



Hacettepe University Graduate School of Social Sciences

Department of Economics

Doctor of Philosophy in Economics-Ph.D

(İngilizce İktisat-Doktora)

**THE ISLAMIC “FREE MARKET”: EXPLAINING SOME KEY
ASPECTS OF THE ISLAMIC THEORY OF THE MARKET AND ITS
RELATIONS WITH SOCIETY**

Abdul-Rahim ADADA MOHAMMED

Doctorate Thesis

Ankara, 2018

THE ISLAMIC “FREE MARKET”: EXPLAINING SOME KEY ASPECTS OF THE
ISLAMIC THEORY OF THE MARKET AND ITS RELATIONS WITH SOCIETY

Abdul-Rahim ADADA MOHAMMED

Hacettepe University Graduate School of Social Sciences

Department of Economics

Doctor of Philosophy in Economics-Ph.D

(İngilizce İktisat-Doktora)

Doctorate Thesis

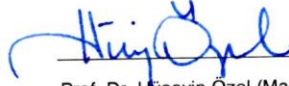
Ankara, 2018

ACCEPTANCE AND APPROVAL

The jury finds that **Abdul-Rahim Adada Mohammed** has on the date of **19-April-2018** successfully passed the defense examination and approves his Doctoral (Ph.D.) Thesis titled "The Islamic "Free Market": Explaining Some Key Aspects of the Islamic Theory of the Market and its Relation with Society".



Prof. Dr. Mehmet Bulut (Jury President)



Prof. Dr. Hüseyin Özel (Main Adviser)



Prof. Dr. Erdal Tanas Karagöl



Prof. Dr. Suavi Aydın



Yrd. Doç. Dr. M. Aykut Attar

I agree that the signatures above belong to the faculty members listed.

Prof. Dr. Musa Yaşar SAĞLAM

Graduate School Director

DECLARATION

I promise that my thesis/report is completely my own work and that I have provided a source for every quotation and citation. I give permission for paper and digital copies of my thesis/report to be kept in Hacettepe University's Graduate School of Social Sciences' archives under the conditions indicated below:

- ☐ My thesis/Report can be accessed in full from any location.
- ☐ My thesis/Report can only be accessed from Hacettepe University premises.
- ☒ I do not want my thesis/report to be accessed until 2 year(s) later. After this amount of time if I have not applied to an extension of time, my thesis/report can be accessed in full from any location.

19-April-2018



Abdul-Rahim ADADA MOHAMMED

YAYIMLAMA VE FİKRİ MÜLKİYET HAKLARI BEYANI

Enstitü tarafından onaylanan lisansüstü tezimin/raporumun tamamını veya herhangi bir kısmını, basılı (kâğıt) ve elektronik formatta arşivleme ve aşağıda verilen koşullarla kullanıma açma iznini Hacettepe Üniversitesine verdiğimi bildiririm. Bu izinle Üniversiteye verilen kullanım hakları dışındaki tüm fikri mülkiyet haklarım bende kalacak, tezimin tamamının ya da bir bölümünün gelecekteki çalışmalarda (makale, kitap, lisans ve patent vb.) kullanım hakları bana ait olacaktır.

Tezin kendi orijinal çalışmam olduğunu, başkalarının haklarını ihlal etmediğimi ve tezimin tek yetkili sahibi olduğumu beyan ve taahhüt ederim. Tezimde yer alan telif hakkı bulunan ve sahiplerinden yazılı izin alınarak kullanılması zorunlu metinlerin yazılı izin alınarak kullandığımı ve istenildiğinde suretlerini Üniversiteye teslim etmeyi taahhüt ederim.

- ☐ Tezimin/Raporumun tamamı dünya çapında erişime açılabilir ve bir kısmı veya tamamının fotokopisi alınabilir.

(Bu seçenekle teziniz arama motorlarında indekslenebilecek, daha sonra tezinizin erişim statüsünün değiştirilmesini talep etseniz ve kütüphane bu talebinizi yerine getirse bile, teziniz arama motorlarının önbelleklerinde kalmaya devam edebilecektir)

- ☐ Tezimin/Raporumuntarihine kadar erişime açılmasını ve fotokopi alınmasını (İç Kapak, Özet, İçindekiler ve Kaynakça hariç) istemiyorum.

