leading representatives of their respective sides. What characterizes this group of top-level officials are their visibility in terms of statement releases and news coverage, their significant power or influence on their followers, and their responsibility to maintain a position of strength vis-à-vis their rivals.<sup>44</sup> As discussed in the previous sections, many actors are at play in the proliferation of stereotypical sentiments and anti-Muslim rhetoric across the world. These actors which includes political and party representatives, religious leaders, and media directors have in one way or the other, set up

44 John Paul Lederach, “Sustainable Reconciliation in Divided Societies,” *Washington, DC: USIP*, 1997, 38.

a chain of event that have either instigated hate crimes or caused more misunderstanding between the conflicting parties. In the political sector, the BNP in the United Kingdom, Le Pen and the National Front in France, the Lega Nord in Italy, DVO in Germany, and the Republican Party in the United States are representations of right-wing political parties that push and exploit anti-Muslim rhetoric for political gain.<sup>45</sup> The same stereotypical pattern is observable in some religious sermons and in the media. Otherwise known as a trickle-down approach, this framework is based on the premise that achieving peace lies with identifying key representative leaders from the political and religious sphere, and getting them to arrive at a peaceful and friendly conclusion. It is believed that the greatest responsibility and potential of resolving misunderstandings of any kind, in this case Islamophobia, resides with representative leaders from both sides of the divide.

### **b. Middle-Range Level**

At the pyramid's midpoint are individuals who occupy leadership positions within a setting where intermittent eruption of verbal or physical abuse is rife. The positions held by these individuals are not necessarily connected or linked to any public office or opposition movements; however, they have a reputable standing and their words hold serious meaning in the society. This group of individuals can be identified along several different lines, the first of which are leaders in sectors such as education, commercial, health, or agriculture. Another approach is to identify outspoken representatives from among the camps in conflict who enjoy the respect of the people and have the capacity to influence their behavior. In settings where there are primary networks of groups and institutions that represent, for instance, the voice of marginalized minorities, such a network could serve as a breeding ground of respectable community leaders who are connected to many influential people in the country and have a comprehensive understanding of what is required for peace to reign.<sup>46</sup> The motive here is to engage mid-level leaders in an open debate about the concept of Islamophobia in a bid to reflect on controversial issues surrounding the term and try to reach a friendly conclusion. The mid-level approach requires consistency to work, and the more these leaders engage the higher the chance of progress.

### **c. Grassroots or Bottom-Up Level**

The bottom-up level consists of people at the base of the society, i.e. the masses.<sup>47</sup> These people can be divided into two separate categories: the oppressor and the oppressed. The oppressors herein are the Islamophobes, the weaponized group of people who carry out hateful and premeditated attacks on Muslims and their properties. The oppressed, on the other hand, are the direct opposite. They are the most vulnerable members of the community—in this case, the Muslims—who witness, on a daily basis, abuses of different

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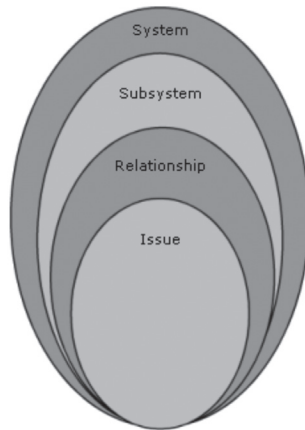
45 Cesari, "Islamophobia in the West," 32.

46 Lederach, "Sustainable Reconciliation," 41.

47 Lederach, 42.

kinds and are in constant fear of persecution. These people are the most knowledgeable of the impact of Islamophobic acts, with high awareness of the fear and suffering that much of the population must overcome every single day. Dialogue at the top- and middle-range levels is meaningless without the cooperation of people at the grassroots level. Some of the grassroots approaches outlined by Lederach are organizing local peace conferences, local workshops, capacity building, and some other programmatic peace efforts.<sup>48</sup> By bringing together local community leaders at the grassroots level, immediate religious and inter-personal issues that have evolved locally are not only identified but also create the opportunity to enlighten and educate the people about tolerance and peacebuilding.

In addition to focusing on the actors and representatives at the different levels of a conflict-ridden society, Lederach adopts an alternative approach, “the nested model of conflict,”<sup>49</sup> that provides structure for reconciliation, with a direct focus on repairing broken relationships and to orient the views of people in dialogue towards a broader conflict resolution and peacebuilding technique. Despite taking into consideration both the immediate or “micro concern” in a conflict situation and the broader or “more systemic” implication, this model offers creative methods by which parties in dialogue can coordinate themselves towards achieving short- and long-term objectives. The nested model is designed to address the problem of approach i.e., how the way we approach a conflict situation can have a significant impact on our conclusion. This model is made up of two particular levels: the issue level and the system level (see Figure 2). At the issue level, the main concern is about addressing the issue at hand and repairing broken relationships, while at the system level, the deeper and long-term solution is what is discussed.



**Figure 2.** The Nested Paradigm derived from John Paul Lederach’s *Building Peace: Sustainable Reconciliation in Divided Societies*.

48 Lederach, 53.

49 Developed by the peace researcher and theorist Maire Dugan in her article “A Nested Theory of Conflict,” *Women in Leadership* 1, no. 1 (1996): 9–20.

Taking the Charlie Hebdo case<sup>50</sup> of 2015 as a practical example, the first step of action—using the nested model approach—would be to defuse the immediate face-to-face tension between the conflicting parties. In this case, the essential thrust of the issue level would be embedded within a relationship that needs to be reconciled. Here, the course of action may be to introduce an alternative explanation or ensure the withdrawal of the alleged blasphemous cartoon as a necessary step to reduce the immediate threat of a seemingly escalating situation. Given that the issue level is about immediacy and relationship, this level is where dialogue is most effective: to engage different actors and encourage a peaceful and harmonious settlement.

The system level, on the other hand, is about the long-term solution placed within a broader context. The first systemic step for conflict resolution practitioners or interfaith organizations in this regard is to engage the state government and mid-level leaders in the state. At the subsystem stage, the goal would be to develop a policy or establish a body that prevents or counters hate speech that has the potential to incite violence, discrimination, and hostile relationships. The subsystem level is therefore, “a middle-range locus of activities that connects the other levels in the system.” At the fourth stage, “the system” is where the systemic change is most felt. In this case, the Charlie Hebdo case would mean re-evaluating the question of freedom of speech—especially one that has serious consequences on religiosity—and mandating civil education at the primary, secondary, and tertiary levels.

It is believed that in the nested model of conflict, had it been adopted and implemented as a reconciliatory and dialogical tool, many such attacks of similar nature to the Charlie Hebdo incident would have been avoided. One such example is the recent Samuel Paty incident in France: an event whose pattern of evolution mirrors that of the Charlie Hebdo attack of 2005. Through the adoption of the nested paradigm by interfaith and peacebuilding organizations as a dialogical tool, it would ensure sustainability by consistently looking at the broader context of any racial or religious discrimination, thereby preventing the recurrence of such a conflict at any level of the population.

## VI. CONCLUSION

This article dwelt at length on some of the key phenomena or themes that have dictated the landscape of Muslim-West relations from the medieval period to the modern-contemporary period. Bearing in mind that each of the identified phenomena is complex and sufficiently significant for more comprehensive and detailed analyses, in actual fact a number of them have already been deeply explored, resulting in substantial research and publications. The intricate and tortuous nature of the history of Islam and the West, especially concerning Islamophobia (as it is called today), implies that further research is necessary to evaluate not only the changes it has gone through but the current trends in perception as well. As

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50 The Charlie Hebdo case occurred in France over a controversial cartoon that was deemed blasphemous by the Muslim community, the implication of which led to the tragic death of 12 Charlie Hebdo's workers in the hands of two radicalized French Muslim brothers.

argued above, the historical development of Islamophobia can be very complicated, given that religion is not the only motivating factor for conflict and that questions of ideological, ethnic, socio-political, and hegemonic rivalry continue to contribute to the wildfire of a rather hostile relationship between Islam and Christianity/the West.

Islamophobia today, as argued in this paper, is a constellation of new and old ideas, and a critical analysis of the historical evolution of anti-Muslim sentiment must consider the dynamic character of conflicts and development, which consist mostly of cultural, ethnic, social, political, religious, and even inter-religious components. Therefore, an integrative peacebuilding and dialogical framework that encompasses all groups and levels of the community is strongly recommended. Instances where only top-level religious leaders, academicians, and non-governmental organizations partake in peacebuilding and dialogical processes are grossly insufficient. Apart from engaging people at the grassroots, which in itself is extremely important, the complex nature of contemporary Islamophobia requires the contribution of relevant constituencies from different sectors of the community, including political analysts, historians, lawyers, sociologists, economists, artists, and academicians outside the field of religion. The possibility of success is high only when no member of the community is left behind, as the reality of stereotypical and anti-Muslim rhetoric requires much more than religious or theological explanations.

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Adam Olowo completed his Master's program in Islamic Studies with a concentration in Comparative Religion from the College of Islamic Studies, Hamad Bin Khalifa University (Class of 2021). He obtained his Bachelor's degree from the International Islamic University Malaysia. His thesis "A Discourse on Religious Tension in Nigeria" examines the multiple dimensions of how people who identify with different religions interact with each other, alongside the implications of such interactions on civil societies and global politics, and a sustainable framework for peaceful co-existence. His research interests revolve around Muslim-Christian relations, interfaith mediation strategies, religious tolerance and peacebuilding, inter-religious co-existence, interfaith dialogue, world religions, and peace.

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## RESEARCH ARTICLE

# The Limits of Legalism in Saudi Arabia: A Commentary on Haifaa al-Mansour's *Wadjda*

Ameen Omar

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## ABSTRACT

*Wadjda* (2012), the first feature film to be shot in Saudi Arabia and directed by a female, Haifaa al-Mansour, relays the story of an adolescent girl who goes through hurdles to purchase a bicycle. Along with the many social issues articulated in the film, al-Mansour conspicuously highlights the controversy of bicycle-riding for females in Saudi Arabia. Through *Wadjda*, al-Mansour provides an insight into the challenges faced by women in Saudi Arabia and the dissonance between conservatism of the public sphere and the profane predilections of people's private lives. While accentuating social challenges, *Wadjda* also reveals the limits of legalism. Legalism is defined here as a type of thought and practice that approaches life through regulations and generalizing categories that—once established—are thought to reflect morality. This study argues that legalism is manifested in gender and marriage inequity, in the context of conjugal relationships and

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<https://www.hbku.edu.qa/sites/default/files/LegalismInSaudiArabia.pdf>

societal discontentment, especially as it pertains to youth. It will focus on the following questions: what representation of the relationship between social practice, politics, and Islamic law does the film offer? What social impact do Saudi legal strictures and social practices have on Saudi women and youth? How do actors exercise their moral agency amidst these dynamics? And finally, in what way does al-Mansour use the film to engage these culturally sensitive issues? While al-Mansour articulates debates on women in Saudi Arabia and people's disaffection with restrictive laws and customs, I have been particularly keen to tease out issues concerning the relationship between the state, Islamic law, and Saudi Arabian custom. Likewise, I explore debates on the influence of globalism.

**Keywords:** Legalism, Saudi Arabia, gender, patriarchy, polygyny, Wahhābism

## INTRODUCTION: THE FILM

On Tuesday, April 10, 2018, in Jeddah, Saudi Arabia, 47 female cyclists competed in the first all-women's cycling race.<sup>1</sup> Though the turnout was a success, controversy ensued over social media regarding the lack of "modesty."<sup>2</sup> Reacting to critics, one Twitter user wrote:

"In five years or 10 or 20, the women who are criticizing the event on social media are going to take part in similar races or will attend them and cheer on those racing. Just like they did with mobile phones, televisions, schools, nursing, medicine... They'll look back and be embarrassed by the way they reacted."<sup>3</sup>

This race comes when Saudi Arabia is undergoing an economic and social transformation as part of its Vision 2030 agenda.<sup>4</sup> Bicycle-riding for women was first decreed permissible in 2013, one of the many recent changes the country has seen in the last five years.<sup>5</sup> It coincides with the release of the first feature film in Saudi Arabia, *Wadjda*. Directed by Haifaa al-Mansour, *Wadjda* underscores the social challenges women face in Saudi Arabia by looking at the life of an adolescent girl who attempts to purchase a bicycle. Wadjda, the protagonist, is portrayed as a cheeky, independent-minded

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1 Paul Harrison, "Saudi Arabia hosts its first ever women's cycle race," BBC News, April 12, 2018, <https://www.bbc.com/news/blogs-trending-43740203>.

2 Ibid.

3 Ibid.

4 See Daniel Moshashai, Andrew M. Leber, and James D. Savage's "Saudi Arabia plans for its economic future: Vision 2030, the National Transformation Plan and Saudi fiscal reform" in the *British Journal of Middle Eastern Studies*: <https://doi.org/10.1080/13530194.2018.1500269>. Also see Al Arabiya English: <https://english.alarabiya.net/en/features/2016/04/26/Full-text-of-Saudi-Arabia-s-Vision-2030> and <https://vision2030.gov.sa/en>.

5 Some of these pertain to the loosening of restrictions on women's mobility, allowing them to drive and travel. The country has also put an end to gender segregation in a variety of public spaces, most notably sporting events and restaurants. See the article published in the *New York Times*: <https://www.nytimes.com/2020/01/15/world/middleeast/saudi-women-coffee-shops.html>.



girl who wittingly, though naively, uses stratagems to navigate her religiously conservative and patriarchal society. The film is circumspect in elucidating the dissonance between the public display of religious piety and profane predilections of people's private lives. Women in the film face dilemmas with polygyny, body politics, and child marriages. For this reason, *Wadjda* is more than a commentary on the social, political, and religious dynamics of Saudi Arabia. It is a form of activism.

*Wadjda* is very much a social critique as it is a meditation on the limits of legalism. Legalism is defined here as a type of thought and practice that approaches life through regulations and generalizing categories that—once established—are thought to reflect morality. What is at stake is the extent to which the generality and universalism of rules preclude the need to make decisions based on compassion and moral judgment.<sup>6</sup> The film teases out legalism in the areas of gender and marriage inequity and societal constraints. This study asks: what representation of the relationship between social practice, politics, and Islamic law does the film offer? What impact do legal strictures and norms have on Saudis? How do actors exercise their moral agency amidst these dynamics? And finally, in what way does al-Mansour use the film to engage culturally sensitive issues? I have been particularly keen to look at debates and literature concerning the relationship between state power, Islamic law, and Saudi Arabian customs. Likewise, I explore globalism and its impact on Saudi youth. This article consists of five sections: Section 1 discusses the forms in which patriarchy operates and affects Saudi women; Section 2 deals with inequitable marriages; Sections 3 and 4 evaluate social anxieties, discontentment, and how Saudis construct public spheres in response and opposition to legal and social constraints; finally, Section 5 concludes with comments on the critical reception and politics of the film.

## FORMS OF PATRIARCHY

Though Wahhābism tends to be at the center in conversations concerning women in Saudi Arabia, it alone does not dictate women's social and physical mobility. The position of women in Saudi Arabia reflects an interplay between religion, the state, and social customs, thereby making Wahhābism function as a sort of state doctrine. Women's marginalization in the public sphere or the attempt to maintain women's mobility and presence stems from the efforts to preserve the notions of "the family" and women's status.<sup>7</sup> Since the advent of anticolonialism and secular nationalism in the Arab world, women have become the benchmark for modernization. They are not only central to the construction of modern nations but also embroiled in national projects.<sup>8</sup> Likewise, the family has come to figure

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6 Fernanda Pirie and Judith Scheele, "Justice, Community, and Law," in *Legalism: Community and Justice*, ed. Fernanda Pirie and Judith Scheele (Oxford: Oxford University Press, 2014) 2—3.

7 Madawi Al-Rasheed, *A Most Masculine State: Gender, Politics, and Religion in Saudi Arabia* (Cambridge: Cambridge University Press, 2013), 16.

8 *Ibid.*, 3.

prominently in Muslim societies and Islamic legal discourse.<sup>9</sup> The very notion of “Muslim family” denotes the apologetic nature of the subject. The emphasis and theorization of these domestic categories, “family” and “women,” came as responses to Western domination, resulting in the reimagining of women as leaders of a domestic space, vested with new burdens and responsibilities.<sup>10</sup> Put differently, women’s mobility is not isolated from wider national imperatives. The relationship between the Wahhābī ‘ulamā’ and ruling elites is well documented. In the early 20th century, as the Wahhābī movement asserted its authority over sheikhdoms—whose patriarchal practices were privately and loosely regulated—women’s mobility became constrained and turned into a matter of national policy.<sup>11</sup> Though the state figures very little in al-Mansour’s narrative, her film is attentive to the grades and arenas in which patriarchy operates. Al-Mansour uses Wadjda’s home to explore domestic forms of patriarchal customs. In this arena, we learn of the dilemma Wadjda’s mother faces at the thought of her husband taking a second wife. Wadjda also feels unrequited love from her father, noticing his preference to have a son.

The force with which national imperatives percolated into the family sphere is paramount. It is often thought that Muslim families live according to the rules set by the Qur’an. Although this is not untrue, Saudi households operate through a hybridity of Islam and modern law.<sup>12</sup> The emergence of oil-wealth—and consequently nation-state building—and the introduction of concepts, such as citizenship, have left an imprint on the Saudi family structure.<sup>13</sup> The Basic Law of 1992 declares the family to be “the nucleus of Saudi society” and that its members be brought up based on the Islamic faith.<sup>14</sup> The state’s recognition of the family renders it, and the members within, as objects that can be quantified, categorized, and governed by legal codes.<sup>15</sup> The combination of traditional customs and Islamic law aims to rationalize and homogenize family members, which places women under male guardianship of husbands and relatives.<sup>16</sup> The state recognizes the father or husband as the head of the nuclear family, vesting powers unto him that creates an unequal power relationship.<sup>17</sup> Although in the pre-oil period, women played an

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9 Alexandre Caeiro, “The Politics of Family Cohesion in the Gulf: Islamic Authority, New Media, and the Logic of the Modern Rentier State,” *Arabian Humanities* no. 10 (2018): 7. <https://doi.org/10.4000/cy.3762>.

