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Introduction

Islam, Economics & Liberty

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The recent, rapid, and resilient growth of Islamic finance has raised its prominence in many member countries of the International Monetary Fund. The IMF observes that the impact of Sukuk (Islamic bonds) "is expanding with remarkable international reach of issuers and investors. This trend is expected to continue, driven, in particular, by strong economic growth in countries with large, and relatively unbanked, Muslim populations."[1] The World Bank notes that the "equity-based, asset-backed, ethical, sustainable, environmentally- and socially-responsible" Islamic finance industry is growing 10–12 percent annually. Further, there is "solid evidence that Islamic finance has already been mainstreamed within the global financial system—and that it has the potential to help address the challenges of ending extreme poverty and boosting shared prosperity."[2]

Despite these developments, there are voices claiming that, aside from certain rulings, such as the prohibition of usury, Islam does not offer a unique and specific economic vision. Consequently, the enterprise of Islamic finance, they assert, is wrongheaded in principle. Mahmoud El-Gamal, among others, maintains that there is a distinct enterprise of Islamic finance yet in his assessment of its current state he markedly notes that, "the primary emphasis in Islamic finance is not on efficiency and fair pricing. Rather, the emphasis is on contract mechanics and certification of Islamicity by 'Shariʿa Supervisory Boards.'"[3] The way out of this formulaic mode, El-Gamal argues, is by grounding Islamic finance initiatives in substantive ethical religious tenets. Building on El-Gamal's counsel, I would argue that, as will be seen in our analysis, a substantive notion of Islamic economics and finance must entail a thick conception of the human person, and of society, and what constitutes the good at both the individual and collective levels. More importantly is the idea that all liberties must be conceived in relation to a constellation of goods ending with the highest good. Consequently, it is incoherent to understand liberties, in themselves, as an end. It is this approach the contributors take in this symposium.

One key prophetic report relates an occasion, when the price of goods increased drastically in the city of Madinah, some people came to the Prophet Muhammad requesting him to regulate the prices of goods. His response to the request was, "Indeed, it is God who is the Creator, the Ever-providing, the Withholder, the Giver, and the One who sets prices (*al-musaʿʿir*). I hope to meet God while no one makes any claims against me of a wrong I have committed regarding their life or wealth."[4] Some writers have claimed, based on the Prophet's response, that the Sharīʿa upholds a free market where the government does not intervene at all. Also, when one examines the legal opinions of Muslim jurists, one finds that the overwhelmingly majority of Sunni jurists hold price fixing on the part of the government to be unlawful based on this prophetic report establishing the right of merchants to sell their goods at prices they mutually agree to. Merchants are free to set the prices of their services and commodities, free from any governmental intervention.

However, while understanding this as the default ruling, jurists of different legal schools qualified the ruling on price control based on different points of consideration. For example, Ḥanafī jurists allowed price control when prices are deemed excessively overpriced as well as in cases where the needs of the Muslim community can be met only by price control. Here we see jurists taking into consideration the public good and fair pricing and then qualifying the default ruling against price control.

We observe a similar understanding of principles where economic freedoms are related to other goods which are either subordinate, on the same order, or are of a higher order. Muslim jurists maintain that all trade contracts are only effective if parties freely enter into the contract, under no compulsion whatsoever. They took as their starting point the verse of the Qur'an, "Devour not your wealth between you through falsehood; but only through trade by your complete mutual consent" (4:29).[5] The Shafiʿī jurist al-Juwaini (d. 1085) considered the freedom to enter into contracts as the first principle of all economic exchanges, thus rendering any type of forced exchange or taking away of another person's property as legally prohibited. This principle, in addition to finding scriptural basis, is supported by the juristic consensus.

While jurists acknowledge the free exchange of goods and its fundamental nature, upon further study, they also do not consider this freedom as absolute and unqualifiable. The contemporary jurist and theologian, Abdullah Bin Bayyah, observes that, while this principle aligns and overlaps with a capitalistic framework, "yet this freedom is curtailed by the rulings of the Sharīʿah, regulated by ethical principles, and qualified by common societal goods."[6]

A capitalistic notion of economic freedom, grounded in a specific conception of individual freedom, only allows that freedom to be constrained if it is exercised in a manner that infringes on the property rights of others. Yet in the Sharīʿah, Bin Bayyah notes, the principle of economic freedom is subordinated to, and guided by, a higher and loftier principle, namely the principle of trusteeship or deputyship (*istikhlāf*). Humans are the deputies of God on earth. One of the implications of being a deputy or trustee of God entails that the relationship between a person and their property or wealth is that of a trustee; the actual owner is God. Based on the verse, "And spend of that He has entrusted you with" (57:7), the Islamic understanding is that a person's wealth and property is a trust given by God. Consequently, it is not only to be used to serve a person's own interest; rather, it should be used in a way God intended. The principle of deputyship, stemming from the Quranic verse, where God says, "I shall place a noble reigning deputy on earth" (2:30), relates the principle of economic freedom to a constellation of goods which are subordinated to the ultimate purpose of God placing human beings on earth. Jurists have identified the higher, universal goods of the Sharīʿah, whose implementation is a constituent of deputyship, as the promotion and preservation of religion, life, intellect, family and lineage, and wealth. These five universal goods aim at the highest good: knowing God and holding oneself as a true servant of God. Understood in this light, specific freedoms and rulings of the Sharīʿah aim at securing the five higher goods.