(Bu sürenin sonunda uzatma için başvuruda bulunmadığım takdirde, tezimin/raporumun tamamı her yerden erişime açılabilir, kaynak gösterilmek şartıyla bir kısmı veya tamamının fotokopisi alınabilir)

- ☒ Tezimin/Raporumun 30/6/2020 tarihine kadar erişime açılmasını istemiyorum ancak kaynak gösterilmek şartıyla bir kısmı veya tamamının fotokopisinin alınmasını onaylıyorum.

- ☐ Serbest Seçenek/Yazarın Seçimi

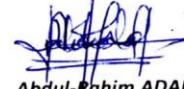
07 /05/2018



Abdul-Rahim ADADA MOHAMMED

ETİK BEYAN

Bu çalışmadaki bütün bilgi ve belgeleri akademik kurallar çerçevesinde elde ettiğimi, görsel, işitsel ve yazılı tüm bilgi ve sonuçları bilimsel ahlak kurallarına uygun olarak sunduğumu, kullandığım verilerde herhangi bir tahrifat yapmadığımı, yararlandığım kaynaklara bilimsel normlara uygun olarak atıfta bulunduğumu, tezimin kaynak gösterilen durumlar dışında özgün olduğunu, Tez Danışmanının **Prof. Dr. Hüseyin ÖZEL** danışmanlığında tarafımdan üretildiğini ve Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü Tez Yazım Yönergesine göre yazıldığını beyan ederim.



Abdul-Rahim ADADA MOHAMMED

ACKNOWLEDGMENTS

All thanks be to God Almighty for everything. I wish to express my sincere gratitude to Prof. Dr. Hüseyin Özel for his support and advice in the entire course of writing this dissertation. I also wish to thank Prof. Dr. Mehmet Bulut for his valuable contributions in our regular meetings, which were useful to the final shape of this dissertation. Further appreciation goes to Doç. Dr. Derya Güler Aydın, Yrd. Doç. Dr. Aykut M. Attar, and the entire staff of the Department of Economics (Hacettepe Üniversitesi) for offering me a friendly academic environment. I also wish to acknowledge Yurtdisi Türkler ve Akraba Topluluklar Başkanlığı (YTB) for their financial support. Finally, I wish to thank my family for their love and support during the entire process.

ABSTRACT

ADADA MOHAMMED, Abdul-Rahim. *The Islamic “Free Market”: Explaining Some Key Aspects of the Islamic Theory of the Market and its Relation with Society*, Doctorate (Ph.D) Thesis, Ankara, 2018.

This study is a three-essay dissertation that seeks to explain the notion of Islamic market within the context of the Islamic holistic worldview and, in the process, correct misinterpretations on the subject in recent times, which has resulted, largely, from the influence of the Western worldview. The first essay explicates Islamic market theory as established on basis of the ideals of justice (derived from the main sources of Islamic law), and explains the precepts and norms of the Islamic market ideology as oriented towards the achievement of public good (broadly defined to encapsulate the idea of the holistic conception of life). The second essay discusses the Islamic notion of right to property and enterprise within the context of the Islamic philosophy of life (at both the individual and societal levels) and establishes how material pursuit is intricately connected with the spiritual end and why material pursuit is meaningless without the spiritual connection. Finally, the third essay discusses how the differing conceptions of morality and justice in Islam and capitalism inform how economic freedom is conceived in both systems, with the objective of establishing an unequivocal basis upon which the stark difference between the two systems can be understood.

Key Words

Islam, market, philosophy, economic pursuit, capitalism, justice, economic freedom

ÖZET (Turkish Abstract)

ADADA MOHAMMED, Abdul-Rahim. *İslami Serbest Piyasa: Piyasanın İslami Teorisinin Kimi Temel Yönleri ve Toplumla İlişkisi*, Doktora Tezi, Ankara, 2018.