10 *Ibid.*

11 *Ibid.*, 57.

12 Amira El-Azhary Sonbol, “The Family in Gulf History,” in *Gulf Women*, ed. Amira El-Azhary Sonbol and Kira Dreher (London, Bloomsbury, 2012) 355.

13 *Ibid.*, 358.

14 *Ibid.*, 375; The Kingdom of Saudi Arabia, Basic Law of Governance, No: A/90: The Embassy of the Kingdom of Saudi Arabia in Washington, DC, 1992, accessed December 23, 2020. <https://www.saudiembassy.net/basic-law-governance>.

15 Sonbol, “The Family in Gulf History,” 376.

16 *Ibid.*, 377; The Kingdom has recently eased restrictions on the guardianship system. Women can now travel without a guardian’s permission. See the article published in the Arab Gulf States Institute in Washington: <https://agsiw.org/saudi-changes-to-guardianship-system-ease-restrictions-on-women/>.

17 Sonbol, “The Family in Gulf History,” 381 & 385.

integral role in the wellbeing of their tribe's economic welfare—as the desert demanded the working hands of every tribe member—modernization has relegated women to a stationary position. It effectively loosened the solidarity aspect of tribe members, removing the necessity of women's participation in critical labor responsibilities.<sup>18</sup> The downsizing of the extended family (*bayt al-`ā`ila*) to nuclear households (*usra*) has not only neutralized women's productivity, but also cut them off from family support and protection.<sup>19</sup> The irony is that while promoting personal freedoms, modern laws have formed new structures of constraint by defining personal status laws based on assumptive qualifications of male, female, minor, sane, insane, etc.<sup>20</sup>

Patriarchy is visible in Wajda's home. Unlike the madrasa, where Islamic injunctions monitor behavior, references to Islam feature very little in Wajda's home, especially as it relates to norms exhibited by her father. Upon discovering that her name was absent in her father's family tree, a diagram that only labels its males, Wajda decided to handwrite her name on a slip of paper and place it underneath her father's branch. The next morning, Wajda discovered that her name had been taken down from the tree. Delineating and keeping a record of the family lineage is a custom in the Gulf, going back centuries. It helps determine inheritance, control of *awqāf* (endowments), and contract marriages by assessing *kafā'* (parity).<sup>21</sup> With the advent of state-building and centralization, the construction of *nasab* (lineage) took a more patriarchal turn; they almost completely excluded women. The introduction of royal family-tree models to the Arabian Peninsula by European travelers and missionaries—preoccupied with political histories and dynasties with rare mention of women—influenced Arab historians who adopted similar models into their construction of family lineages.<sup>22</sup> Through this scene, al-Mansour conveys, particularly to fathers, the sense of unrequited love girls like Wajda feel. She also questions the thought behind the constructions of Arab genealogies and women's place within them.

## INEQUITABLE MARRIAGE

Al-Mansour alludes to the societal preference of boys over girls in several scenes. Because Wajda's mother is unable to have more children, her husband decides to marry a second wife with the hope of having a son. Infertility is just one of many reasons Saudi men have polygamous relationships. Other reasons relate to perceived deficiencies of their existing spouse, unfulfilled needs, and a change in a husband's circumstances—work, residence, or change in his religious, moral, and social values from those previously

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18 Sonbol, "The Family in Gulf History," 353. Bedouin women were involved in herding the clan's camels, sheep, and goats, handling and working with cattle, setting up, mending, and keeping tents and straw huts, and spinning and weaving for the clan's needs for materials.

19 Sonbol, "The Family in Gulf History," 367 & 373.

20 Ibid., 379.

21 Sonbol, "The Family in Gulf History," 290.

22 Ibid., 290.

observed.<sup>23</sup> The primary factor, however, is due to attraction to other women.<sup>24</sup> In the attempt to prevent her husband from marrying a second wife, Wadjda's mother tries adorning herself, believing that the more attractive she is to her husband, the less motivated he will be to pursue other women. In all such cases, marriage revolves around the husband's needs, not the needs of women or children. Cinematography allows al-Mansour to articulate her ideal notion of an Islamic marriage that prioritizes monogamy, conjugal loyalty, and compassion. She does this by rhetorically interweaving an *āyah* from the Qur'an during a scene when Wadjda and her mother share an intimate moment together on their balcony. This comes as Wadjda expresses concern about her mother and father's relationship. As she is preparing for a Qur'an competition, Wadjda practices her recitation at her mother's request. The *āyah* she recites denotes God establishing harmony, affection, and mercy between men and women.<sup>25</sup> Wadjda's mother advises her to recite the Qur'an from her heart without worrying about the audience. The advice communicates an esoteric reading of the Qur'an, especially the *āyah*, that is not bound by legal strictures but guided by one's moral agency. Emphasizing that Wadjda should not worry about the audience during her recital imparts the notion that God only judges. Taken together with the theme of the film, this scene seems to critique men's pronouncements over women's issues in the space of law and social customs. It encourages women to carry themselves valiantly regardless of not fitting within the legal or social standards placed by a male-centered discourse. It further denotes that the Qur'an truly only wants what is best for women and men: happiness, love, and compassion, from which legalism departs. Al-Mansour invites her audience to reassess their views on marriage and contemplate the effects polygyny has on female members of the family. Moreover, she encourages them to rethink the sanctity of a legalistic approach to polygyny in Islam by invoking a Qur'anic *āyah* that foregrounds affection and harmony rather than legal parameters.

Along with these gendered issues, al-Mansour briefly underlines the unsettling anxieties of child marriages. During a scene at Wadjda's madrasa, some of Wadjda's classmates pick on a girl, Salma, for her recent marriage to a man 20 years older than her. Although the requirement for marriage in Islam is consent, confusion emerges as to what constitutes it. It is not unusual for families to pressure girls into marriage, especially in societies where clan and tribal affiliations run deep.<sup>26</sup> Although Islamic law forbids marriage without consent, age is open to interpretation.<sup>27</sup> Families sometimes marry off

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23 Maha A. Z. Yamani, A. Polygamy and Law in Contemporary Saudi Arabia (Reading: Ithaca Press, 2008) 210—211.

24 Ibid.

25 The verse is from Sūra al-Rūm (30:21): "And one of His signs is that He created for you spouses from among yourselves so that you may find comfort in them. And He has placed between you compassion and mercy." – Translated by Dr. Mustafa Khattab, The Clear Qur'an.

26 Husain Al-Hakami and Kenneth McLaughlin, "Debatable Marriages: Marriage and Child Marriage in Saudi Arabia," *Marriage & Family Review* 52, no. 7 (2016): 659. <https://doi.org/10.1080/01494929.2016.1157119>.

27 Ibid., 661.

girls immediately when reaching puberty, some even before. Girls do not easily refuse marriage arrangements due to family pressure.<sup>28</sup>

In a *fatwā* (nonbinding legal opinion) from the late Saudi cleric, ‘Abd al-‘Azīz Bin Bāz (d. 1999), forced marriages are outrightly condemned.<sup>29</sup> Yet, in the same *fatwā*, he made an exception for marriages to proceed without consent in cases where girls are less than nine years of age.<sup>30</sup> He cited the Prophet’s marriage to Aisha as justification.<sup>31</sup> Although this seems like a textbook example of legalism in that fealty to the law supersedes women’s consent, I suggest a different reading. Bin Bāz, and many jurists of his ilk, do not see their work as merely extracting law from the scripture, but that they have a moral obligation to minimize harm to people and society. Bin Bāz is engaged in a double hermeneutical exercise, which consists of examining the textual resources of Islam, on the one hand, and the contemporary world, on the other, with the hope of bridging both realms together.<sup>32</sup> Throughout the *fatwā*, Bin Bāz makes several appeals to the prevention of women’s coercion. According to him, early marriage does not only have a basis in Islamic scripture, but it is also the best thing for society. He alludes to the perils of living as a bachelorette and how young women should avoid prolonging marriage due to education or work.<sup>33</sup> Bin Bāz’s *fatwā* reflects a normative vision for society in which religious modesty is preserved and moral decadence is eschewed. If women are not married early, they fall into temptations, which can lead to sin. In another *fatwā*, Bin Bāz encourages women to avoid rejecting men based on seniority—even if they are three times their age—and criticizes contemporary society for its opposition to marriages with age disparities.<sup>34</sup> It would be wrong to suggest that Bin Bāz was indifferent to the vulnerability of young girls. On the contrary, Bin Bāz emphasizes the need for parents to pair their daughters with grooms who are both pious and good in character.<sup>35</sup>

Still, the *fatwā* does little to bring attention to how child brides are taken advantage of, let alone help to mitigate its occurrence. In 2009, news had surfaced of an eight-year-old Saudi girl who was unable to get a court order for a divorce from her 55-year-old husband.<sup>36</sup> A similar case involved a 12-year-old girl married to an 80-year old man.<sup>37</sup> Other muftīs have been keener to prioritize the agency of young girls. On *Islam Question & Answer*, an online *fatwā* portal, Muhammad ibn al-‘Uthamīn (d. 2001), a revered Salafi

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28 Al-Hakami and McLaughlin, “Debatable Marriages,” 662.

29 Muhammad ‘Abd al-‘Azīz al-Musnad, *Islamic Fatawa Regarding Women= Fatāwā al-Mar’ah : Shari’ah Rulings Given by the Grand Mufti of Saudi Arabia Sheikh Ibn Baz, Sheikh Ibn Uthaimin, Sheikh Ibn Jibreen and Others on Matters Pertaining to Women* (Riyadh: Darussalam Publishers & Distributors, 1996) 167.

30 Musnid, *Islamic Fatawa Regarding Women*, 168.

31 *Ibid.*, 168. Bin Bāz cited that Aisha had not given consent when she was married to the Prophet.

32 Caeiro, “The Politics of Family Cohesion in the Gulf,” 3.

33 Musnid, *Islamic Fatawa Regarding Women*, 168-9.

34 *Ibid.*, 165.

35 Musnid, *Islamic Fatawa Regarding Women*, 168.

36 Al-Hakami and McLaughlin, “Debatable Marriages,” 660.

37 *Ibid.*

scholar, is said to have favored the view that fathers are prohibited from arranging marriages for girls below the age of nine, even with consent.<sup>38</sup> For al-‘Uthamīn, girls below that age are too young to make such consequential decisions. Beyond these ‘ulamā’-led interpretations and normative visions, al-Mansour gives another view of marriage. Returning to the balcony scene, the āyah that Wadjda recites to her mother is devoid of rules and injunctions. It has a moralizing tone, emphasizing the ethical conduct to which women and men ought to relate.<sup>39</sup> Unlike the ‘ulamā’, al-Mansour foregrounds the paths involved in marriages rather than the logos or social ramifications.

## SOCIETY AND LAW

*Wadjda* speaks to a larger issue of the disparity between law and social practices. Since its founding, the Dār al-Iftā’ (State fatwā office) works to accommodate the *sharī‘a* to modern times in a manner that both preserves tradition and introduces change.<sup>40</sup> “Change,” however, has often only come in the aspect of technology, not social innovation.<sup>41</sup> Thus, the sight of grandiose shopping centers and luxurious cars has been a mainstay in downtown Riyadh for several years. The opening of cinemas and mixed sporting events is only a recent phenomenon.<sup>42</sup> To say that there is dissonance between Saudis and the practice of Islamic law is a truism. The difficulty, however, is locating where that dissonance lies. Many consider it Wahhābīsm, but this ignores the role of the state and its tendency to buttress the sharī‘a to suit bureaucratic purposes. While there is no consensus regarding the extent to which the ‘ulamā’ constitutes an autonomous body in the Kingdom, it is without a doubt that ruling elites have an insurmountable influence on religious affairs.<sup>43</sup> This dynamic is crucial for understanding how Islamic law is operationalized to suppress dissent. But the legal apparatus is not the only site in which the state is at work. Infrastructures in the form of speedways and roads are also mediums to suppress dissidence. After the 1973 oil boom, the state designed construction projects to enclose individuals in tiny and dehumanizing routines to stifle public debate.<sup>44</sup> Roads and vehicles became ubiquitous. Much like other car-based societies, the influx of oil wealth created a massive road system and suburbs in the region. In turn, Saudi males turned into cogs on a

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38 “Child marriage in Islam is subject to the condition that it serve a clear and real interest,” Islam Question & Answer Islam, published June 17, 2012, accessed December 26, 2020. <https://islamqa.info/en/answers/178318/child-marriage-in-islam-is-subject-to-the-condition-that-it-serve-a-clear-and-real-interest>. Question & Answer was founded by Muhammad Sāliḥ al-Munajjid who on September 25, 2017, was arrested by the Saudi authorities according to the Middle East Monitor. See the article <https://www.middleeastmonitor.com/20200428-the-figures-threatened-with-death-in-saudi-jails/>.

39 This verse is from Sūra al-Rūm (30:21).

40 Muhammad Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity: Dār al-Iftā’ in the Modern Saudi State* (Leiden: Brill, 2010) xv-xvi.

41 Ibid.

42 Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, xvi-xvii.

43 Ibid., 35.

44 Menoret, *Joyriding in Riyadh*, 8.

wheel, driving on roads throughout the day to take children to school, female relatives to the marketplace, as well as driving to work, to restaurants to meet friends, and back home where they would sleep and repeat it all the next day.<sup>45</sup> Mobility of this sort incapacitate public conversation where dissidence is likely to grow.

## YOUTH DISCONTENT, RESTLESSNESS, AND OPPOSITION

Wadjda recognizably harbors feelings of impotence—a sentiment that is quite common among Saudi youth. The feeling that there is a discrepancy between one's abilities and actual opportunities is enormous.<sup>46</sup> For some years, Saudi youth displayed behavior that was out of step with their conservative parents. Conspicuous throughout the film is Wadjda's friendship with her male neighbor, Abdullah. Despite the warning from her mother, Wadjda continues to hang out with him. This is a major contrast in how adults are depicted in the film. Unlike the youth, adults are in sync with the social custom of gender separation. Wadjda's relationship with Abdullah illustrates what lies ahead for Saudi Arabia's future: a society more open and conversant irrespective of gender.<sup>47</sup> *Wadjda* captures the new generational divide that is growing ever more prevalent since the advent of new media.<sup>48</sup> The influence of Western pop culture on Saudi youth is apparent throughout these narratives. Wadjda's taste of music and clothing, such as her Converse sneakers, reflects the taste of many Saudi youth who are becoming more aware of the world around them and are beginning to pick up habits untenable for religious authorities to contain.<sup>49</sup> Many Saudis who go abroad to study become conversant with the cultural, political, and grammatical expressions of young globally minded activists—which they then mobilize back home.<sup>50</sup> In the early 2000s, three young Saudi males, Fawaz, Essam, and Talal, while attending middle school overseas in the United States, had formed a rock band called *Creative Waste*.<sup>51</sup> Upon returning home, the band members would meet and practice in private, as music and rock concerts were forbidden.<sup>52</sup> Although there were other established bands during the late 1990s and early 2000s in Saudi Arabia, a metal scene has yet to coalesce in the country.<sup>53</sup>

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45 Menoret, *Joyriding in Riyadh*, 8.

46 Pascal Menoret, *Joyriding in Riyadh: Oil, Urbanism, and Road Revolt* (New York: Cambridge University Press, 2014) 58.

47 Waad A. Janbi, "Feminist Analysis: Saudi Arabian women seize their freedom through cinema" (Master Thesis, Long Island University, 2018), 21.

48 "DP/30: Wadjda, writer/director Haifaa Al-Mansour," YouTube video, posted by "DP/30: The Oral History Of Hollywood," June 26, 2013, <https://www.youtube.com/watch?v=6-GLlv7t5j8>.

49 "DP/30: Wadjda, writer/director Haifaa Al-Mansour," YouTube video, posted by "DP/30: The Oral History Of Hollywood," June 26, 2013, <https://www.youtube.com/watch?v=6-GLlv7t5j8>.

50 Sean Foley, *Changing Saudi Arabia: Art, Culture, and Society in the Kingdom* (Boulder: Lynne Rienner Publishers, 2019), 5-6.

51 Crowcroft, *Rock in a Hard Place*, 126.

52 *Ibid.*, 122.

53 *Ibid.*, 127.

Despite the barriers they face, Wadjda and her interlocutors develop strategies to engage in activities they enjoy. Characters such as Abeer, who is involved in a premarital relationship, uses Wadjda to exchange notes between her and her boyfriend as Wadjda is young enough to communicate with older boys without suspicion of indecency. Understanding the value of her role, Wadjda charges both Abeer and her boyfriend for her telegram service. Though the strategy worked for a time, Abeer eventually gets caught and becomes the subject of scandal. Similarly, Fatin and Fatima, two of Wadjda's schoolmates, occasionally skip class to read pop culture magazines and wear nail polish—items and activities that are forbidden at the madrasa. They too are eventually caught by the headmistress and are then scandalized. The strategy that Fatin and Fatima employ involves the designation of an oppositional space. The courtyard in the back of Wadjda's madrasa serves as a physical environment where Fatin and Fatima can engage in taboo activities. What emerges is an autonomous space, something I qualify as a *counterpublic*, where women express and construct alternative discourses and identities outside of patriarchal interference or the oversight of the dominant public.<sup>54</sup> Al-Mansour is not the first to display young Saudi women in this light. In 2005, Rajaa al-Sanea authored *Girls of Riyadh*, a fiction novel that highlighted the lives of four Saudi girls who engage in illicit activities such as drinking, traveling alone, driving cars, masquerading as men, and having romantic relationships.<sup>55</sup> Doubtlessly, al-Sanea's novel became the subject of controversy. Siraj Wahab from the *Arab News*, a Saudi English-language news outlet, reported that some Saudis took offense at al-Sanea's failure to specify that not all girls in Riyadh behave like the characters represented in her novel.<sup>56</sup> One Saudi woman journalist, in particular, criticized al-Sanea for publicizing the ills of Saudi society, when the tradition has always been to keep such things hidden.<sup>57</sup> Like al-Mansour, al-Sanea captures the various indirect and clandestine ways Saudi youth engage in vices. In al-Sanea's novel, the Internet serves as a counterpublic wherein young Saudis can express themselves and live the way they choose beyond societal dictates.<sup>58</sup>

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54 Michael Warner, "Publics and Counterpublics," *Public Culture* 14, no. 1 (Winter 2002): 86. Michael Warner's notion of *counterpublics* departs from Nancy Fraser's observation that counterpublics are alternative discourses or arenas where members of a marginal social group construct and disseminate discourses in opposition to the dominant public. Warner emphasizes that in addition to counterpublics being only a struggle against the dominant public in terms of ideas and policy questions they are also oppositional in terms of speech and modes of address that in other contexts are regarded with hostility (86).