For instance, under the universal good of preservation of wealth are subordinate goods which serve to promote that end. Ibn ʿĀshūr (d. 1973), a twentieth-century Tunisian jurist, identified five such goods: circulation, transparency, safekeeping, establishing ownership, and fairness. Based on the Quranic verse "in order that it may not merely make its rounds between the wealthy of you" (59:7), wealth and commodities are intended to circulate among all classes of society. Transparency in all economic transactions is to lessen disputes and deception. These five subordinate goods are countenanced by the Sharīʿah as they serve to promote the higher good of wealth preservation.

Pertinent to understanding economic freedom in Islamic law is appreciating how freedom, in general, is conceived. The Arabic word *ḥurrīyyah* denotes the condition of being free and is usually juxtaposed to being enslaved, thus referring to the legal status of a person. Another word used for freedom is *ikhtīyār*, etymologically stemming from the verb *khāra*, meaning to choose. Also related to *khāra* is the word *khayr*, meaning good. Hence, the term for free choice, *ikhtīyār* entails, as the contemporary philosopher Muhammad Naquib al-Attas elaborates, "the choice of what is good, better, or best between the two alternatives … a choice of what is bad between two alternatives is therefore not a choice that can be called *ikhtīyār*, in fact it is not choice, rather it is an act of injustice (*ẓulm*) done to oneself."[7] Here, though freedom is clearly affirmed and promoted, it is inherently linked to a thick conception of the good. This renders freedom not a good in itself, let alone serving as the highest good. Rather, to be free is to make choices which actualize what is good in all spheres of one's life and are in accord with human nature. Seen in this light, economic freedom and good economic choices exist for the purpose of achieving economic goods, which are subordinated to other higher goods, which all promote the highest good.

In *The Great Transformation*, the economic historian Karl Polayni writes on the embeddedness of the economy in human societies prior to the nineteenth century, when the economy was not conceived as an autonomous order, independent or dominant to the political, religious, or social orders. However, more modern attempts have been made to create an autonomous economic system under the control of the market. Noting the impact of this, Polayni cautions saying that, "the control of the economic system by the market is of overwhelming consequence to the whole organization of society: it means no less than the running of society as an adjunct to the market. Instead of the economy being embedded in social relations, social relations are embedded in the economic system."[8] What results is a reordering of society where the market itself becomes the highest good, and all other liberties, institutions, and actions (moral, political, religious, et al.) are ordered towards that end. Muslim jurists would object to such an order. Economic liberties and the market, while aiming at specific goods in their spheres, are embedded and thus subordinated to the service of higher individual and communal liberties and goods.

With an embedded conception of the economic order, our two symposium authors, Akhtar Ismail Mohammed and Jibril Latif, tackle economic issues from the Islamic tradition. In his article, "Islamic Venture Capitalism: Lessons to Learn from Social Venture Capitalism," Akhtar looks at the ethical claims of Islamic finance and argues that social venture capital and Islamic venture capital both aim at positive social outcomes. He further suggests adoption by the Islamic finance industry of rigorous measurement methods employed in impact investment. Latif's philosophical contribution, "Rethinking Corporate Personhood in Consultation with Islam" examines the concept of the corporate person and its impact on accountability of bad actors in corporations. He juxtaposes this to a realist notion of the person in Islamic law with the aim to reassess best practices in pluralistic societies in search of greater moral economic outcomes.

Notes

1. International Monetary Fund, "Islamic Finance and the Role of the IMF," *The IMF and Islamic Finance*, February 2017, https://www.imf.org/external/themes/islamicfinance.
2. Abayomi A. Alawode, "Islamic Finance," *The World Bank*, March 31, 2015, https://www.worldbank.org/en/topic/financialsector/brief/islamic-finance.
3. Mahmoud A. El-Gamal. *Islamic Finance: Law, Economics, and Practice* (Cambridge, UK: Cambridge University Press, 2006), 1.
4. Muhammad ibn Isa ibn Saurah al-Tirmidhi, *Sunan al-Tirmidhi*, 3 vols. (Egypt: Mustafa al-Babi al-Halabi, 1968), 3:597.
5. All quotations from the Qur'an herein are taken from Nuh Ha Mim Keller, *The Quran Beheld* (s.l.: Stanchion Press, 2022).
6. Abdullah Bin Bayyah, *Maqāṣid al-muʿāmalāt wa marāṣid al-wāqiʿāt*, 4th ed. (Dubai: Al Muwatta Center, 2017), 18.
7. Muhammad Naquib Attas, *Prolegomena to the metaphysics of Islam: An exposition of the fundamental elements of the worldview of Islam* (Kuala Lumpur: International Institute of Islamic Thought and Civilization, 2014), 33.
8. Karl Polayni, *The Great Transformation* (Massachusetts: Beacon Press, 2001), 60.