Üç makale biçiminde düzenlenen bu tez, İslami bütüncül dünya görüşünü esas alarak, “İslami piyasa” kavramını açıklamayı ve, giderek, konu hakkındaki son zamanlarda, özellikle Batı dünya görüşünün etkisinden kaynaklanan, yanlış anlamaları düzeltmeyi amaçlamaktadır. İlk makale, adalet ideallerini (İslam hukukunun ana kaynaklarından türetilen) temel alır biçimde geliştirilen İslami piyasa teorisini açıklamakta ve kamusal bakımdan iyi olana (yaşamın bütüncüllüğü düşüncesini içerecek kadar geniş bir biçimde tanımlanan) erişmeye odaklı İslami piyasa ideolojisinin önkoşul ve normlarını ortaya koymaktadır. İkinci makale, İslami yaşam felsefesi bağlamında (hem bireysel hem de toplumsal düzeylerde), İslami mülkiyet ve girişim hakkı kavramını tartışmakta ve maddi hedeflerin özünde manevi hedeflerle nasıl yakından ilişkili olduğunu, manevi bağlantı olmadan maddi hedefler peşinde koşmanın da neden anlamsız olduğunu tartışmaktadır. Üçüncü makale ise, İslam ile kapitalizm arasındaki farkı açık seçik bir biçimde ortaya koyabilmek amacıyla, bu iki sistemdeki farklı ahlak ve adalet anlayışlarının, nasıl farklı iktisadi özgürlük kavrayışlarını ortaya çıkardığını tartışmaktadır.

Anahtar Sözcükler

İslam, piyasa, felsefe, iktisadi hedef, kapitalizm, adalet, iktisadi özgürlük

TABLE OF CONTENTS

ACCEPTANCE AND APPROVAL	iii
DECLARATION	iv
YAYIMLAMA VE FİKRİ MÜLKİYET HAKLAR BEYANI	v
ETİK BEYANI	vi
ACKNOWLEDGMENTS	vii
ABSTRACT	viii
ÖZET (Turkish Abstract)	ix
TABLE OF CONTENTS	x
INTRODUCTION	1
CHAPTER 1: THE ISLAMIC MARKET DOCTRINE: A DETAILED EXPOSITION	6
1.1. ABSTRACT	6
1.2. INTRODUCTION	7
1.3. PUBLIC INTEREST AND SOCIAL JUSTICE IN ISLAMIC LAW	10
1.4. THE ROLE OF THE MARKET IN SOCIETY	16
1.5. THE ISLAMIC MARKET IDEOLOGY IN BRIEF	19
1.6. PRICE AND PROFIT IN THE ISLAMIC MARKET	21
1.6.1. Price Formation	21
1.6.2. Factors of Production and their Returns	24
1.6.3. Profit/Surplus	30
1.7. PRICE CONTROL (<i>TAS'İR</i>) IN ISLAMIC LAW	31
1.8. CONCLUSION	36
CHAPTER 2: THE PHILOSOPHY OF ECONOMIC PURSUITS AND PROPERTY RIGHTS IN THE ISLAMIC DOCTRINAL CONTEXT	39
2.1. ABSTRACT	39
2.2. INTRODUCTION	40
2.3. THE ISLAMIC PHILOSOPHY OF ECONOMIC PURSUITS	44
2.4. THE FUNCTIONAL ROLE OF THE STATE	50
2.5. PRIVATE PROPERTY RIGHT	53
2.6. PRIMARY WEALTH DISTRIBUTION IN ISLAMIC LAW	56

2.6.1. Land	56
2.6.2. Water Resources	61
2.6.3. Minerals	63
2.7. İQTÂ' [GRANT/CONCESSION]	64
2.8. OWNERSHIP, PRODUCTION, AND EXCHANGE IN A SPIRITUAL CONTEXT	69
2.9. SUMMARY AND CONCLUSION	76
CHAPTER 3: MORALITY, JUSTICE, AND ECONOMIC FREEDOM: A COMPARATIVE STUDY OF THE DOCTRINES OF CAPITALISM AND ISLAM	79
3.1. ABSTRACT	79
3.2. INTRODUCTION	80
3.3. ON THE QUESTION OF ETHICS AND MORALITY	83
3.4. ON THE CONCEPTION OF ECONOMIC JUSTICE	90
3.5. ON FREEDOM OF THE INDIVIDUAL AND THE FUNCTIONING OF THE MARKET	99
3.6. CONCLUSION	110
CONCLUSION: THE ROLE OF ECONOMICS IN AN ISLAMIC SOCIETY	113
BIBLIOGRAPHY	117
APPENDIX 1: ETİK KOMİSYON MUAFİYETİ	123
APPENDIX 2: ORJİNALLİK RAPORU	125