55 Moneera al-Ghadeer, "Girls of Riyadh: A New Technology Writing or Chick Lit Defiance," *Review of Girls of Riyadh*, by Rajaa AlSanea, *Journal of Arabic Literature* 37, no. 2 (2006): 297. <http://www.jstor.org/stable/4183570>.

56 Siraj Wahab, "Rajaa AL-Sanea: A Girl of Riyadh," *Arab News*, published March 11, 2006, accessed December 28, 2020. <https://www.arabnews.com/node/281556>.

57 Wahab, "Rajaa AL-Sanea."

58 Joel Gwynne, "The lighter that fuels a blaze of change": Agency and (cyber)spatial (dis)embodiment in *Girls of Riyadh*," *Women's Studies International Forum* 37, (March-April 2013): 47-48. <https://doi.org/10.1016/j.wsif.2013.01.012>.



Various scenes in al-Mansour's film are set at Wadjda's home, where we learn most about Wadjda and her mother—not just who they are, but what they look like without veils. Women's restriction in the public sphere is visible throughout the film. Wadjda's mother, a fully veiled woman with a private chauffeur, is on guard about her physical exposure in public, as well as Wadjda's.<sup>59</sup> She even eschews employment at a hospital, fearing to mix with male colleagues. Much of the film exhibits Wadjda's mother unveiled. Viewers are so used to seeing her that way that in the few scenes that she has on an 'abāya and niqāb, our attention receives a slight jolt.<sup>60</sup> Wadjda only loosely covers; her hijab is half worn—something her mother criticizes—and her 'abāya is sometimes left open, revealing the jeans she wears underneath. With the father absent from the home most of the time, Wadjda and her mother enter into in all sorts of private discussions. The absence of men and prevalence of women in the household illustrate the house as a counterpublic for women. Wadjda and her mother are aware of their subalternity. They engage in discussions that they would not care to verbalize in the presence of men, much less in public. They understand that the discourse and practices of the household are likely to have a negative effect in public. The balcony is another space where Wadjda and her mother are free to construct alternative discourses to the one prevailing in Saudi society. It functions as a place where they can discuss things candidly. Public perception is the main reason why Wadjda's mother does not want her daughter to have a bicycle. Saudi society treats women's bicycle-riding with a heavy hand.<sup>61</sup> Again on the balcony, Wadjda practices bicycle-riding and hangs out with Abdullah, two social taboos in one setting. Counterpublics such as the ones al-Sanea illustrates in her novel and al-Mansour in her film are to name the few that women in Saudi Arabia inhabit. Like these counterpublics, some roads and speedways in the Kingdom also function as counterpublics for boys. The joyriding (drifting, speeding, and performing all sorts of fanciful tricks with cars) scene in Jeddah displays various types of opposition. Boys who participate in these activities violate road regulations, arrange nightly assemblies, and produce music and photographs.<sup>62</sup>

## CONCLUSION: POLITICS OF THE FILM

Since releasing *Wadjda*, al-Mansour went on to direct other films. Her latest work was *The Perfect Candidate* (2019), also shot in Saudi Arabia. Like *Wadjda*, *The Perfect Candidate* tells a story of women's empowerment by leveling critiques at customs that discriminate against women in the public sphere—in this case, the political arena. The objective of *Wadjda* was neither to put Islamic law nor the Kingdom on trial but to create dialogue

59 Before King Salman issued an order allowing women to drive in September 2017, many Saudi women relied on chauffeurs to commute around.

60 The 'abāya is a typical black garment worn by Saudi women that covers the entire body. The niqāb covers the entire face.

61 Women's bicycle-riding opposes the normative perception and articulation of women's place in Saudi society.

62 Menoret, Joyriding in Riyadh, 11.

around social issues by inviting viewers to see things from a different perspective. *Wadjda* reflects al-Mansour's lived experiences, who grew up in a small neighborhood akin to the one in the film and had gone to a similar all-girls madrasa. Al-Mansour is acutely aware of the cultural and religious dimensions she recreates. Although she recognizes that conservative Saudis would not appreciate her film (or her as a filmmaker), she is optimistic that it will stimulate conversation and is happy with the direction Saudi Arabia is going.<sup>63</sup> She is proud of the developments in the country, such as granting women the right to vote, drive, and travel without male custodianship. Al-Mansour sees her work as complementary to the country's shift towards social change.<sup>64</sup> Others, however, view it differently. To many, *Wadjda* is part of Saudi Arabia's public relations campaign against the international backlash for its disreputable human rights record.<sup>65</sup> After the state fell under international scrutiny for its social and religious policies in the wake of 9/11, Saudi Arabia has been using educated women to project an image of cosmopolitan modernity. These women (princesses, professionals, writers, and activists) have been granted new capabilities and are gradually replacing religious scholars in defining the roles and status of women.<sup>66</sup> The Kingdom's issuance of liberties to women comes during its economic reforms, leading observers to believe that in addition to improving its reputation abroad, the Kingdom also seeks to increase women in the workforce.

There is a paradox, however. While Saudi Arabia has loosened its restrictions on women's civil liberties, it has simultaneously increased its suppression of political dissidence.<sup>67</sup> Critics have accused al-Mansour of being silent on the state's role in suppressing women. Some critics find that *Wadjda* too narrowly casts blame on culture and society without considering the power the state wields in reinforcing discriminatory laws and disciplining those who break them. There is a real concern whether the film panders too much to Western sensibilities, which subsequently contributed to its success. Put differently, critics of al-Mansour see that she was unsuccessful in tackling the set of problems she outlines.<sup>68</sup> It is important to keep in mind that artists and intellectuals play a major role in Saudi Arabia. Although their work may sometimes align with the regime's economic and political interests, they are not necessarily part of the elite and can articulate the feelings and experiences of the masses that do not readily get expressed.<sup>69</sup> For example, Arwa al-Neami and Manal al-Dowayan are two artists who use their work to explore the

63 "Director's Cut: Wadjda | Haifaa Al Mansour," YouTube video, posted by "World Economic Forum," March 9, 2015, <https://www.youtube.com/watch?v=q3q05VLC6u4>.

64 "Haifaa Al Mansour – THE PERFECT CANDIDATE – 76 Venice Film Festival," YouTube video, posted by "Fred Film Radio," August 29, 2019, <https://www.youtube.com/watch?v=JozapAadYJo>.

65 Tariq Al-Haydar, "Haifaa Al Mansour's Wadjda: Revolutionary Art or Pro-State Propaganda?" *Jadaliyya*, January 13, 2014. <https://www.jadaliyya.com/Details/30078>.

66 Al-Rasheed, *A Most Masculine State*, 134-5.

67 Priyanka Boghani, "The Paradox of Saudi Arabia's Social Reforms," *PBS Frontline*, October 1, 2019, <https://www.bbc.com/news/blogs-trending-43740203https://www.pbs.org/wgbh/frontline/article/the-paradox-of-saudi-arabias-social-reforms/>.

68 Al-Haydar, "Haifaa Al Mansour's Wadjda."

69 *Ibid.*, 5.

issue of women driving in Saudi Arabia.<sup>70</sup> Al-Naemi's *Never Never Land* features sharp contrasts (or contradictions) of women wearing dark and gloomy 'abāyas and niqābs while driving bumper cars and riding in Ferris wheels at a bright and colorful amusement park.<sup>71</sup> Al-Dowayan's *The Choice* exhibits the restrictions placed on Saudi women by using images to communicate provocative statements of constraint, darkness, and at the same time, beauty.<sup>72</sup> The Internet has also proved an indispensable tool. The satirical music video "Hawājis" ("Concerns"), released in 2016, played a crucial role in the debate on women driving in Saudi Arabia, receiving millions of YouTube views worldwide and extensive international coverage.<sup>73</sup> Almost immediately after the release of "Hawājis," King Salman lifted the restriction on women driving.<sup>74</sup>

Similarly, novelists have used the literary genre for social critiques and garnering public awareness. Mahmoud Trawri's novel *Maymouna* (2001) centers on the lives of enslaved characters in the Gulf, a subject that is sidelined particularly in Saudi Arabia and generally in the Gulf. Trawri wrote the book to challenge the cultural sensitivity around the topic and was met with both success and turbulence.<sup>75</sup> Literature holds a unique place in the Gulf. It serves as a vehicle for opposition and counternarratives, particularly in highlighting women's issues. In the mid-twentieth century, a plethora of literary novels, poetry, and essays authored by educated Saudi women began to surface in the Gulf. They used literature as a means of highlighting their subjugation.<sup>76</sup> Literature was not only convenient for women but was one of the few means available to them. Women's production of literary texts came at a time when their exclusion from economics and political activity was severe.<sup>77</sup> Since then, the feminist novel has served as a medium for influencing public discourse.<sup>78</sup> Artists, writers, and filmmakers seem to speak and embody

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70 Sean Foley, *Changing Saudi Arabia: Art, Culture, and Society in the Kingdom* (Boulder: Lynne Rienner Publishers, 2019), 4.

71 Badar Salem, "Women Can Go to Saudi Arabia's Theme Parks. But There Are Rules," *Vice*, published September 4, 2019, accessed December 30, 2020. <https://www.vice.com/en/article/43jbbq/saudi-arabia-abha-theme-parks-arwa-al-naimi-photos-gender-segregated>.

72 Manal al-Dowayan, "The Choice," Manal Aldowayan, 2005, accessed December 30, 2020. <https://www.manaldowayan.com/the-choice.html>.

73 Foley, *Changing Saudi Arabia*, 5. Hawājis is a satirical music video produced by Majed Alesa's 8IES Studios whose aim is to critique the customs in Saudi that limits women's mobility. The video features Saudi women skateboarding, rollerblading, playing basketball, all while fully veiled. See <https://www.youtube.com/watch?v=1rUn2j1hLOo>.

74 *Ibid.*

75 Marcia Lynx Qualey, "Black Saudi Author Focuses on Neglected History of African Migration and Slavery," *Al-Fanar Media*, published July 24, 2020, accessed December 30, 2020. <https://www.al-fanarmedia.org/2020/07/a-black-saudi-author-focuses-on-a-neglected-history/>.

76 Al-Rasheed, *A Most Masculine State*, 1-2.

77 Al-Rasheed, *A Most Masculine State*, 1-2.

78 Salwa Benaissa, "The Feminist Novel is on the Rise in the Arab Gulf: An Interview With Mona Kareem," *Words without Borders*, published June 26, 2019, accessed December 30, 2020. <https://www.wordswithoutborders.org/dispatches/article/the-feminist-novel-is-on-the-rise-in-the-arab-gulf-an-interview-with-mona-k>.

the concerns of society. They appeal to global cultural norms, i.e., Western proclivities. The tendency to pit an antagonism between Western and Middle Eastern cultures or Islam and liberalism is an analytical binary that gets grossly overstated. It falls into the errors of Orientalism and “clash of civilizations” stereotypes.<sup>79</sup> Indeed, the Saudi landscape complicates this notion as there are a plethora of contradictions between what exists in Wahhābism and the Saudi social reality. For instance, while it is thought that Saudi Arabia is antithetical to Western culture, modernity, and art, the Kingdom is home to one of the biggest vibrant and artistic movements in the Middle East today.<sup>80</sup> Despite that artistic representation of animate beings is considered Islamically impermissible in the Kingdom, Saudi state media and art shows exhibit the features of animals and humans in their programs.<sup>81</sup> Nonetheless, through artistic, cinematic, and literary formulations, activists can articulate social issues that are not visible in more official outlets such as press media or participatory politics.<sup>82</sup>

This should not occlude us from seeing how the Saudi regime coopts artists and filmmakers such as al-Mansour in a way that sobers their activism and limits it to social change without disrupting the existing power structures.<sup>83</sup> It may seem that artists and filmmakers are embroiled in a paradox. But, if we go beyond the state versus civil society binary, we can make sense of this relationship. Al-Mansour and artists of her kind do not see their role as instigating political reform more so than stimulating conversation that is at home with the cultural and religious values of society.<sup>84</sup> Put simply, they operate within a limited agency whose body of work is meant to serve a form of limited political activism.<sup>85</sup> Notwithstanding these concerns, *Wadjda* unequivocally outlines the limitations of legalism in areas of gender and marriage inequity and societal restrictions. Legalism is intertwined through the cooperation of the state, Islamic legislative bodies, and cultural customs to create and enforce rules that elevate patriarchal structures while relegate women to the private sphere. In turn, women develop counternarratives to those imposed upon them through the utilization of space. While women are at the center of al-Mansour’s story, her film resonates with Saudi youth whose motivations and sensibilities contrast their environment. By restricting their forms of expression, activities, and engagements, legalism deprives Saudi youth of a sense of fulfillment. Though several social changes have recently come underway, *Wadjda* depicts issues that are still lived by many.

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## RESEARCH ARTICLE

# Does SDG Performance Lead to Higher Financial Performance: The Case of the Dow Jones Islamic Market World Index of the Heavy Industry Sector

Yuhan Satapo

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## ABSTRACT

The global society has been facing many issues and challenges that require urgent attention. One innovative global solution is the introduction of the Sustainable Development Goals (SDGs). The private sector is a key stakeholder that uses resources from the society to satisfy corporate interests, and it is the sector's responsibility to ensure and protect the well-being of the society in return, by playing an active role in accelerating the implementation and execution process of the SDGs to be achieved by 2030. Therefore,

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there is a high expectation from private firms to contribute to the SDG agenda. The aim of this study is to analyze the impact of the environmental scores of the SDGs on the financial performance of firms. It examines a total of 25 industrial firms listed from the constituents of the Dow Jones Islamic Market World Index. The findings of the study show that a higher score of the environmental performance of the SDGs leads to a higher return on asset (ROA) and return on equity (ROE) in the sampled firms. The study recommends that firms can achieve higher financial performance by improving their resource use, increasing corporate innovation, and reducing CO2 emissions. This study has policy implications for both companies and regulators.

**Keywords:** financial performance, environmental performance, Islamic finance, social finance, Sustainable Development Goals

## INTRODUCTION

It cannot be denied that our world today is facing many global challenges than in the last decades. One of them is climate change, which may cause potential disasters. Having said that, human activities such as pollution, waste, and resource destruction have contributed to this challenge. We have now come to the stage where half of the world's population has difficulty accessing water at least one month in a year. Overall, 3 out of 10 people have been found to lack access to safe drinking water services. More than 80% of wastewater is released into rivers or sea without any treatment, contributing to further pollution. In sub-Saharan Africa, about 573 million people do not have access to electricity. In fact, this lack of accessibility has blocked 3 billion people from using clean cooking fuels, which has further resulted in nearly 4 million premature deaths annually. The global population is estimated to reach 9.6 billion by 2050. This growth will require the resources of almost three planets to sustain current lifestyles, implying that the consumption and production patterns will have a negative impact on the environment. In addition, greenhouse gas levels are seen to continue to rise, increasing climate change at much higher rates than expected. These changes will have an impact on severe weather and will increase sea levels.<sup>1</sup>

Currently, we are witnessing this impact that is affecting people and their properties around the world, especially in developed and developing countries. Further investigation on the ecosystem of marine and coastal biodiversity has revealed that more than 3 billion people still depend on this ecosystem to sustain their lives and livelihood. Sadly, such an ecosystem is found to be grievously disrupted due to the rising levels of debris in the oceans. In addition, more than 1.6 billion people also rely on forests for their livelihood. Due to land degradation, about 75% of the global poor population is directly affected, putting their lives at greater risk to severe hunger. From the abovementioned facts, we are in the state of danger where everything is vulnerable to destruction and damage, especially the global environment and nature.

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1 The United Nations, *SDGs*, Sustainable Development Goals Knowledge Platform, accessed December 1, 2019, <https://sustainabledevelopment.un.org/sdgs>.



In 2000, the Millennium Development Goals (MDGs) were already present at the early stage to respond to certain aspects of society. Previously, global leaders only gave attention to poverty reduction, hunger elimination, disease-free society, illiteracy improvement, environmental protection, and mitigation of discrimination against women. In order to realize these objectives, about eight MDGs were designed to achieve them by 2015. The eight specific goals were inclusive of reducing poverty and hunger, providing primary education, promoting gender equality, reducing child death, improving health, developing global partnerships, promoting a sustainable environment, and curing diseases.<sup>2</sup> By promising the year 2015, many targets were not fully achieved and many sections of society need far more to achieve. This story was reflected for many reasons. Among the targets, the MDGs allowed certain parties to engage in problem-solving; especially government authorities were a key focus party to implement the actions of the MDGs. The less problems that are solved, the slower the progress of achievement will be. Due to severe global conditions and crises, these eight goals were not sufficient to sustain a better life. Therefore, the newly developed Sustainable Development Goals (SDGs) were agreed to be put in place in 2015 to ensure that the global community achieves sustainability and prosperity.