INTRODUCTION

In the aftermath of the successful resistances against colonialism in the Muslim world, Muslims have been inspired into seeking Islamic alternatives to the pre-existing institutional structures imposed on them by the colonialists. Consequently, studies have been conducted on the kind of social arrangement Islam offers as an alternative. In the sphere of economics, the attention has been on extracting, from the Islamic system of thought, economic conceptions that will replace capitalist and socialist ideas – the predominant bases on which most post-colonial Muslim societies remained organized. This, and other related reasons, led to the *First International Conference in Islamic Economics* in 1976, in the city of Makkah¹, which sought to streamline a new discipline known as *Islamic Economics*². The conference inspired more activity in the research area of Islamic economic thought, producing, among other things, studies on the economic thought of some prominent Islamic scholars of the medieval period, such as Abu Hamid ibn Muhammad al-Ghazālī (1058-1111), Taqī ad-Din Ahmad ibn Taymiyyah (1263-1328), Shams ad-Din Abu ‘Abd Allah ibn al-Qayyim (1292-1350), and ‘Abd ar-Rahman ibn Muhammad ibn Khaldūn (1332-1406).

It has become quite apparent, from these recent studies, that the medieval Islamic scholars addressed various economic questions in their writings, ranging from economic behavior of the individual members of society to the role of the state authority in the economic affairs of society. These economic ideas, derived mainly from primary sources of Islamic knowledge and law (i.e., the Qur’ān and hadīth/prophetic tradition), were part of the broad attempt, by the scholars, to provide an Islamic guide to social life in their respective periods, and this carried significance since the affairs of historical

¹ Also spelt as “Mecca”

² Islahi, A.A. (2008). Thirty Years of Research in the History of Islamic Economic Thought: Assessment and Future Direction. 7th *International Conference in Islamic Economics* (pp. 347-70).

Islamdom were, largely, organized on the basis of the *Sharī'ah* (Islamic law). Consequently, the intellectual approach that produced these ideas was harmonious with the general Qur'ānic conception of life – that is, an integrated whole with functional constituents, each playing its role towards the attainment of a spiritual end. Economic ideas were, thus, treated as integral to the broader conception, not as isolated ideas that could be completely understood on their own. Unfortunately, though most of the recent studies have acknowledged the “holistic intellectual approach”³ of the early scholars, they have tended to discuss the economic ideas as divorced from their holistic contexts, as a result of which wrong interpretations of the ideas have ensued. The obvious culprits in this have been studies that have sought to disprove Schumpeter's ‘Great Gap’ thesis, by proving how scientific/analytical these classical Islamic economic ideas are. In doing so, they have often been compelled to explain the economic thought emanating from these medieval sources as if distinct from their holistic sources, and have, in the process, been led to interpret them as similar to the modern capitalist-dominated economic concepts. For instance, in Shaykh Muhammad (S.M.) Ghazanfar's introduction to *Medieval Islamic Economic Thought*⁴, he asserts that “while terms such as “capitalism”, “market economy”, “price system”, and “voluntary-exchange economy” are of rather recent origin, the assumptions underlying the economic discussions of the medieval Islamic scholars were essentially the same as those of a contemporary market economy, albeit with an administrative role for the state in order to pursue the goal of common good”⁵. Such suggestions were reinforced in one of the studies published in the book, in which Imam al-Ghazālī's ideas were likened to laying “the foundation

³ Ghazanfar, S.M., & Islahi, A.A. (2003). Economic Thought of an Arab Scholastic Abu Hamid Al-Ghazali (AH 450-505/1058-1111 AD). In *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.23-44), p. 23.