The MDGs were developed to allow certain sections of society and areas of life to participate in building a sustainable world. Unlike MDGs, the SDGs are designed to involve various and more sections of society in fulfilling the vision of leaving no one behind. The SDGs cover larger areas of issues for global stakeholders around the world in order to get involved in combatting the challenges. Both public and private sectors are fully encouraged to participate in the implementation of the SDGs. The SDGs also come with a wider set of indicators so that more issues and challenges are well addressed with proposed mechanisms. The SDGs specifically enable the private sector, including companies and households, to respond to the goals better than in the case of the MDGs. This fact becomes one of the reasons why the SDGs are taken into account for this particular study. The SDGs are anchored in the betterment of our future world by means of achieving the state of sustainability. This would mean that meeting our needs in the present without conceding and surrendering the needs of the future generations. The intended design objective for the SDGs is to appreciate the critical importance of the sustainability side of economic development. However, this objective can only be achieved by attaining the environmental components, including energy sources and energy utilization. Introduced in 2015, the global mission of the SDGs comes into place for combating such issues. The SDGs comprise the universal agenda adapted by the United Nations, containing 17 broad goals, with 169 corresponding targets and 231 indicators, in order to ensure the progress made to meet the targets by 2030. The goals can be briefly understood as shown in Figure 1.<sup>3</sup>

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2 World Health Organization, *Millennium Development Goals (MDGs)*, World Health Organization, accessed January 20, 2020, [https://www.who.int/topics/millennium\\_development\\_goals/about/en/](https://www.who.int/topics/millennium_development_goals/about/en/).

3 World Top 20 Project, *Global Movement – Government Transparency*, World Top 20 Project, accessed December 20, 2019, [https://worldtop20.org/globalmovement?gclid=Cj0KCQjw9tbzBRDVARIsAMBplx\\_F8PjL\\_gJu23LKaSSTgADVMqFFQekrcrFxxreMTXeAmY\\_-jflMszYAAidkEALw\\_wcB](https://worldtop20.org/globalmovement?gclid=Cj0KCQjw9tbzBRDVARIsAMBplx_F8PjL_gJu23LKaSSTgADVMqFFQekrcrFxxreMTXeAmY_-jflMszYAAidkEALw_wcB).



**Figure 1.** The seventeen goals of the SDG agenda

Based on these 17 goals, the study attempts to focus on a certain dimension, which is the environmental pillar. This specification helps us to narrow down the scope of the study, and enables the study to specifically address the global concern through analyzing the goals according to their relevancy of different dimensions. This study categorizes the entire goals into 5Ps for a better understanding, as shown in Figure 2.



**Figure 2.** The five categories of the SDG agenda (5Ps)

This categorization has been made possible based on the result analysis by the 2015 United Nations Thailand.<sup>4</sup> The analysis accounts for various dimensions, comprising social, economic, environmental, management, dignity, people, planet, prosperity, justice, and partnership. The social dimension covers goals that affect the changes socially from well-being to the betterment of society. The economic dimension accounts for goals that aim to create economic values and influences. The goals addressing the environmental crisis and promoting environmental protection fall under the category of environment, while the management aspect associates with goals that require the managerial process, including mechanisms and systems to activate the goals.

Based on Figure 2, the categories present the challenges that our planet is facing around the world. This study will focus on the environmental aspect of the SDGs due to its importance in preserving the planet, and our future depends on transforming our approaches to responding to this environmental crisis. Furthermore, all the nations are responsible to fulfill the objectives drafted in the Paris Agreement 2015. This agreement was the first initiative to bring national states to tackle the issue of climate change and embrace its impact. The ultimate goal of this effort is to reinforce global action towards the risks of climate change.<sup>5</sup> In fact, our environment has also deteriorated due to climate change and global attention to environmental preservation is currently needed. Therefore, the environmental aspect of the SDGs becomes a key focus of this research. Although the SDGs were agreed upon by all the member states in the UN, they still require all entities, particularly the private sectors, to participate in taking actions to respond to the global needs. In response to this, this study emphasizes the said specific SDGs aimed at protecting the environment and natural resources, and maintaining a green climate for future generations. These are represented by SDGs 6, 7, 12, 13, 14, and 15. In each goal, there are different indicators that can be achieved at the national, institutional, and individual levels. The study focuses on the institutional level for the sake of accessibility and affordability of the institutions themselves. This institutional level only refers to the involvement of the private sector, especially business entities and profit-based companies, while the engagement of the public sector is exceptional. The issue of the environment has recently emerged due to economic and social development. In return, such a development gradually contributes to the current global climate. Many countries have made industrial development and global expansion possible. However, there is no doubt that the ongoing impact of such development and growth is leading to a crisis of global environmental change.

In order to strengthen the environmental performance of the SDGs while encouraging actions from companies, countries must ensure that major transformations of the SDGs take place in different dimensions. These changes can range from human well-being to human rights, land use to marine life, and energy systems to cooperative partnerships.

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4 The 2015 United Nations Thailand, *The Goals from MDGs to SDGs*, The Global Goals for Sustainable Development, accessed January 10, 2020, <https://www.un.or.th/globalgoals/the-goals/>.

5 The UNFCCC Secretariat, *The Paris Agreement*, United Nations Climate Change, accessed February 11, 2020, <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>.

This process requires long-term changes that need the participation of every stakeholder. However, governments play the most significant role in leading this complicated journey from mobilizing stakeholders to policy implementation. In addition to government and other public sectors, the private sector is seen as a vital player in the development of society. The SDGs encourage all stakeholders, including large companies, to support the UN in responding to this call with whatever capacity they have and whatever state they are in. Thus, the private sector, especially large companies, is believed to have a significant impact on helping the UN achieve the goals by 2030.

Previously, companies were voluntarily attached to the concept of corporate social responsibility (CSR), and there was no serious incentivization to keep investing in these efforts. Later, the concept was greatly developed into an environmental, social, and governance (ESG) initiative. The ESG concept has been positively making the private sector become responsible to most stakeholders. However, due to the advancement of technology and global crises in terms of climate change, wars, and greenhouse gases, the world is facing more challenges, taking many lives, and leaving many people in hardship. By analyzing the ESG and CSR concepts, their developmental aspect is not yet realized, which is currently in need by most countries in mitigating global risks and challenges imposed by the said factors.

As the author of this research, I have observed a number of claims made by current researchers and SDG advocates about what possible effects can the SDGs have on businesses operating globally, particularly Shariah firms listed on the Dow Jones Islamic Market World Index (DJIMWI). Although a large body of the thesis has focused on investigating the relationship between the environmental scores and financial performance of the SDGs in terms of return on asset (ROA) and return on equity (ROE), published research and studies devoted to the DJIMWI market and the assessment of the environmental performance of the SDGs are still scanty.

In today's competitive marketplace coupled with the global initiative for large global companies in the heavy industry sector, in order to implement the environmental activities of the SDGs, it is necessary to investigate the impact of the environmental performance of the SDGs on the financial performance among global companies. If the relationship is expected to be positive, companies should be encouraged to expand their investments in the environmental activities of the SDGs. Conversely, if the relationship tends to be negative, then companies need to reconsider the current corporate strategy in reducing the impact while being responsible for making the world a better place and supporting the achievement of the SDGs by 2030.

Therefore, this study aims to analyze the relationship between the performance of the SDGs in terms of the environmental score provided by Refinitiv and the financial performance of firms represented by their ROA and ROE. This study also expects to reveal the impact of the environmental scores of the SDGs on the financial performance of the selected Shariah-screened firms in terms of their ROA and ROE. The study has selected firms listed on the DJIMWI and examines their performance over 10 years during 2009 to 2018. The firm selections are based on the rationale that they are Shariah-compliant firms,

and they are highly expected to do better than other non-Shariah-compliant firms due to their obligation and responsibility as Islamic entities adhering to Islamic values and principles. In Islam, environment is also among the core concerns that every Muslim must preserve. In fact, preserving and protecting the environment is one of the important pillars in Islam as what has been interpreted under the principle of *khalifa* (stewardship). According to the Quran (6:165), “It is He who has appointed you vicegerent on the earth.” With this verse, it obliges all Muslims, including Islamic business entities, to be caretakers of the earth, its animals, the environment, and all creation. Therefore, Shariah-compliant firms are expected to observe the environmental ethics endorsed by Islam in addition to the five basic rulings, and act differently towards preserving the environment.<sup>6</sup>

## LITERATURE REVIEW

By viewing the global fact that of the USD 23 trillion funds in US accounting, about 25% of new investments were used in ESG funds for the protection of the environment, among other reasons.<sup>7</sup> This proportion of investment addresses the urgent concern of the government in the preservation of the environment. At the same time, this effort encourages the private sector to contribute more or equally to maintain the environment, reflecting the required attention of the private sector to play an active role in supporting and sustaining the global resources. Therefore, this study rightly presents the concern of private sector involvement in protecting the environment. In this section, it attempts to highlight the existing studies and relevant literature with regard to the impact of ESG practices towards the private sector in terms of their financial performance. Several streamline studies have attempted to find the result of good performance through the ESG concept. With the announcement of the SDG concept by the United Nations, the findings of these studies, however, remain untapped on the performance of firms with an adaptation of the ESG concept.

In early studies, Calderón et al. apply structural equation models (SEMs) to observe the impact of environmental performance (EP) on economic and financial performance of 122 companies listed in the Dow Jones Sustainability Europe Index. Their study reveals that firms with high environmental scores (performance) have significantly improved their economic and financial performance.<sup>8</sup> Wassmer, Cueto, and Switzer analyze the top 500 public and private firms, in order to investigate the impact of Corporate Environmental Initiatives (CEI) on firm value. They find that CEI creates potential value for the firms.<sup>9</sup>

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6 M. Y. Gada, “Environmental Ethics in Islam: Principles and Perspectives,” *World Journal of Islamic History and Civilization* 4, no. 4 (2014): 130–138.

7 J. Hill, *Environmental, Social, and Governance (ESG) Investing: A Balanced Analysis of the Theory and Practice of a Sustainable Portfolio* (Massachusetts: Academic Press, 2020).

8 E. P. Calderón, P. M. Montero, M. L. M. Santamaría, and J. M. Jiménez, “Eco-Efficiency: Effects on Economic and Financial Performance: Evidences from Dow Jones Sustainability Europe Index,” *Environmental Engineering and Management Journal* 10, no. 12 (2011): 1801–1808.

9 U. Wassmer, D. C. Cueto, and L. N. Switzer, “The Effect of Corporate Environmental Initiatives on Firm Value: Evidence from Fortune 500 Firms,” *Management* 17, no. 1 (2014): 1–19.

Similarly, Vasanth et al. analyze the profitability and EP of 191 Indian companies listed on the S&P BSE 500 index by using a Granger causality analysis. Their study illustrates a positive impact of the EP on three profitability variables represented by return on sale (ROS), ROE, and ROA.<sup>10</sup> Prawirasasra investigates the link between the environmental performance and the firm value by deploying multiple linear regression and Tobin's Q ratio with 41 banks listed on the Indonesia Stock Exchange (BEI). The study finds positive relationship between these factors.<sup>11</sup> Ong et al. further explore the relationship between environmental innovation, EP, and financial performance through the application of SEMs with a sample of 124 managers of manufacturers in Malaysia. Based on their study, environmental innovation and environmental performance are proved to be key factors in creating economic values for the firms, including financial performance.<sup>12</sup> Manrique and Martí-Ballester attempt to analyze the result of corporate EP on corporate financial performance during a global financial crisis using Petersen's approach. As per their analysis, the adoption of environmental practices produces a significant and positive outcome on the corporate financial performance, especially in developing countries where the outcomes are stronger than in developed ones.<sup>13</sup>

In contrast, there is a direct impact on the firm value if the strategy stands alone. In Latin America, Husted and Sousa-Filho investigate the impact of the board structure on ESG disclosure. Their analysis shows a positive impact of the character of board size and independence of directors on ESG reporting; many ESG prospects were disclosed upon having several executive members in the board. In addition, having women board members and CEO duality were found to have a negative impact on ESG reporting. This is partially understood by a culture of masculinity. This culture tends to explain that countries, like some in Latin America, reflect greater economic orientation than the social environment. Therefore, women were found to have less impact on ESG disclosure than men.<sup>14</sup>

Based on the above discussion, it can be observed that those companies with committed ESG efforts are responsible companies, and their financial performance is positively improved. This improvement reflects the better perception of the companies in the eyes of the market, increasing the sale of companies, leading to the rise of company profits. This responsibility has motivated the study to investigate further on the notion of being more

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- 10 V. Vasanth, M. Selvam, K. Lingaraja, and R. R. Ramkumar, "Nexus between Profitability and Environmental Performance of Indian Firms: An Analysis with Granger Causality," *International Journal of Energy Economics and Policy* 5, no. 2 (2015): 433–439.
  - 11 K. P. Prawirasasra, "Analysis of Relationship of Environmental Performance," *First International Conference on Economics and Banking (ICEB-15)* (2015): 207–211.
  - 12 T. S. Ong, A. S. Lee, B. H. Teh, and H. B. Magsi, "Environmental Innovation, Environmental Performance and Financial Performance: Evidence from Malaysian Environmental Proactive Firms," *Sustainability* 11 (2019): 3494.
  - 13 S. Manrique and C. P. Martí-Ballester, "Analyzing the Effect of Corporate Environmental Performance on Corporate Financial Performance in Developed and Developing Countries," *Sustainability* 9 (2017): 1957.
  - 14 B. W. Husted and J. M. Sousa-Filho, "Board Structure and Environmental, Social, and Governance Disclosure in Latin America," *Journal of Business Research* 102, no. C (2019): 220–227.

socially responsible through the involvement of the SDGs. Therefore, the SDGs are believed to make a greater positive impact on the financial performance of firms. Another dimension worth considering is that the current global market has a wide investor base. Currently, the number of responsible investors are expected to increase as people become more morally committed. This trend can be well reflected by the emergence of green financing, socially responsible investing, and the circular economy concept. Greater expectation of investors towards responsible actions and efforts of their companies are highly perceived. Therefore, it is necessary to understand the relationship between the SDGs and financial performance. In addition, responsible companies are expected to better attract a wider range of investors, creating greater value for companies.

## METHODOLOGY

This study is structured as quantitative research. It constructs a statistical equation through quantitative analysis using secondary data collected from 2009 to 2018 that were extracted from the Refinitiv database. The initial sample was the top 500 firms listed in the DJIMWI based on their market capitalization. This study focuses only on the heavy industry, including four sub-industries under the energy sector. The heavy industry has the potential for deteriorating the environment, which is a direct indicator of the environment under the SDGs. The industry refers to a type of business that deals with high capital cost, high barriers to entry, and low transportability. This business produces heavy products such as oil, iron, coal, and ships. However, in the context of the study, the term has been broadened to cover industries that disrupt and cause an impact on the environment, be it pollution, emissions, greenhouse gas release, deforestation, or climate change.<sup>15</sup> Based on the above definition, heavy industrial firms are firms that potentially consume high levels of energy and power resources and greatly contribute to environmental pollution.

The needs of environmental protection under the SDGs are well-addressed through the direct focus of the target, which in this case are heavy industrial firms. The largest 500 firms with the highest market capitalization from the DJIMWI were initially selected as the sample of this study. However, not all of them fall under the focus group of this study. After screening the firms based on their industrial sector, only 25 firms were qualified for the study category. Therefore, these firms have been specifically selected for this study.

The sample consists of a total number of 250 observations. The study uses historical data spanning 10 years for analysis. As this study is quantitative research, the data is analyzed via an advanced statistical tool using the software Econometric Views (EViews 7.1). The study also uses multiple regression to support the construction of the statistical equation. It tests the presence of heteroskedasticity, multicollinearity, and autocorrelation, and ensures that they are eliminated by performing the robustness check of the equation using various theories. In addition to this analysis, the report observes the documentary research approach from academic journals, theories, and relevant studies. The conceptual

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15 W. Kenton, "Heavy Industry Defined," Investopedia, accessed January 14, 2020, [https://www.investopedia.com/terms/h/heavy\\_industry.asp](https://www.investopedia.com/terms/h/heavy_industry.asp).

framework of this study is specified to practically illustrate the research process, which is briefly explained below.

First, data was collected for analysis, comprising both dependent and independent variable indicators. The dependent variable was the financial performance (FP) with two different units, namely ROA and ROE. The independent variables were the environmental scores of the SDGs (SDG), firm size (FS), board size (BS), and ownership structure (OS; in this case, institutional ownership or IO is specifically used). Second, multiple regression was constructed with the impact analysis between the two types of variables using the ordinary least square (OLS) method. Third, robustness was tested by detecting autocorrelation and heteroskedasticity using the serial correlation long-term model test and white heteroskedasticity (cross-term), respectively. Fourth, the study checked the BLUE (Best Linear Unbiased Estimator) feature of the model by conducting the normality test. Then, the obtained results were analyzed using the EViews software. Finally, the hypotheses were tested using the above result. The outcomes of the testing are discussed and the study concludes based on the analyzed result.

## Variables

To analyze the relationship between FP and other testing and control variables, this study conducted an initial examination of the relationship between the independent and dependent variables. The dependent variable, the FP, was indicated by two financial ratios, namely return on asset (ROA) and return on equity (ROE), and ascertains the value of the company. As the name suggests, the return is the best indicator representing value for money. ROA is a measure to determine how well a company uses its assets, while ROE is another measure to determine how efficiently a company uses its equity to generate after-tax profits. However, ROA and ROE are considered to be similar without taking financial leverage into account.<sup>16</sup> This study assumes that all testing companies use debts as part of their investment. This is the reason why both indicators were used differently here.

The independent variables comprise four main testing variables, namely the environmental scores of the SDGs (SDG), firm size (FS), board size (BS), and institutional ownership (IO). This particular institutional ownership is proxied by institutional investors. The environmental scores of the SDGs are used to represent the performance of the SDGs by focusing on their environmental aspect. The environmental pillar is the most affected pillar due to climate change, which requires an urgent response from the world. Companies need to tackle this problem and reduce its effect to maintain it for the benefit and experience of the next generation. While firm size does matter here when assessing the capacity, a larger company is believed to provide better capacity to undertake investments in fulfilling its needs and objectives. This means that in the current situation, such as the global pandemic of the coronavirus 2019 (COVID-19), the larger company with greater asset size is considered to have greater responsibility due to its high capacity in battling this

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16 R. Fuhrmann, "Return on Equity (ROE) vs. Return on Assets (ROA)," Investopedia, accessed November 22, 2019, <https://www.investopedia.com/ask/answers/070914/what-are-main-differences-between-return-equity-roe-and-return-assets-roa.asp>.



outbreak. In terms of board size, it is important to know how many qualified executive members manage a company. The reason is simply that all of them have an authority in directing the company. If they are committed to certain missions, they are the only ones that can drive the company’s resources towards these missions. Finally, with respect to the ownership structure, it is necessary to know who are the strategic owners, i.e. those who have full authority and access to a company. Having an institutional investor implies holding a greater power as they have a strong pool of financial assets and capacity compared with individual investors.