⁴ *Medieval Islamic Economic Thought* (published in 2003 and edited by S.M. Ghazanfar) is a collection of studies, all of which have sought to fill the centuries that have been left “blank” by Schumpeter and other historians of economic thought, by presenting the economic ideas of medieval Islamic scholars. All the papers (except one) were previously published in various academic journals.

⁵ Ghazanfar, S.M. (2003). Introduction. In S.M. Ghazanfar (ed.), *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.1-5), p. 5.

of...the “spirit of capitalism””⁶. Such conclusions could only imply, in the least, misinterpretations inspired by a wrong methodological application. In respect of the just-mentioned misinterpretation of al-Ghazālī’s idea, for instance, Oslington (2003) suggests that the writers “look[ed] at al-Ghazali’s writings through a modern Western lens that blocks out the eleventh-century, non-European nature of the texts, and especially their religious nature”⁷.

The issues outlined above are part of the broader challenges that have engulfed the discipline of *Islamic Economics* itself. Islamic economics has made tremendous progress in its four decades of existence (starting from the 1976 conference in Makkah). Many universities in the Muslim world (and even Europe and America) now have Islamic economics either as an autonomous department of study or a part of general economics. Furthermore, many books and academic papers have been written and published on the various aspects of the discipline, in addition to the many international academic conferences organized regularly to discuss developments in the discipline. However, a major shortcoming in the development of the discipline has been the seeming influence of the idea of the economy as a distinct domain with its own separate rules, an idea upon which modern Western economic thought is founded. Tripp (2006) summarizes this as follows:

Thinking about the economy as a distinct sphere of knowledge, of understanding and of explanation of human behaviour seemed to bring its own rules, reasoning and criteria. By entering into arguments about the economy as a particular realm of human activity, many of the Muslim intellectuals seemed to accept – with various degrees of unease, some acknowledged, others not – that they were engaging with a discourse not of their own making. The struggle to make it theirs has been a constant and sometimes problematic one.⁸

The outcome of this Western ideological influence was the use of “textbook economics to define and describe a specifically Islamic economic order”,

⁶ Ghazanfar, S.M., & Islahi, A.A. (2003). Economic Thought of an Arab Scholastic Abu Hamid Al-Ghazali (AH 450-505/1058-1111 AD). In *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.23-44), p. 28.

⁷ Oslington, P. (2003). Economic Thought and Religious Thought: A Comment on Ghazanfar and Islahi. In S.M. Ghazanfar (ed.), *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.45-48), p. 45.

⁸ Tripp, C. (2006). *Islam and the Moral Economy: the Challenge of Capitalism*, pp. 104-105.

making Islamic economics largely “disconnected from the Islamic holistic world view”⁹. Thus, as Mahomedy (2015) affirms, there has been a failure to explicate how the relationship between man and God “is manifested in both belief and action with specific reference to economic behaviour” although the existence of the man-God relationship has been widely acknowledged in the literature¹⁰. Islam conceives life as an integrated whole with integrally functional components, each of which functions towards the fulfilment of service to God. This idea permeates the organization of life at both the individual and societal levels. Such is the Qur’ānic treatment of life, likewise the totality of the prophetic tradition as well as the literary works of early Islamic scholars. Just as the influence of Western capitalist thought caused an abandonment of this holistic worldview in favour of a separation of the economy as distinct social sphere, it also determined, largely, how the ideas of the pre-modern Islamic scholars have been analyzed and interpreted, as evident in the discussion above.

In order to convey a correct understanding of economics from the Islamic perspective, whether as a purely theoretical endeavor or an attempt to understand history, it is necessary to adopt an approach that keeps the discussion embedded within the holistic worldview of Islam. This is the only way to either produce a genuinely Islamic economic alternative or understand the history of Islamic societies¹¹. This study is an attempt to reorient studies in Islamic economic thought towards reintegration with the holistic worldview of Islam. In line with this, we will attempt, in the forthcoming parts of the study, to

⁹ Philipp, T. (1990). The Idea of Islamic Economics. *Die Welt des Islams*, 30(1/4), 117-139, p. 131

¹⁰ Mahomedy, A.C. (2015). Islamic Economics: Still in Search of an Identity. In H. El-Karanshawy, A. Omar, T. Khan, S.S. Ali, H. Izhar, W. Tariq, et al. (Eds.), *Developing Inclusive and Sustainable Economic and Financial Systems – Islamic Economic: Theory, Practice, and Social Justice* (Vol. 2, pp. 31-39), p. 34.