To measure the environmental scores of the SDGs, this study took into account only the environmental scores, consisting of the resource use score, the emissions score, and the innovation score (Figure 3). According to the definition given by Refinitiv, the resource use score reflects the performance and capacity of a firm in reducing material use, energy, or water. It further accounts for an effort of eco-efficient solutions that the firm adopts through supply chain management. By contrast, the emissions score accounts for and assesses the commitment and effectiveness of a firm in reducing environmental emissions during production and operational processes. Finally, the environmental innovation score accounts for the capacity and effort of a firm in reducing the environmental cost and burden on behalf of its customers, as well as using new environmental technologies and processes or eco-designed products.<sup>17</sup>

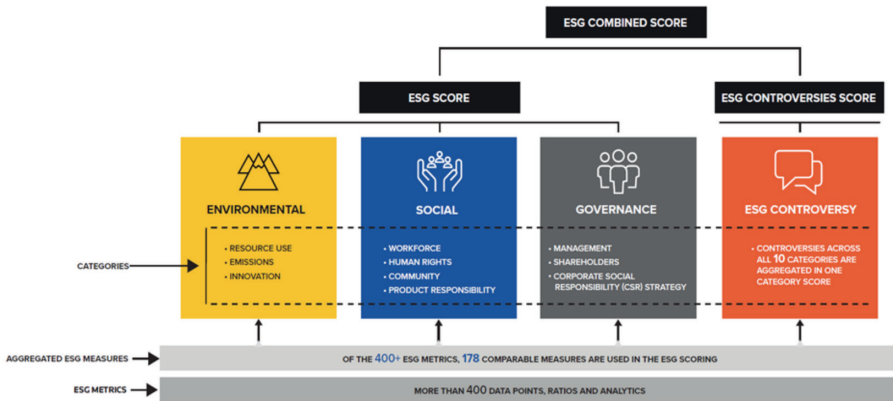


Figure 3. ESG Refinitiv score components

17 Refinitiv, *Environmental, Social and Governance (ESG) Scores from Refinitiv* (London: Refinitiv, 2019).

## RESULTS

### Descriptive Results between Return on Asset (ROA) and Other Independent Variables

This section focuses on estimating the relationship between FP in terms of ROA and four independent variables (i.e. SDG, FS, BS, and IO). The result of this relationship analysis can be found in Table 1, which is obtained from the EViews software.

Based on the analysis results, this study expresses its output in the form of the following equation:

$$\ln(\text{ROA}) = -18.09 + 17.56 \ln(\text{SDG}) + 15.32 \ln(\text{FS}) - 3.46 \ln(\text{BS}) - 1.52 \ln(\text{IO})$$

(-0.23)	(5.85*)	(5.66**)	(-11.47**)	(-9.93**)	t-test
80.26	3.00	2.71	0.30	0.15	S.E.E.

where \* and \*\* represent the level of significance at 0.05 and 0.01 respectively.

**Table 1.** The analysis result of the relationship between ROA and other independent variables. Source: Eviews 7.1

Variable	Coefficient	Std error	t-Statistic	Probability
ROA	-18.09425	80.26143	-0.22544	0.5402
SDG	17.55603	3.00293	5.84628	0.0305
FS	15.32151	2.70635	5.66131	0.0000
BS	-3.456314	0.30125	-11.4732	0.0000
IO	-1.521452	0.15322	-9.92978	0.0000
<b>R-squared</b>	0.793039	<b>Mean dependent variable</b>		1.633048
<b>Adjusted R-squared</b>	0.780054	<b>SD dependent variable</b>		0.677222
<b>SE of regression</b>	0.521004	<b>Akaike information criterion</b>		1.942314
<b>Sum squared residual</b>	1.502338	<b>Schwarz criterion</b>		2.093607
<b>Log likelihood</b>	-4.711572	<b>Hannan–Quinn criteria</b>		1.776347
<b>F-statistic</b>	39.354641	<b>Durbin–Watson statistic</b>		2.002112
<b>Prob(F-statistic)</b>		0.0000000		

Table 1 presents the analysis of the relationship between the FP represented by ROA and the environmental scores of the SDGs (SDG). The results explain that when the SDG changed by 1%, ROA would change by 17.56% in the positive direction with a significance level at 0.05 ( $\alpha=0.05$ ), indicating an impactful relationship between the variables. When comparing FS with ROA, it was found that ROA changed by 15.32% when FS changed by 1% in the positive direction at a significance level of 0.05 ( $\alpha=0.05$ ). Moreover, when assessing the relationship between ROA and BS, ROA would change by -3.46% when BS made a 1% change in the opposite direction at a significance level of 0.05 ( $\alpha=0.05$ ). When comparing ROA with IO, ROA would change by -1.52% when IO changed by 1% in the opposite direction at the same significance level.

The above equation also gives some other relevant statistical values for discussion. The R-squared was estimated to be 0.7930, which indicates that the independent variable has an impact on the estimated dependent variable up to 79.30%. The F-statistic was estimated to be 39.36, which indicates that all the independent variables in the model have an impact on the change in the dependent variable up to 39.36 at a significance level of 0.01 ( $\alpha=0.01$ ). The Durbin-Watson statistic was used as a testing tool to examine statistical issues in the model. Based on the analysis, the Durbin-Watson statistic was estimated to be 2.00, which indicates that there is no autocorrelation present in the model. In addition, this study also attempts to investigate the presence of heteroskedasticity, as explained later.

This study uses the concept of the Breusch-Godfrey serial correlation LM test for checking autocorrelation. According to the test result, the Obs\*R-squared or chi-square test was estimated to be 2.74, whose  $p$ -value is 0.24. This value indicates non-significance, thereby concluding the absence of autocorrelation in the model. There are many testing tools used by academicians in this field for performing such testing. However, the use of such a tool is optimized in this study due to its ability to generate the accuracy of an analysis as well as its general acceptance by many academic scholars. The result of such a test is incorporated with the Breusch-Pagan-Godfrey heteroskedasticity test. The Obs\*R-squared or chi-square test gave a value of 2.97, whose  $p$ -value was 0.57. This value indicates non-significance, thereby concluding the absence of heteroskedasticity. However, the study further examines the problem of multicollinearity using the same software, and did not find it in any of the models.

From the above discussion, the study confirms the absence of autocorrelation, multicollinearity, and heteroskedasticity in the structured model. This finding further highlights the fact that the model does not become spurious, and this conclusion is supported by the following hypothesis.

### Testing Variables

While assessing the relationship between FP in terms of ROA and SDG, a positive relationship was found with the magnitude of 17.56% at the significance level of 0.05. In addition, this study uses some statistical values for testing the hypothesis, such as the t-test and the  $p$ -value. The t-test was estimated to be 5.85, whose  $p$ -value was 0.03. These values

tend to reject or accept (hypothesis of return on asset; HROA) the stipulated hypothesis. This finding is in line with the study by Bodhanwala and Bodhanwala.<sup>18</sup>

### Control Variables

While examining the relationship between FP in terms of ROA and FS, a positive relationship was found with the magnitude of 15.32% at the significance level of 0.05. Using the same statistical testing measures, the study found the t-test value to be 5.66 with the *p*-value of 0.00. This finding is in line with the study of Vinasithamby<sup>19</sup> and Pervan and Visic.<sup>20</sup> While evaluating the relationship between FP in terms of ROA and BS, an opposite direction of the relationship was found with the size of relationship of -3.46% at the significance level of 0.05. The study also found that the t-test value is -11.47 with the *p*-value of 0.00. This finding is in line with the study by Jenter, Schmid, and Urban,<sup>21</sup> however, Guest indicates that such a relationship is observed only for large firms.<sup>22</sup>

While examining the relationship between FP in terms of ROA and IO, an opposite direction of the relationship was found with the relationship size of -1.52% at the significance level of 0.05. In addition, the study further determined other statistical values of the t-test at -9.93 with the *p*-value of 0.00. The same finding is also revealed in the study of Abdullah et al. in the context of Pakistani firms,<sup>23</sup> while the Indian context is confirmed by Suman, Basit, and Hamza.<sup>24</sup>

### Descriptive Results between Return on Equity (ROE) and Other Independent Variables

With respect to the second dependent variable, the relationship between FP in terms of ROE and the other four independent variables, namely the SDG, FS, BS, and IO, was estimated using the same software. The result of this relationship analysis can be found in Table 2 with further explanation.

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- 18 S. Bodhanwala and R. Bodhanwala, "Does Corporate Sustainability Impact Firm Profitability? Evidence from India," *Management Decision* 56, no. 8 (2018): 1734–1747.
  - 19 S. Vinasithamby, "Does Firm Size Influence on Firm's Profitability? Evidence from Listed Firms of Sri Lankan Hotels and Travels Sector," *Research Journal of Finance and Accounting* 6, no. 6 (2015): 201–207.
  - 20 M. Pervan and J. Visic, "Influence of Firm Size on its Business Success," *Croatian Operational Research Review (CRORR)* 3, 213–223.
  - 21 D. Jenter, T. Schmid, and D. Urban, *Does Board Size Matter?*, accessed February 3, 2020, [https://www.academia.edu/1546979/Does\\_Board\\_Size\\_Matter\\_New\\_Evidence\\_from\\_a\\_Two-Tier\\_Board\\_System](https://www.academia.edu/1546979/Does_Board_Size_Matter_New_Evidence_from_a_Two-Tier_Board_System).
  - 22 M. P. Guest, "The Impact of Board Size on Firm Performance: Evidence from the UK," *The European Journal of Finance* 15, no. 4 (2009): 385–404.
  - 23 M. I. Abdullah, M. Sarfraz, W. Qun, and M. Chaudhary, "Ownership Concentration Impact on Firm Financial Performance," *Scientific Journal of Logistics* 15, no. 1 (2019): 107–118.
  - 24 S. Suman, A. Basit, and M. S. Hamza, "The Impacts of Ownership Structure on Firm Performance," *International Journal of Accounting & Business Management* 4, no. 2 (2016): 262–271.

Based on the analysis result, the study expresses its output in the form of the following equation:

$$\ln(\text{ROE}) = -15.01 + 12.22 \ln(\text{SDG}) + 11.65 \ln(\text{FS}) - 4.55 \ln(\text{BS}) - 3.66 \ln(\text{IO})$$

(-0.25)	(34.27**)	(20.95**)	(-22.26**)	(-32.63**)	t-test
60.44	0.36	0.56	0.21	0.11	S.E.E.

where \*\* represents the level of significance at 0.01.

**Table 2.** The result of the relationship between ROE and other independent variables.  
Source: Eviews 7.1

Variable	Coefficient	Std error	t-Statistic	Probability
ROE	-15.01321	60.44321	-0.24838	0.7210
SDG	12.21532	0.35641	34.27312	0.0000
FS	11.65211	0.55611	20.95288	0.0001
BS	-4.55331	0.20451	-22.2635	0.0000
IO	-3.66001	0.11215	-32.63349	0.0000
<b>R-squared</b>	0.792767	<b>Mean dependent variable</b>	2.234416	
<b>Adjusted R-squared</b>	0.786641	<b>SD dependent variable</b>	0.652873	
<b>S.E. of regression</b>	0.48512	<b>Akaike information criterion</b>	1.747291	
<b>Sum squared residual</b>	1.22624	<b>Schwarz criterion</b>	1.808529	
<b>Log likelihood</b>	-3.736454	<b>Hannan–Quinn criteria</b>	1.451321	
<b>F-statistic</b>	39.541921	<b>Durbin–Watson statistic</b>	2.056316	
<b>Prob(F-statistic)</b>		0.000000		

As shown in Table 2, when the relationship between the FP in terms of ROE and SDG is analyzed, the change in ROE was 12.22% when SDG changed by 1% in the opposite direction with a significance level of 0.05 ( $\alpha=0.05$ ), which shows the significance of this relationship. When comparing FS with ROE, the latter changed by 11.65% while the former changed by 1% in the same direction with a significance level at 0.05 ( $\alpha=0.05$ ). Moreover, ROE changed by -4.55% when BS changed by 1% with an impact in the opposite direction at a significance level of 0.05 ( $\alpha=0.05$ ). When the IO changed by 1%, ROE was expected to change by -3.66% with an impact in the opposite direction.

The above equation also gave some other relevant statistical values, which can be taken for discussion. The R-squared value was estimated to be 0.7927, indicating the impact of the independent variable over the estimated dependent variable up to 79.27%. However, the F-statistic value was found to be 39.54, indicating the impact of all the independent variables over the dependent variable in the model up to 39.54 with a

significance level of 0.01 ( $\alpha=0.01$ ). The value of the Durbin-Watson statistic was found to be 2.06, which confirms the fact that the model is free from autocorrelation.

Autocorrelation and heteroskedasticity were evaluated and tested using the Breusch-Godfrey serial correlation LM test. This test gave the Obs\*R-squared or chi-square test of 2.378341 with the  $p$ -value of 0.30. Statistically, these values indicate non-significance, thus concluding the absence of autocorrelation in the model. Furthermore, the study tested the presence of heteroskedasticity using the Breusch-Pagan-Godfrey heteroskedasticity test. In statistics, several tools are available to test the above issue. However, this study again chose to apply the above testing method as it is generally acceptable by academicians in the field, along with its ability to test the subject matter accurately and without bias.

The result of the Breusch-Pagan-Godfrey heteroskedasticity test showed the value of the Obs\*R-squared or chi-square test to be 3.52 with the  $p$ -value of 0.60. Again, these values indicate non-significance, hence indicating the absence of heteroskedasticity. Similarly, the study examined the problem of multicollinearity using the same software, which also did not find it in any of the models.

From the above discussion, the study indicates the absence of autocorrelation, multicollinearity, and heteroskedasticity. This further indicates the fact that the structured model is not spurious, which is confirmed by the conclusion of the study's hypotheses.

### Testing Variables

While evaluating the relationship between FP in terms of ROE and SDG, it was found that the SDG had an impact on ROE, showing a negative relationship with the magnitude of 12.26% at a significance level of 0.05. In addition to this finding, the study tested the hypothesis using the t-test and the  $p$ -value. The t-test was estimated to be 34.27 with the  $p$ -value of 0.00, indicating the rejection or acceptance (HROE) of the stipulated hypothesis. This finding is also supported by Vasanth et al.,<sup>25</sup> and Lassala, Apetrei, and Sapena.<sup>26</sup>

### Control Variables

The relationship between FP in terms of ROE and FS was found to be positive with the magnitude of 11.65% at the significance level of 0.05. This hypothesis was tested using the t-test and the  $p$ -value, which showed the t-test value to be 20.95 with the  $p$ -value of 0.00. This finding is also in line with the study by Hirdinis<sup>27</sup> and Olwale, Ilo, and Lawal.<sup>28</sup> With regard to the relationship between FP in terms of ROE and BS, the result showed a negative relationship with the size of -4.55% at a significance level of 0.05. The study

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25 Vasanth, Selvam, Lingaraja, and Ramkumar, "Nexus between Profitability and Environmental Performance," 433.

26 C. Lassala, A. Apetrei, and J. Sapena, "Sustainability Matter and Financial Performance of Companies," *Sustainability* 9 (2017): 1498.

27 M. Hirdinis, "Capital Structure and Firm Size on Firm Value Moderated by Profitability," *International Journal of Economics and Business Administration* VII, no. 1 (2019): 174-191.

28 S. L. Olwale, M. B. Ilo, and K. F. Lawal, "The Effect of Firm Size on Performance of Firms in Nigeria. Aestimatio," *The IEB International Journal of Finance* 15 (2016), 2-21.

tested this hypothesis with the t-test and the  $p$ -value, which showed the t-test value to be -22.26 with the  $p$ -value of 0.00. This finding is also in line with the study by Dogan and Yildiz<sup>29</sup> and Lin and Jen.<sup>30</sup> While testing the relationship between FP in terms of ROE and IO, the result showed a negative relationship with the size of -3.66% at the significance level of 0.05. The analysis further examined the hypothesis with the t-test and the  $p$ -value, which found the t-test value to be -32.63 with the  $p$ -value of 0.00. This finding is in line with the study by Rosalina and Nugraha.<sup>31</sup>

Based on these results, different relationships can be found at different magnitudes of impact. However, this study manages to prove the hypotheses and accept them statistically and academically. This can be attributed to the optimization of different measuring tools and the reliable econometric software. Moreover, the findings are supported by relevant studies, which shows the accuracy of the results. The following section presents further discussions and conclusion based on the analyzed results, in order to give a better understanding of the results and their implications.

## DISCUSSION

This study mainly focuses on the aforementioned objectives by assessing the relationship between the studied variables. There are two dependent sub-variables under the FP indicator, while the independent variables were the environmental score of the SDGs (SDG), firm size (FS), board size (BS), and ownership structure (institutional ownership; IO). In this study, FP was measured by ROA and ROE. The analysis result can be concluded as given below.

### ROA and Other Independent Variables

The relationship between FP in terms of ROA and the other independent variables, namely the SDG, FS, BS, and IO, was at the significance level of 0.05 or the 95% confidence interval. The model obtained from the analysis was in the form of white noise, which showed that the model was not spurious. This, in turn, showed that the model was free from multicollinearity, heteroskedasticity, and autocorrelation. Therefore, this model was used to further elaborate the study under different conditions. When the environmental score of the SDGs changed by 1%, the FP in terms of ROA varied according to the parameter or the slope, also known as the elasticity value. Such a relationship was positively correlated and consistent with the hypothesis at the 95% confidence interval. Under the same ratio of change in FS, the same reaction of FP in terms of ROA was equal to the elasticity value. Such a relationship was also found to be positively correlated and consistent with the

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29 M. Dogan and F. Yildiz, "The Impact of the Board of Directors' Size on the Bank's Performance: Evidence from Turkey," *European Journal of Business and Management* 5, no. 6 (2013): 130–141.