¹¹ In this study, the term ‘Islamic society’ is used to imply a society which recognizes the legitimacy of a government to rule on the basis of the Islamic Law (*Sharī‘ah*). In the historical sense, an Islamic Society is simply the Caliphate as well as provinces governed by persons appointed by the office of the caliphate. Thus, in simple terms, the Islamic Society is an Islamic setting with a functioning government ruling on the basis of the *Sharī‘ah*. The term ‘state’ (or government) will hereinafter be used to imply the office of the political authority in an Islamic society.

explicate Islam's conception of the market within the holistic worldview. In doing so, we will attempt to divorce the true Islamic conception of the market from the flawed interpretations it has been subjected to over the years. Thus, our study is structured in three essays, each dealing with an aspect of the subject. The first essay explicates Islamic market theory as established on basis of the ideals of justice (derived from the main sources of Islamic law). We will explain the precepts and norms of the Islamic market ideology as oriented towards the achievement of public good (broadly defined to encapsulate the idea of the holistic conception of life), for which harmony with the ideals of Islamic justice is imperative. In the second essay, we will discuss the Islamic notion of right to property and enterprise within the context of the Islamic philosophy of life (at both the individual and societal levels) to establish how material pursuit is intricately connected with the spiritual end and why material pursuit is meaningless without the spiritual connection. We will further explain the role of the government in ensuring the intactness of this connection. Finally, the third essay discusses how the differing conceptions of morality and justice in Islam and capitalism inform how economic freedom is conceived in the two systems. The objective is to establish an unequivocal basis upon which the stark difference between the two systems can be understood.

The outcome of this study will be significant to the correct interpretation of economic discussions of the early scholars; it will open the door for the reinterpretation of scholarly ideas within their proper context – i.e. the Islamic holistic worldview. The study will also provide a more contextualized explanation of the Islamic market theory and set the basis for any future endeavors that seek to produce a viable Islamic alternative to pre-existing economic conceptions. More generally, the scholars of Islamic economics will benefit from this study in their attempt to correct the errors (widely acknowledged) in their methodology. In this regard, this study could be considered as a contribution towards the streamlining of Islamic economics.

CHAPTER 1: THE ISLAMIC MARKET DOCTRINE: A DETAILED EXPOSITION

1.1. ABSTRACT

In this paper, we sought a coherent presentation of the Islamic market doctrine. It is established that the Islamic market ideology seeks to promote the overall economic well-being of the members of society through creating fair opportunities for economic gains, enforcing the right to private property, and curbing exploitative tendencies of economic agents towards one another, among other things. Consequently, the Islamic market ideology is founded on the ideals of economic justice, which, generally, emphasizes fairness as a moral duty enforceable by the state. It is further established that the individual has the right to engage in exchange activities and earn fair rewards, and this must not, ordinarily, be interfered with. However, when, in the course of exercising this right, the individual's pursuit of self-interest puts the overall public welfare into jeopardy, the state is obliged to give public welfare precedence over individual self-interests. Thus, there is room for the state to intervene even in pricing; though, under normal circumstances, prices in the market should depend on the prevailing market conditions. In the history of Islamdom, public authority has played the role of market superintendence, and, in some, cases, even fixed prices in the markets.

Keywords: Islam, market, economic justice, public welfare.