30 J. C. Lin and F. Jen, "An Examination of Board and Firm Performance: Evidence from Taiwan," *The International Journal of Business and Finance Research* 5, no. 4 (2011): 17–34.

31 A. D. Rosalina and N. Nugraha, "The Effects of Ownership Structure on Bank Profitability," *Advances in Economics, Business and Management Research* 65 (2018): 42–46.

hypothesis at the 95% confidence interval. When there was a change of 1% in BS, FP in terms of ROA was closer to the elasticity value. Its relationship direction was found to be negatively correlated but consistent with the hypothesis at the 95% confidence interval. In addition, when IO changed by 1%, FP in terms of ROA was changed accordingly, being equal to the elasticity value. A negative correlation was found in this relationship, which was consistent with the hypothesis at the 95% confidence interval.

The hypotheses of the study were tested by examining the relationship between the dependent and independent variables. A positive relationship between FP in terms of ROA and SDG was found, whose t-test value was greater than the t-critical value at the 95% confidence interval. Therefore, the study accepts (HROA) the stipulated hypotheses. The analysis of the study found a positive relationship between FP in terms of ROA and FS, whose t-test value was greater than the t-critical value at the 95% confidence interval. In addition, the analysis confirmed the negative relationship between ROA and BS, whose t-test value was also greater than the t-critical value at the 95% confidence interval. Finally, the study confirmed the negative relationship between ROA and IO, whose t-test value was again greater than the t-critical value at the 95% confidence interval.

### **ROE and Other Independent Variables**

The relationship between FP in terms of ROE and the other independent variables, namely the SDG, FS, BS, and IO, was analyzed at the significance level of 0.05 or the 95% confidence interval. The obtained model was in the form of white noise, being free from spuriousness. The model ensured the absence of multicollinearity, heteroskedasticity, and autocorrelation. Therefore, the result of the study was further analyzed to draw the following conclusions under different conditions. When SDG changed by 1%, FP in terms of ROE varied according to the parameter or the slope, also known as the elasticity value. This relationship was found to be positive and consistent with the given hypothesis at the 95% confidence interval. While there was a change in FS by 1%, FP in terms of ROE varied accordingly, being equal to the elasticity value. The direction of such a relationship was found to be positive at the 95% confidence interval. When BS changed by 1%, FP in terms of ROE varied at the same elasticity value with a negative relationship. This finding was tested at the 95% confidence interval. Finally, when IO changed by 1%, FP in terms of ROE varied, which was equal to the elasticity value with a negative relationship at the 95% confidence interval.

From the assessment of the hypotheses, the study draws the following conclusions. The relationship between ROE and SDG was found to be positive, whose t-test value was greater than the t-critical value at the 95% confidence interval. Therefore, the study accepts the stipulated hypothesis (HROE). In addition, a positive relationship between ROE and FS was found, whose t-test value was greater than the t-critical value at the 95% confidence interval. The relationship between FP in terms of the ROE and BS was found to be negative, whose t-test value was greater than the t-critical value at the 95% confidence interval. Furthermore, the relationship between ROE and IO was also found to be negative, whose t-test value was greater than the t-critical value at the 95% confidence interval.



## CONCLUSION

The SDG agenda is a much-needed global call that allows all stakeholders to participate in battling the global crisis. Climate change is one of the well-known causes of suffering and deterioration worldwide. As part of the global action, the private sector must participate through its investments, initiatives, and even responsible production. This sector is among the ideal stakeholders with great capacity to help the UN achieve the SDGs. In return, it is necessary to show that there are incentives for them after taking actions to fulfill the SDGs. Therefore, this study investigates the relationship between the performance of the SDGs in terms of environment and financial performance.

In addition, the study examines the magnitude of the impact between the two performances, given that they are correlated. It finds that the environmental performance of the SDGs had a significantly positive relationship with both ROA and ROE. Overall, the study concludes that a higher score of the environmental performance of the SDGs can lead to higher financial performance of the Shariah-screened firms with respect to their ROA and ROE. Furthermore, the environmental performance of the SDGs can be enhanced by improving the resource use of firms, increasing innovation, and reducing emissions. The control variables, including firm size, board size, and institutional ownership, are significantly related to the financial performance with different magnitudes and directions. These varied results can be used to push companies to increase their financial performance.

This study is carefully implemented coupled with a methodical research process and application of the multiple regression model to show the relationships between the dependent and independent variables. This study also makes further effort to ensure that the testing model has a property of BLUE, resulting in validation of the models. Upon analyzing the spuriousness and robustness of the studied model, this study confirms the absence of autocorrelation and heteroskedasticity. Compared with other studies, this study has shown its significance through a thorough research framework and recent data integration.

By promoting and partaking in the environmental performance of the SDGs, the firms benefit and profit from financial performance both in the short and long run. Considering the current trend of global investors, many have considered responsible aspects, including environmental conservation, before making their investment. By applying the concept of green finance, sustainable responsible investing, and circular economy, companies are believed to benefit from greater incentives by promoting the SDGs and their environmental preservation. Therefore, it is recommended for all companies to expand their investments and projects for the purpose of the SDGs. If companies focus too much on their own goals without taking global environmental and social responsibility, they may not be able to enjoy future resources, as they all would be used up and destroyed without any replacement, rather than preserving and protecting them. Therefore, companies should focus on improving ways to be better responsible by reducing air pollution and CO<sub>2</sub> emissions as much as possible. Moreover, they should also play an active role in the community and sponsor innovative projects for the betterment of the planet.

## LIMITATIONS AND FUTURE STUDIES

This study has a shortage of data, leading to a limit in the scope of the study into the heavy industry with four sub-sectors under the energy sector. The findings obtained in this study may not truly reflect the entire market through all the constituents listed in the DJIMWI. Similarly, it may not necessarily reflect other areas relevant to this study, as there are still many areas that need to be explored further. The small data source may not produce most accurate and reliable results. However, this study has explored what is necessary to answer the research questions by reducing potential error in its findings.

The study is limited to four variables, namely the environmental scores of the SDGs, firm size, board size, and ownership structure. In fact, financial performance is affected by a number of factors other than the ones discussed here. Therefore, it is important for future research to consider other factors coupled with different dimensions, including the social, developmental, and governance performance of the SDGs. The reason is that these scores will indeed have an impact on the value creation of companies while addressing modern challenges without compromising future resources. In addition, a comprehensive study should be conducted to integrate all other sectors such as manufacturing firms, financial companies, or transportation firms, in order to further investigate the impact made by different sectors and how they are off-setting or reconciling each other, in an effort to achieve the SDGs.

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## نظرية التسامح من منظور الدبلوماسية القرآنية

عبد الأحد مصطفى عبد الرحمن لو

### الملخص

تهدف هذه المحاولة إلى اكتشاف طبيعة التسامح كما يقدمه القرآن الكريم، من خلال البحث عن آياته التي تعكس رؤيته للتسامح وآلياته لترسيخه، ومحاولة إدراك مميزات التسامح وفق الدبلوماسية القرآنية مقارنة بالمرجعيات الأخرى.

خلصت الدراسة إلى أن التسامح وفق المنظور القرآني يقوم على ثلاث دعائم: أولها، التساهل في الحقوق الشخصية بإيثار مصلحة الغير على المصلحة الشخصية، وثانيها، احترام المخالف والاعتراف به بإيصال الخير إليه، وثالثها، الإعراض عن كل تصرف خاطئ يصدر عن الآخر بسبب السفه والجهل. ولترسيخ ذلك، يتخذ القرآن وسائل عديدة، منها إلغاء الفوارق الطبقية، ومشروعية الحوار، والصبر والصفح، والشورى. وترى الدراسة أن مميزات التسامح القرآني تعود إلى طبيعة نظره إلى الاختلاف الذي هو منشأ التعصب والتطرف، حيث نظر إليه القرآن نظرة إيجابية باعتباره فرصة للتعارف والتضامن والتعاون، كما يشكل عبادة عظيمة لاقتنائه بالصبر الذي هو من أعظم العبادات. إضافة إلى ما يتضمنه الاختلاف نفسه من حكمة إلهية تتجلى في كونه جزءاً من الآيات الكونية الدالة على وحدانية الله تعالى. كما ترى الدراسة

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<https://www.hbku.edu.qa/sites/default/files/TheoryofToleranceQuran.pdf>

أن الأمة الإنسانية في استطاعتها الاستفادة من التسامح القرآني، الذي يتسم بالأصالة والفعالية في تحقيق التعايش بين المجتمعات والحفاظ على المشترك الإنساني، لحل الصراعات العالمية، مع التفادي لبعض السلبات الناجمة عن حمولة الأيديولوجيات الغربية في المجالات الإنسانية.  
كلمات مفتاحية: القرآن، التسامح، العفو، التساهل، الصبر، الحوار.

## ABSTRACT

### The theory of tolerance from the perspective of Quranic diplomacy

This paper aims to explore the nature of tolerance as presented in the Noble Qur'an, by examining its verses that reflect its vision of tolerance and its mechanisms for consolidating it, and emphasizing the advantages of tolerance according to Quranic diplomacy compared to other references.

The study concluded that tolerance according to the Qur'an perspective is based on three pillars: first, leniency in personal rights by putting the interest of others above personal interest, secondly, respecting and recognizing the other person by delivering good to him, and thirdly, refraining from reacting to wrong behavior that comes from a person because of foolishness and ignorance. To consolidate this, the Qur'an sets many rules, including the elimination of class differences, the legitimacy of dialogue, the value of patience and forgiveness, and counsel. The study finds that the characteristics of Quranic tolerance are due to the nature of its view and attitude toward difference, which is the origin of intolerance and extremism. The Qur'an views difference positively as an opportunity for acquaintance, solidarity and cooperation. Tolerance is a great form of worship due to its association with patience, which is one of the greatest acts of worship. In addition to what it contains of divine wisdom, reflected in its being part of the cosmic verses, as the difference itself attests to the oneness of God. The study also believes that the human ummah is able to benefit from the Quranic tolerance based on achieving coexistence between societies and preserving the human commonality to solve global conflicts, while avoiding some of the negative perspectives resulting from the influence of Western ideologies in the humanitarian fields.

**Keywords:** Quran, tolerance, forgiveness, indulgence, patience, dialogue.

يشهد العالم المعاصر مظاهر عديدة من التطرف وحراب الأيدولوجيات، وكوارث شنيعة نتيجة العنف والتعصب والنزاع في الماديات. وهو أمر، في الحقيقة، يهدد الكيان البشري ويمثل تحدياً كبيراً للحضارة الإنسانية الراقية. ومن ثم، حاولت المجتمعاتُ الإنسانية - أفراداً وجماعات - مواجهةً هذه التحديات الخطيرة، سواء في ذلك المسلمون أم غيرهم. ويأتي في مقدمة هذه الحلول المقترحة ترسيخ مبدأ التسامح بين البشر، على مختلف ألوانهم وتنوع شعوبهم واختلاف مرجعياتهم الدينية؛ ذلك، لما له من أهمية كبيرة في تحسين العلاقات بين أفراد المجتمعات، وتوطيد مبدأ التعايش السلمي بين الفئات. ونظراً إلى اختلاف المرجعيات بين الباحثين عن طبيعة التسامح وقيمه الأخلاقية، اختلف تقديمهم لحقيقة التسامح؛ إذ حاول البعض أن يكتشفه من خلال القوانين الوضعية البشرية، وآخر أن يبحث عنه في مرجعيته الدينية، سواء كانت القرآن أم التوراة أم الإنجيل أم غيرها. ووعياً بأن القرآن الكريم يمثل أهم مصدر للإصلاح وأكبر مرجع لهداية الإنسان، ويحتوي على تشريعات وحلول شافية في مواجهة المشكلات البشرية العاجلة والآجلة، حاولت الدراسة أن تستجلي من خلاله مبادئ التسامح وتجلياته، وقيمه وآلياته وفق رؤية الدبلوماسية القرآنية.

### 1. أهمية الموضوع

تتجلى أهمية الموضوع في محاولته إبراز حقيقة التسامح الذي تتفق البشرية على اعتباره قيمة إنسانية كلية، وذلك من منظور القرآن الكريم الذي يمثل أفضل مرجعية دينية من حيث اهتمامه بالإنسان وصلاحيته تشريعاته لكل زمان ومكان.

### 2. إشكالية الموضوع

تعالج هذه الدراسة قضية التسامح من حيث الرؤية الدبلوماسية القرآنية، بمعنى أنها تحاول أن تكتشف مفهوم التسامح وحقيقته كما يراه القرآن الكريم، وتسعى في ذلك إلى بناء نظرية شاملة للتسامح من منظور القرآن. ولتناول الموضوع، ستطرح الدراسة سؤالاً مركزياً هو: ما طبيعة التسامح الذي يقدمه القرآن الكريم؟

طبعاً هذا السؤال سينجم عنه مجموعة من أسئلة أخرى منها: ما مفهوم التسامح؟ وما أنواعه؟ وما مدى أهميته للإنسان والمجتمع؟ ثم ما الآيات التي تعكس رؤية القرآن للتسامح؟ وما الآليات القرآنية لترسيخ التسامح؟ وما مميزات الرؤية القرآنية للتسامح مقارنة بغيرها؟ إلى غير ذلك من أسئلة مناسبة تسعى هذه المحاولة المتواضعة للإجابة عنها.

### 3. أسباب اختيار الموضوع

يعود اختيار الموضوع إلى أسباب عديدة بين ذاتية وموضوعية، ومنها:

- أهمية الموضوع، خصوصاً في الوقت الحالي، مع غياب دراسة وافية بالعرض الذي نسعى إليه.

- حرصي على فهم طبيعة التسامح كما يراه القرآن الكريم.
- ارتباط الموضوع بتخصصي العلمي الذي هو الدراسات القرآنية المعاصرة.

#### 4. أهداف الدراسة

تسعى هذه الدراسة إلى:

- بيان أهمية التسامح في حل النزاعات الإنسانية وترسيخ التعايش السلمي.
- اكتشاف طبيعة التسامح الذي يقدمه القرآن الكريم.
- إبراز حقيقة التسامح وآلياته من منظور الدبلوماسية القرآنية.
- بيان مميزات التسامح القرآني مقارنة بالمرجعيات الأخرى.

#### 5. الدراسات السابقة

من خلال البحث عما كتب في الموضوع، توصلت بدراسات عديدة حاولت أن تستجلي الرؤية القرآنية للتسامح، ولعل من أبرزها:

- مختار خواجه، «التسامح تجاه الآخر المسيء في القرآن الكريم»، مجلة أديان (مركز الدوحة الدولي لحوار الأديان)، العدد 12 (أيار/ مايو 2019)، ص 104-115.
- وهو بحث تناول فيه الكاتب الأوامر القرآنية التي تتعلق بالتسامح مع الشخص المسيء، كالأمر بالإعراض والصفح. وتوصل فيه إلى أن فكرة التسامح القرآني تجاه المسيء لا تسمح بتمديد الإساءة، بل تضبطها بالإعراض والعفو وفتح أبواب الحوار. ونلاحظ أن هذا البحث - وإن حاول أن يكشف الرؤية القرآنية للتسامح - كان مركزاً على جانب محدود وهو التسامح تجاه المسيء.
- عبد الله محمد أحمد ربابعة، «التسامح بين القرآن الكريم والعهد الجديد: دراسة مقارنة»، رسالة ماجستير في العقيدة/ فرع الأديان، كلية الدراسات الفقهية والقانونية، جامعة آل البيت، الأردن، 2006.
- ومما توصل إليه الكاتب في هذا البحث أن هناك قضايا مشتركة بين القرآن والعهد الجديد في التسامح من حيث البواعث الأخلاقية، إلا أنهما يختلفان في البواعث الدينية. وهذا البحث وإن تناول التسامح في القرآن، إلا أن طابع المقارنة التي سلكه الكاتب جعله يغفل كثيراً مما يعكس الرؤية القرآنية للتسامح، إذ كان تركيزه أكثر على القضايا المشتركة.
- سلام عبود حسن، «آيات التسامح في القرآن الكريم»، مجلة الجامعة العراقية، مج 34، العدد 1 (2016)، ص 26-49.
- وهو بحث تناول آيات التسامح في القرآن في أربعة مباحث، هي: مفهوم التسامح، والتسامح في القرآن، وأنواع التسامح، ثم صور من التسامح القرآني. ويلاحظ فيه أنه مع محاولة الكتاب في اكتشاف التسامح القرآني، إلا أن دراسته للآيات لم تكن مستوعبة، فضلاً عن إغفال الكاتب عن التعرض لآليات ومميزات التسامح في القرآن مقارنة بغيره.

وكل ذلك يدل على أن هذه المحاولات، وإن أفادت في بيان بعض الجوانب المتعلقة بالتسامح القرآني، كان هناك جوانب أخرى مهمة غابت عنها، فضلاً عن أن المناهج في أغلبها كانت استشهادية وتبريرية أكثر مما هي تفسيرية ومحاولة للفهم والاستنباط؛ مما يعني أن الموضوع لا زال في حاجة إلى البحث، وهو ما نحاول القيام به تغطيةً لهذه الفجوة العلمية.

## 6. منهج الدراسة

تبنت الدراسة المنهج الاستقرائي المتمثل في تتبع الآيات التي تعكس رؤية القرآن للتسامح، ثم الوصفي التحليلي الذي يتجلى في تحليل المعاني انطلاقاً من التحليل الدلالي للكلمات ذات الأهمية في تحديد رؤية القرآن لمفهوم التسامح من خلال السياقات التي تحكم نظرتة إلى العالم، توصلًا إلى تفسير منطقي مدعم ببراهن.

## أولاً: مفهوم التسامح وأهميته

### 1. مفهوم التسامح

#### أ. المعنى الوضعي

التسامح في الوضعي اللغوي من جذر كلمة (سمح) بمعنى جاد وأعطى عن سخاء، ويقال سامح وتسامح إذا تساهل<sup>1</sup> أي لاین في المعاملة، ورجل سمح أي سهل. إذا يأتي من مادة سمح التي، كما يقول أحمد بن فارس، تدل على السلاسة والسهولة<sup>2</sup>.

#### ب. المعنى السياقي

إذا كان أئمة اللغة قد اتفقوا في تحديد المعنى الوضعي والجذر اللغوي لكلمة التسامح، فإن ذلك لم يمنع وجود الخلاف في ضبط مفهومه السياقي؛ إذ تعددت التعريفات واختلفت في تحديد المفهوم الاصطلاحي له، بسبب الاختلاف في المرجعيات، والتنوع في طبيعة النظر. فمنهم من عرفه كأبي الأعلى المودودي بأن «معناه أن نتحمل عقائد غيرنا وأعمالهم على كونها باطلة في نظرنا»<sup>3</sup>. ويبدو أن التعريف فيه لمحة عن الجانب الديني كما تعبر عنها عبارة تحمل العقائد. وهناك من عرفه بأنه: «المساكنة والتعايش في إطار رؤية إسلامية تحترم حق الآخر في الرأي والعقيدة والفكر»<sup>4</sup>. ونلاحظ أن هذا التعريف أوسع من

- 1 انظر: أبو الفضل محمد بن مكرم بن علي بن منظور، لسان العرب، ط 3 (بيروت: دار صادر، 1414هـ)، مج 2، ص 490.
- 2 انظر: أبو الحسين أحمد بن فارس بن زكريا، معجم مقاييس اللغة، تحقيق وضبط عبد السلام محمد هارون (بيروت: دار الفكر، 1979) ج 3، ص 99.
- 3 أبو الأعلى المودودي، الإسلام في مواجهة التحديات المعاصرة، تعريب خليل أحمد الحامدي، ط 4 (الكويت: دار القلم، 1980)، ص 39.
- 4 نقلاً عن: سليمان دريع علي، حقيقة التسامح في الإسلام (الكويت: مكتبة ابن كثير، 2009)، ص 11.



السابق؛ إذ يشمل احترام الآخر سواء فيما يتعلق برأيه الفكري أو الديني، ولكنه يبقى محدوداً في إطار الرؤية الإسلامية.

وفي خارج العالم الإسلامي، نجد أيضاً محاولات عديدة لضبط معنى التسامح، إذ تم تعريفه، وفقاً لبنود منظمة اليونسكو سنة 1995م، بأنه «الاحترام والقبول والتقدير للتنوع الثري لثقافات عالمنا ولأشكال التعبير وللصفات الإنسانية»<sup>5</sup>. وفي هذا الأخير نلاحظ أن المعنى كان أشمل؛ إذ تعلق الأمر بتقدير العنصر البشري بغض النظر عن الصفات الإنسانية والاعتبارات الأخرى الموجودة في التعاريف السابقة. والذي نستخلصه من ذلك كله أن مفهوم التسامح، رغم اختلاف التعريفات في تحديده لاختلاف المرجعيات وطبيعة النظر، يبقى متضمناً لمعناه الوضعي الذي هو التساهل؛ إذ هو يمثل التساهل في الحقوق الذي يفضي إلى قبول الآخر واحترام اختياره سواء كان فكرة أو ديناً أو بلداً، أو تعلق الأمر بما لا دخل له فيه كجنسه أو عرقه. وذلك مما يجعل العلاقة بين المعنى الوضعي والمفهوم الاصطلاحي علاقة وطيدة. كما يجعلنا نخرج بخلاصة وهي أن التسامح يعني احترام حق الآخر وقبوله بالتساهل في حقوقك الشخصية.

## 2. أنواع التسامح

إذا كان التسامح يعكس قبول الآخر واعتبار صفته الإنسانية واحترام حقه، فإن هذا يجعله يتناول جوانب عديدة، ويحتوي على أنواع مختلفة، نظراً إلى اختلاف طبيعة المجال الذي ينظر إليه. إذ نستنبط من التعريف الثاني - المذكور آنفاً - أنه قد يرتبط بالدين أو قد يكون بفكرة أو رأي. ولعله يمكن من خلال ذلك - في نظري القاصر - أن نصنف مجالاته وأنواعه<sup>6</sup> وفق ما يلي:

### أ. ما يكون باختيار الشخص

ونقصد به العقيدة أو الدين، تماشياً مع حرية التدين وباعتبار أنه لا يُكره أحد على دين معين. ويكون التسامح الديني عن طريق احترام حرية الشخص في التدين وعدم التعصب للتوجه، ولا يستلزم قبول صلاحية دين الغير أو التنازل عن المعتقد. وكذلك الفكرة أو الرأي ونحوهما من كل ما ينبع عن الاختيار ولم يرتبط بالدين، ينبغي أن يجري فيه التسامح، لأنه يعكس نوعاً من مجالاته.

5 نقلا عن: عبد الباسط عبد الرحيم عباس، «مبدأ التسامح في إطار المواثيق الدولية والتشريعات العراقية النافذة»، مجلة العلوم القانونية والسياسية (كلية القانون والعلوم السياسية-جامعة ديالى)، عدد خاص (2012)، ص 517، شوهد في <https://bit.ly/2Xis5GX> في: 2020/4/5.

6 ومن الأهمية بمكان أن نشير إلى أن بعض الباحثين حاول تقسيم أنواع التسامح باعتبارات أخرى مثل ما فعل سلام عبود حسن الذي قسمه إلى المادي والديني والفكري والعرفي. انظر: سلام عبود حسن، «آيات التسامح في القرآن الكريم»، مجلة الجامعة العراقية، مج 34، العدد 1 (2016)، ص 35-36. ومثل ما حاول أيضاً سليمان الدريع الذي يقسم مجالاته إلى المعاملات، والدماء، والحكم. انظر: سليمان دريع علي، مرجع سابق، ص 21-22، ونلاحظ أن هذه التقسيمات كلها حصر للتسامح في بعض أنواعه ولا تشمل جميع مجالاته.

## ب. ما لا دخل للاختيار فيه

وقصدنا بهذا بالصف ما لا يكون للشخص أي مدخل للاختيار فيه كلون بشرته أو عرقه أو جنسه من ذكر أو أنثى، أو أصوله الميلادية، أو حتى بلده الأصلي فكل هذه المجالات يدور فيها مفهوم التسامح وينبغي أن يتمتع فيها بحيز التطبيق.

وما يفهم من هذا كله أن التسامح يشتمل على أشكال وأنواع متعددة، بعضها يكون ناجماً عن اختيار الشخص كدينه وآخر يغيب فيه هذا الاختيار، وكل هذه المجالات ينبغي فيها احترام الآخر وقبوله بالتساهل في الحقوق الشخصية تحقيقاً لمفهوم التسامح.

### 3. أهمية التسامح

إن الاختلاف بين البشر شيء طبيعي ومقصد رباني يؤكد القرآن الكريم في آيات متعددة، منها قوله تعالى: ﴿وَلَوْ شَاءَ رَبُّكَ لَجَعَلَ النَّاسَ أُمَّةً وَاحِدَةً وَلَا يَزَالُونَ مُخْتَلِفِينَ إِلَّا مَن رَّجِمَ رَبُّكَ﴾ (هود: 118-119). فهذه الآية الكريمة تجعل من الاختلاف سنة إلهية لحكمة عظيمة يعلمها الله تعالى.

ولا شك في أن من شأن الاختلاف - إذا لم يتم توظيفه إيجابياً - أن يفضي إلى انقسامات فكرية وتعددت مذهبية، بل قد يفضي إلى نزاعات بشرية وصراعات أيديولوجية تؤدي في نهاية المطاف إلى مظاهر من العنف والتطرف والحروب بأشكالها المتنوعة.

ومن ثم، تأتي أهمية التسامح؛ إذ يتولى حل المشكلات الناتجة من الاختلاف، بتوطيد مبدأ احترام حق الآخر وقبوله كيفما كان توجهه. وذلك يجعل منه أمراً شديداً للأهمية، بل يمثل شيئاً ضرورياً في الحياة الإنسانية لمواجهة المشاكل الطارئة التي تتولد من التعصب وتقدير الذات واعتقاد التفوق على الآخر سواء من حيث الدين أو العرق أو الثقافة<sup>7</sup>. والتسامح إذاً بهذا المفهوم يمثل الحل السلمي لتحقيق حسن التعايش بين مختلف فئات المجتمعات على تعدد انتماءاتهم الفكرية أو العرقية أو الدينية، بل حتى اختلاف لغاتهم.

نعم، ولهذا الأمر أصبح اليوم حاجة ملحة، لقيت اهتماماً كبيراً من المنظمات العالمية والمؤسسات العلمية والاجتماعية والإنسانية؛ إذ جعلت منظمة الأمم المتحدة ترسيخ مبادئ التسامح ضمن المواد الأساسية في «الإعلان العالمي لحقوق الإنسان»<sup>8</sup>. كما اعتبر حلاً للصراعات العالمية بما فيها الصراع العربي - الإسرائيلي عن طريق توحيد الديانات السماوية أو الإبراهيمية<sup>9</sup>. بل كان ظهور مفهومه في القرن

7 انظر: خولة مرتضوي، «التسامح وقبول الآخر في الفكر الإسلامي»، مجلة أديان (مركز الدوحة الدولي لحوار الأديان)، العدد 12 (أيار/ مايو 2019)، ص 47 بتصرف يسير.

8 الأمم المتحدة، «الإعلان العالمي لحقوق الإنسان»، 1948/12/10، المادة 26، شوهد في 2020/4/7، في: <http://bit.ly/3aNB2fN>

9 انظر: ألن كيسويتير والأسقف جون شاين، «الدبلوماسية والدين: البحث عن مصالح مشتركة والانخراط في عالم من الاضطرابات والتغيرات الديناميكية»، ضمن أوراق بحثية لمنتدى مشروع العلاقات الأمريكية مع العالم الإسلامي التابع لمعهد بروكنجز (2013)، ص 1-6، شوهد في 2020/4/7، في: <https://brook.gs/3olZGeU>

السابع عشر الميلادي في سياق حل الحروب والنزاعات بين الاتجاهات والأديان التي وقعت بعد القرون الوسطى في الغرب<sup>10</sup>.

وعلى الرغم من أن بعض ذلك لم يسلم من أهداف سياسية مكنونة، بتسييس الدين واتخاذها وسيلة لأغراض مادية ودنيوية، فإنه من جهة أخرى يعكس أهمية التسامح، كما يبدى مدى صلاحيته في حل المشاكل الإنسانية والعالمية.

ويبقى، بعد معرفة أهمية التسامح، أن ندرك نوعية التسامح الذي يقدمه القرآن الكريم وآليات تحقيقه من الدبلوماسية القرآنية ومميزاته. وهو ما سنقوم بتناوله في المبحث التالي.

## ثانياً: التسامح من منظور القرآن

### 1. رؤية القرآن للتسامح

إن التسامح بالمفهوم الذي تناولناه يحيل إلى التساهل في الحقوق الشخصية باحترام الآخر وقبوله والاعتراف بحقه. ولا شك في أن هذا النوع من التصرف يعود إلى منحنى أخلاقي، ويتطلب أعلى الصفات الكريمة من التواضع والرحمة وحسن المعاملة والسلوك الطيب.

ونظراً إلى أن القرآن الكريم يمثل أكثر مرجعي ديني عنايةً بالإنسان، من حيث تصفية سلوكه وتهذيبه، وهدايته وتوجيهه وإرشاده، فلا بد من أن يكون مهتماً بالتسامح الذي هو قيمة كلية بشرية قبل أن يكون مقصداً دينياً، مع العلم أن مهمة الأديان السماوية لا تخلو من محافظة وإقامة الأخلاق والقيم الكلية.

ولذلك نجد مفهوم التسامح ومضمونه حاضراً -وقوة- في الرسالة القرآنية. صحيح أن الكلمة بعينها لم ترد في القرآن الكريم، ولكن متطلباتها وأسسها بل حقيقتها كانت غالباً في الخطاب القرآني تصريحاً أو ضمناً. ومعلوم أن العبرة ليست بالكلمات والألفاظ بقدر ما هي في الحقائق والمغازي.

والقصد في الدراسة ليس، كما يفعل بعض الباحثين، مجرد الإسقاط لمفهوم التسامح، بالمعنى المتداول الآن، على القرآن الكريم، وإنما البحث في نوعية التسامح الذي يقدمه الخطاب القرآني. ويكون ذلك بمحاولة فهم وتحليل الشبكة المفاهيمية الخاصة بالمدلول والمغزى من خلال الكلمات ذات الأهمية في تحديد الرؤية القرآنية للتسامح.

وحتى لا يكون هذا الأمر مجرد ادعاء، فإننا سنختار آية من القرآن الكريم تمثل لب الآيات الأخلاقية والإنسانية، ونحاول فهم التسامح القرآني من خلال تحليلها.

أما الآية الكريمة فهي قوله تعالى: ﴿حُدِّ الْعَفْوُ وَأْمُرٌ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ﴾ (الأعراف: 199). ويعود سبب اختيارنا لها إلى كونها - كما يقول المفسرون - آية تضمنت جميع مكارم الأخلاق<sup>11</sup>، وجمعت

10 ماجد الغرابوي، التسامح ومنابع اللاتسامح: فرض التعايش بين الأديان والثقافات (بغداد: الدار الحضارية للطباعة والنشر، 2008)، ص 20 بتصرف.

11 أبو حيان محمد بن يوسف الأندلسي، البحر المحيط في التفسير، تحقيق صدقي محمد جميل (بيروت: دار الفكر، 1420هـ)، ج 5، ص 256.

قواعد الشريعة أمراً أو نهياً<sup>12</sup>. بل هي، كما قال جعفر الصادق رضي الله عنه، أجمع آية لمكارم الأخلاق<sup>13</sup>. ووجه جمع هذه الآية الكريمة للفضائل والمكارم، حسب توجيه ابن عاشور، أن التصرفات الأخلاقية لا تخلو من ثلاث حالات، فهي إما تكون عفواً عن الظلم، وهو المطلوب من قوله تعالى: (خذ العفو)، وإما أن تكون إعراضاً عن العمل غير اللائق، وهو المقصود من قوله تعالى: (وأعرض عن الجاهين)، والحالة الثالثة إما أن تكون فعلاً خيراً وتحصيل فضيلة وهو المراد من قوله تعالى: (وأمر بالعرف)<sup>14</sup>.

ولعل أقرب كلمة من بين المصطلحات الثلاثة إلى التسامح من حيث المعنى هي كلمة العفو؛ لأنها تدل على السهل والسمح، ولذلك فسر بعضهم كلمة العفو من قوله تعالى: ﴿وَيَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلِ الْعَفْوَ﴾ (البقرة: 219) بما يسهل إعطاؤه؛ لأن العفو هو السهل والسمح، ولذلك أطلقت العافية على الحالة السهلة<sup>15</sup>. كما فسر بعضهم أيضاً قوله تعالى: ﴿فَمَنْ عَفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ﴾ (البقرة: 178) بأن المراد منه من سهل له من أخيه شيء<sup>16</sup>. بل فسر بعض الصحابة، كابن عمر وعائشة رضي الله عنهما، كلمة العفو في سياق الآية نفسها (خذ العفو) بما سهل من أخلاق الناس، وهو اختيار الإمام الزمخشري<sup>17</sup>، في حين أن بعضاً آخر حملها على المعنى الظاهر وهو العفو عن المذنب<sup>18</sup>.

وعلى أي، فإن كلمة العفو هنا تكفي لتأسيس الرؤية القرآنية للتسامح، خصوصاً مع الأخذ في الاعتبار المعنى الوضعي للتسامح الذي هو التساهل والمعنى الوضعي أيضاً للعفو الذي هو السهل والسمح، الأمر الذي يؤكد مرة أخرى العلاقة اللغوية الوطيدة بين الكلمتين.

على أننا نرى تأسيس الرؤية القرآنية للتسامح من مجموع الآية بالأوامر الثلاثة أي الأخذ بالعفو والأمر بالعرف والإعراض عن الجاهل؛ ذلك أن مبدأ التسامح يسعى إلى تحقيق هدف واحد وهو تحصيل حسن المعاشرة والتعايش السلمي بين الأفراد. ولا شك في أن الخطة القرآنية لتحقيق ذلك تتحقق في الأخذ بالمجموع لا بنظرة تجزيئية.

وبناء على ذلك، يمكن أن نستنتج من الآية الكريمة أن التسامح القرآني يتمثل أولاً في التساهل في الحقوق الشخصية باحترام الآخر وتقديم مصلحته على مصلحتك، وهو الأمر الذي يؤدي إلى العفو عن

- 12 انظر: أبو عبد الله محمد بن أحمد القرطبي، الجامع لأحكام القرآن (تفسير القرطبي)، تحقيق أحمد البردوني وإبراهيم أطفيش، ط 2 (القاهرة: دار الكتب المصرية، 1964)، ج 7، ص 344.
- 13 أبو عبد الله محمد بن عمر فخر الدين الرازي، مفاتيح الغيب، ط 3 (بيروت: دار إحياء التراث العربي، 1420هـ)، ج 15، ص 435؛ أبو محمد الحسين بن مسعود البغوي، معالم التنزيل في تفسير القرآن (تفسير البغوي)، تحقيق عبد الرزاق المهدي (بيروت: دار إحياء التراث العربي، 1420هـ)، ج 2، ص 260.
- 14 محمد الطاهر بن عاشور، التحرير والتنوير (تونس: الدار التونسية للنشر، 1984)، ج 9، ص 229 بتصرف في العبارة.
- 15 أبو حيان الأندلسي، البحر المحيظ، مرجع سابق، ج 1، ص 318.
- 16 فخر الدين الرازي، مفاتيح الغيب، مرجع سابق، ج 5، ص 225.
- 17 انظر: أبو القاسم محمود بن عمر الزمخشري، تفسير الكشاف عن حقائق التنزيل وعيون الأقاويل في وجوه التأويل، ط 3 (بيروت: دار المعرفة، 2009)، ص 400.
- 18 محمود بن عبد الله الحسيني الألويسي، روح المعاني في تفسير القرآن العظيم والسبع المثاني، تحقيق علي عبد الباري عطية (بيروت: دار الكتب العلمية، 1415هـ)، ج 5، ص 137.

الظالم. ثم التعامل مع المخالف باعتراهه وقبوله أياً كان، وهو ما يفضي إلى إيصال الخير إليه عن طريق الأمر بالعرف. والأخير هو الإعراض عما يصدر عن السفيه من الهفوات بالتساهل في اعتدائه، وهو المراد تحقيقه في الإغضاء عن الجاهل.

ووجه دلالة مجموع الآيات للتسامح أن قيمة التسامح تسعى لهدف واحد وهو إفشاء السلم وإيجاد التعايش، وهو نفس ما تحيل إليه الآية وتقصده وراء الأوامر الثلاثة.

ويحيلنا ذلك كله إلى استخلاص أن التسامح بالمنظور القرآني يقوم على ثلاث ركائز: أولاًها التساهل في الحقوق الشخصية بإيثار مصلحة الآخر على مصلحتك الخاصة، وثانيها احترام الآخر المخالف وقبول رأيه والاعتراف به بإيصال الخير إليه، وثالثها الإعراض عن كل تصرف خاطئ يصدر عن الآخر بسبب السفه والجهل. ويهدف القرآن الكريم من وراء ذلك كله إلى تحصيل التعايش السلمي بين فئات المجتمعات.

ومما نستفيد من خلال ذلك أن التسامح قيمة مركزية في الرؤية القرآنية؛ ذلك أن الآية الكريمة المعتمدة في تأسيس التسامح القرآني إذا كانت تمثل لبّ الآيات الأخلاقية وقلب الشريعة الإسلامية، وهي تؤسس لمبدأ التسامح، فمعنى ذلك أن التسامح يأتي في مقدمة القيم الكلية القرآنية.

هذا، ويحسن بعد إدراك رؤية القرآن للتسامح أن نتطرق إلى محاولة فهم الآليات التي يتخذها القرآن لترسيخ مبدأ التسامح، وهو ما سنقوم بتناوله في المطلب التالي.

## 2. آليات التسامح في القرآن

لترسيخ مبدأ التسامح بالمنظور القرآني، يلاحظ أن القرآن الكريم يتخذ آليات عديدة ووسائل متنوعة في ذلك. ولعل من أبرز تلكم الآليات:

### أ. إلغاء الفوارق الطبقيّة

يحرص القرآن الكريم على نبذ الفوارق الجبلية التي تقع بين الأشخاص، باعتبار أنها لا تشكل المعيار للأفضلية، ولا تمت بأي صلة لمعرفة مدى شرافة الإنسان أو دناءته. ومن تلكم الفوارق التي أبطلها القرآن ثنائية الرجل والمرأة، حيث بيّن أن الاختلاف بينهما في الجنس اختلاف تكامل في الأدوار والوظائف ولا علاقة للجنس بالأفضلية، وذلك من آيات عديدة أكثر من أن تحصى، ومنها قوله تعالى: ﴿إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ﴾ (الحجرات: 13) حيث نجد الآية تلغي فارق الجنس، وتجعل المعيار وصفاً آخر داخلياً وهو التقوى. وهكذا تم، بحصر المعيار في هذا الوصف، إلغاء الفوارق الأخرى سواء العنصر العرقي أو لون البشرة، أو اختلاف اللغات، بل حتى الفارق الاقتصادي من الغنى والفقير.

ومن اللافت للنظر أن القرآن يرى أن الاختلاف الجبلي، بدل أن يكون سبباً للنزاع والصراع، ينبغي أن يؤخذ بصورة إيجابية فيؤدي إلى التعارف الذي هو أساس التعاون والتضامن، حيث يقول الله تبارك وتعالى: ﴿وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا﴾ (الحجرات: 13). وهو يؤكد أن منهج القرآن في ترسيخ مبدأ التسامح من خلال الفوارق الطبقيّة يتمثل في عدم اعتبارها معياراً للأفضلية وجعلها، بتعبير الأصوليين، أوصافاً طردية؛ بحيث لا تعلق لها بشرافة الإنسان أو دناءته، بجعل المعيار صفة أخرى داخلية وهي التقوى.

ولعل هناك سرا عظيما وراء كون المعيار داخلياً بحيث لا يمكن لأحد معرفته؛ إذ لو كان وصفاً ظاهراً منضبطاً يدرکه البشر بالعيان لأدى ذلك إلى التمييز البين بين الصالح والطالح، وهو قد يفضي في نهاية المطاف إلى غياب التسامح بين البشر؛ لأن الذي يعرف أفضليته على الآخر، بجلاء، قلما يتعامل معه باحترام واعتراف. ولكن لما كان المعيار داخلياً، بحيث لا تمييز بين الفاضل والمفضول في الظاهر، تعذر الحكم بالأفضلية من قبل الناس، وبقي الأمر بيد من لا يخفى عليه شيء سبحانه وتعالى.

## ب. مشروعية الحوار

يعتبر الحوار السلمي من أجل الآليات التي يتخذها القرآن لترسيخ مبدأ التسامح، بل هو يمثل وسيلة قرآنية أساسية لإفشاء السلم وإيجاد التعايش بين مختلف الشعوب، سواء كان اختلافهم من ناحية الديانة أو من زاوية أخرى.

ومن أبرز ما يميز طبيعة الحوار القرآني، كما يرى الدكتور إدريس مقبول، كونها ثقافة قائمة على أبعاد ثلاثية: بُعد المعرفة، ويتحقق في أن يكون مباشرة بلا واسطة. وبُعد التعارف، ويتجلى في وقوعه في بيئة ودية وسلمية. وبُعد الاعتراف، الذي يتمثل في اشتراط أن يكون صدوره طوعاً لا كرهاً وحقيقياً لا مجازياً<sup>19</sup>.

ولعلنا نستحضر ذلك من خلال الآية الكريمة التي تعتبر أكبر مؤسس للحوار الإنساني وهو قوله تعالى: ﴿قُلْ يَا أَهْلَ الْكِتَابِ تَعَالَوْا إِلَى كَلِمَةٍ سَوَاءٍ بَيْنَنَا وَبَيْنَكُمْ أَلَّا نَعْبُدَ إِلَّا اللَّهَ وَلَا نُشْرِكَ بِهِ شَيْئًا وَلَا يَتَّخِذَ بَعْضُنَا بَعْضًا أَرْبَابًا مِّنْ دُونِ اللَّهِ فَإِن تَوَلَّوْا فَقُولُوا اشْهَدُوا بِأَنَّا مُسْلِمُونَ﴾ (آل عمران: 64). والأمر الطريف في الآية أنها لا تؤسس للحوار بين المسلمين فحسب، وإنما تدعو إلى الحوار العالمي مع الأديان الأخرى وتحديدًا أهل الكتاب، بحثًا عن القواسم المشتركة بين الأطراف. وهو مما يدل مرة أخرى على أن الحوار مقصد قرآني أساسي لترسيخ مبدأ التسامح في المجتمعات الإنسانية.

## ج. الصبر والصفح

يمثل الصبر آلية مهمة من بين الآليات القرآنية لإيجاد التسامح؛ ذلك أن تحمّل الظلم لما كان أمراً عزيزاً في النفوس، أتت مشروعية الصبر باعتباره عبادة ذات أهمية، تعني «حبس النفس على ما تكره ابتغاء مرضات الله»<sup>20</sup>. حيث يأتي الصبر مساعداً للإنسان في تخفيف الألم وتحمّل الأذى بالنظر إلى كونه من أعظم القربات.

وقد تعددت الآيات القرآنية التي تؤكد كون الصبر آلية أساسية لترسيخ التسامح منها قوله تعالى: ﴿وَلَمَن صَبَرَ وَعَفَّرَ إِنَّ ذَلِكَ لِمِنْ عَزْمِ الْأُمُورِ﴾ (الشورى: 43). حيث نجد الآية الكريمة تدعو إلى تحمّل

19 إدريس مقبول، الحوار الحضاري: دراسة في النظام المعرفي والقيمي القرآني، البحث الثاني الفائز بجائزة قطر العالمية لحوار الحضارات لعام 2018 (الدوحة: جامعة قطر، كلية الشريعة والدراسات الإسلامية واللجنة القطرية لتحالف الحضارات، 2020)، ص 26-27 بتصرف.

20 يوسف القرضاوي، الصبر في القرآن، ط 3 (القاهرة: مكتبة وهبة، 1989)، ص 9.

الأذى بالصبر والصفح بدل الإساءة بالمثل، واعتبرت ذلك قرينة عظيمة كما يؤكد قوله (لمن عزم الأمور). بل وصل بعض العلماء إلى القول إن الصبر في مثل هذه المواقف من علامات الأنبياء<sup>21</sup>. ويبدو أن مشروعية الصبر في هذا السياق بالتحديد الذي يتحدث عن المسيء إنما كانت لهدف إيجاد السلم وحسن التعايش الذي يسعى مبدأ التسامح إلى تحقيقه، وهو ما يعكس أهمية الصبر من جهة، وكونه آلية قرآنية للتسامح من جهة أخرى.

وهناك آيات أخرى لا يكفي هذا البحث لاستقصائها تحدثت بوضوح عن الصفح والعفو عن الآخر المسيء، نكتفي بذكر واحدة منها وهي قوله تعالى: ﴿قُلْ لِلَّذِينَ آمَنُوا يَغْفِرُوا لِلَّذِينَ لَا يَرْجُونَ أَيَّامَ اللَّهِ لِيَجْزِيَ قَوْمًا بِمَا كَانُوا يَكْسِبُونَ﴾ (الجمعة: 14) إذ نلاحظ من الآية الكريمة أنها تأمر المؤمنين بالعفو والتجاوز عن إيذاء الكفار وإساءتهم، وهو أمر يعود إلى النقطة الأولى التي هي الصبر الذي سبق بيان كونه وسيلة مركزية في القرآن لتكريس مبدأ التسامح وإفشاء السلام. ومن الأهمية بمكان أن نشير إلى أن القرآن الكريم يحتوي على آيات أخرى عديدة لترسيخ قيمة التسامح بين الأفراد سواء داخل المسلمين فقط أم مسلمين مع آخرين، ومن تلك الوسائل مبدأ الشورى، والمجادلة بالأحسن وغير ذلك من الآليات.

### 3. مميزات التسامح القرآني

يتميز التسامح وفق الرؤية القرآنية بسمات عديدة تجعله فريداً من نوعه؛ إذ يتمتع بخصائص متعددة تنطلق من نظر القرآن إلى الاختلاف الذي هو منشأ الكراهية والتعصب، حيث نجد القرآن يؤسس لمبدأ سلمي في الاختلاف الطبيعي باعتبار أنه لا ينبغي أن يشكل سبباً للتطرف والصراع، بل يجب أن يؤدي إلى التكامل والتضامن والتعايش التي هي الغاية من التعارف المذكور من قوله تعالى: ﴿وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا﴾ (الحجرات: 13).

وأكثر من ذلك أن القرآن الكريم يعتبر هذا الاختلاف آية من الآيات الكونية التي تعبر عن وحدانية الله تعالى كما تعكس حسن خلقه للكون. وهو ما يدل على أن التسامح القرآني هدفه ليس مقتصرًا على إفشاء السلام وتحقيق التعايش فحسب، وإنما يربط الأمر في الوقت نفسه بتوحيد الله تعالى عن طريق التفكير، ويؤكد ذلك قوله تعالى: ﴿وَمِنْ آيَاتِهِ خَلْقُ السَّمَاوَاتِ وَالْأَرْضِ وَاخْتِلَافُ أَلْسِنَتِكُمْ وَأَلْوَانِكُمْ إِنَّ فِي ذَلِكَ لَآيَاتٍ لِّلْعَالَمِينَ﴾ (الروم: 22).

ومن زاوية أخرى، نلاحظ أن التسامح بالمنظور القرآني لا يمثل فقط تصرفاً أخلاقياً يصدر من الإنسان إلى أخيه الإنسان، وإنما هو فوق ذلك كله يمثل عبادة عظيمة عند الله تعالى. وأكبر دليل عليه اقتترانه بالصبر الذي يعتبر من أجل القربات وأعظم المقامات في الإسلام، بل هو المفتاح لكل خير<sup>22</sup>. وذلك ما يدل على أن التسامح القرآني، إضافة إلى كونه تصرفاً إنسانياً، يشكل قرينة عظيمة عند الله تعالى.

21 حافظ الدين عبد الله بن أحمد النسفي، مدارك التنزيل وحقائق التأويل (تفسير النسفي)، تحقيق يوسف علي بدوي (بيروت: دار الكلم الطيب، 1998)، ج 3، ص 59.

22 انظر: يوسف القرضاوي، الصبر في القرآن، مرجع سابق، ص 52.

ومن مميزات التسامح القرآني أنه يعالج المشاكل من أصلها، حيث نجده ينطلق، كما سبقت الإشارة إليه، من إزالة الفوارق الطبقيّة الجبلية التي قد يؤدي اعتبارها إلى الصراع والنزاع بين المجتمعات، وجعل المعيار الوحيد للأفضلية أمراً داخلياً وهو تقوى الله سبحانه وتعالى.

كما أن من مميزاته أيضاً أنه تسامح يشمل المسلم وغير المسلم<sup>23</sup>، ويدخل جميع المجالات؛ فلا يقتصر على تأسيس مبدأ حرية الفكر وإنما يتناول الجوانب الأخرى كحرية الدين وقبول التعددية والاختلاف بأشكاله المتنوعة. ولا يكون أيضاً تجاه المحسن فقط، وإنما يتجاوز ذلك النطاق إلى الشخص المسيء كما تقدم في الآيات الكريمة. وكل ذلك إنما يدل على أن التسامح بالمنظور القرآني يختلف عن غيره في طبيعة النظر إلى الأشياء، ويتميز بخصائص متعددة لا تكفي هذه العجالة لإحصائها.

## الخاتمة

بعد التطواف العلمي خلال هذا البحث المتواضع في استجلاء نظرية التسامح من منظور القرآن الكريم، يمكن لنا القول إنا حاولنا تقديم لمحة متواضعة عن رؤية القرآن للتسامح، كما حاولنا تسليط الضوء عن بعض الآليات التي يوجه إليها الخطاب القرآني لترسيخ دبلوماسيته المتسامحة. ولعل من أهم ما توصلنا إليه خلال ذلك كله ما يلي:

- إن ترسيخ مبدأ التسامح حاجة ضرورية في الحياة البشرية، لتفادي الصراع والنزاع والكرهية والعنف الذي قد ينشأ من الاختلاف الذي هو أمر طبيعي ومقصد إلهي.
- إن التسامح قيمة كلية تتفق الأديان على رعايتها، وتعتبرها المنظمات الإنسانية والعالمية الحلّ السلمي الوحيد لإفشاء الأمن والسلام العالمي. إلا أن الاختلاف لا زال قائماً في تحديد مفهومه، نظراً إلى الاختلاف الواقع في طبيعة النظر.
- إن التسامح وفق الرؤية القرآنية، حسب نتائج الدراسة، يقوم على ثلاث دعائم: أولاًها التساهل في الحقوق الشخصية بإيثار مصلحة الغير على المصلحة الشخصية، وثانيها احترام المخالف وقبول رأيه والاعتراف به بإيصال الخير إليه، وثالثها الإعراض عن كل تصرف خاطئ يصدر عن الآخر بسبب السفه والجهل. ويعني ذلك أن التسامح القرآني لا يقتصر على الجانب الإيماني الداخلي، وإنما يتجاوز ذلك ليصل إلى التأثير في الآخر بالإيجاب. ويرمي القرآن وراء ذلك كله إلى تحقيق التعايش بين أفراد المجتمعات، والحفاظ على المشترك الإنساني.
- لترسيخ مبدأ التسامح، يتخذ القرآن آليات عديدة فعالة، منها إلغاء الفوارق الطبقيّة، ومشروعية الحوار، والصبر والصفح، والشورى، والمجادلة بالأحسن، ونحو ذلك.
- إن التسامح بالمنظور القرآني يتميز بخصائص متعددة، بعضها يرجع إلى طبيعة نظره إلى الاختلاف الذي يكون منشأ التعصب والتطرف، حيث نظر إليه القرآن نظرة إيجابية باعتبار أنه فرصة للتعرف والتضامن والتعاون. وبعض آخر يرجع إلى ما يكمن وراء الاختلاف نفسه من

23 مراد هوفمان، الإسلام كبدل، ترجمة وتحقيق غريب محمد غريب، ط 2 (الرياض: مكتبة العبيكان، 1997)، ص 119.



حكمة إلهية باعتباره من الآيات الكونية الدالة على التواصل غير اللغوي بين العبد وربّه والمعبرة عن وحدانية الله تعالى. كما أن التسامح في حد ذاته - حسب القرآن - ليس تصرفاً أخلاقياً فحسب، وإنما يمثل عبادة عظيمة؛ إذ يقترن بالصبر الذي يعتبر من أعظم الطاعات. ونستفيد من ذلك كله أن الأمة الإسلامية أمامها كتابٌ هداية وإصلاح، يمكن من خلاله تأسيس رؤية مثالية للكون، كما تستطيع بواسطتها التفادي لبعض السلبيات الناتجة من حمولة الأيديولوجيات الغربية في المجالات الإنسانية والكونية.

## عبد الأحد مصطفى عبد الرحمن لو

عبد الأحد لو، كاتب وباحث في الفكر الإسلامي الأصيل، ومهتم بقضايا الإصلاح والتجديد والنهضة الإنسانية. حصل على درجة ماجستير الآداب في الدراسات الإسلامية، تخصص الدراسات القرآنية المعاصرة، من كلية الدراسات الإسلامية بجامعة حمد بن خليفة (دفعته 2021م). وحصل أيضاً على شهادة العالمية في التعليم العتيق من جامعة القرويين بفاس، المملكة المغربية. كما درس العلوم الإسلامية واللغة العربية في موريتانيا والسنغال. عضو نشط في العديد من الجمعيات الثقافية والاجتماعية، بما في ذلك الاتحاد الدولي للغة العربية.

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