1.2. INTRODUCTION

The market doctrine of Islam (or aspects of it) has (have) received considerable attention in literature. The earlier scholars have usually approached it from a legalistic perspective, mostly content with distinguishing between the permissible and impermissible market behaviors. The more recent studies, on the other hand, have tried to derive an ideology similar to modern ideologies on the subject (such as capitalism and socialism). For instance, recent studies on the history of Islamic economic thought (such as, Essid, 1987¹²; Islahi, 1988¹³; Ghazanfar & Islahi, 1990¹⁴; Hosseini, 1995¹⁵; Ghazanfar & Islahi, 1997¹⁶; Hosseini, 2003¹⁷; and Islahi, 2005¹⁸) have often attempted to derive a coherent idea of an 'Islamic free market' in their discussions, based on the literature of the early scholars. However, some of these studies have often treated the subject briefly, limiting their discussions to aspects of it. Oğuz & Tabakoğlu (1991), for instance, briefly discuss market pricing in Islam as a background to analyzing state pricing behavior in the Ottoman State; another example is Puthenpeedikayil (2015) who presents the subject simply as "either in the form of certain market norms or in the form of some prohibitions"¹⁹. Other studies are simply attempts to coherently

¹² Essid, Y. (1987). Islamic Economic Thought. In S.T. Lowry (Ed.), *Pre-Classical Economic Thought From the Greeks to the Scottish Enlightenment* (pp. 77-102)

¹³ Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*.

¹⁴ Also published as Ghazanfar, S.M., & Islahi, A.A. (2003). Explorations in Medieval Arab-Islamic Economic Thought: Some Aspects of Ibn Taimiyyah's Economics. In S.M. Ghazanfar (Ed.), *Medieval Islamic Economic Thought: Filling the "Great Gap" in European Economics* (pp. 53-71).

¹⁵ Also published as Hosseini, H. (2003). Understanding the Market Mechanism Before Adam Smith: Economic Thought in Medieval Islam. In S.M. Ghazanfar (Ed.), *Medieval Islamic Economic Thought* (pp. 88-107).

¹⁶ Also published as Ghazanfar, S.M., & Islahi, A.A. (2003). Explorations in Medieval Arab-Islamic Economic Thought: Some Aspects of Ibn Al-Qayyim's Economics (AH 691-751/1292-1350 AD). In S.M. Ghazanfar (Ed.), *Medieval Islamic Economic Thought: Filling the "Great Gap" in European Economics* (pp. 128-141).

¹⁷ Hosseini H. S. (2003). Contribution of Medieval Muslim Scholars to the History of Economics and their Impact. In W.J. Samuels, J.E. Biddle, & J.B. Davies (Eds.), *A Companion to the History of Economic Thought* (pp. 28-45)

¹⁸ Islahi, A.A. (2005). The Islamic Tradition in Economic Thought: Theory of Value, Market and Pricing. In A.A. Islahi, *Contributions of Muslim Scholars to Economic Thought and Analysis* (pp. 25-33).

¹⁹ Puthenpeedikayil, S. (2015). Notions of Free Market and Social Welfare in Islamic Economics. *Journal of Modern Accounting and Auditing*, 11(9), 476-486, p. 479.

summarize expositions of early scholars on the subject. Islahi (1988) and Ghazanfar & Islahi (1990), for instance, discuss the economic ideas of Ibn Taymiyyah, and, in these, explain his understanding of the Islamic market ideology; Ghazanfar & Islahi (1997) also discuss the ideas of Ibn al-Qayyim (d. 1350) in a similar style.

Ibn Taymiyyah (d. 1328) has made significant contributions to the subject matter (i.e., Islamic market), especially with his work, *Al-Hisbah fi'l-Islam* (translated as: *Public Duties in Islam*), dedicated to, among other things, juristic discussions on many aspects of the subject – including market pricing, price regulation, etc. It is the basis upon which a lot of recent studies on price control in Islam have been conducted, a testament to its valuable contribution. An example of such recent studies is the third chapter of Abdul Azim Islahi's *Economic Concepts of Ibn Taymiyyah*, which attempts to synchronize Ibn Taymiyyah's ideas, from his various writings²⁰, into some coherence. On its own, this study is a valuable addition to the literature. Other examples include Muhammad L. Bashar's *Price Control in an Islamic Economy*²¹ and Muhammad H. Kamali's *Tas'ir (Price Control) in Islamic Law*²², both of which give detailed discussions of scholarly positions on the fixation of price by public authority. However, as far as the subject matter of Islamic market doctrine is concerned, price control is just an aspect; Islam's market ideology is wider and more comprehensive than issues of price control (*tas'ir*), though such issues form an integral part of the ideology. Some attempt must be made to widen the discussion, by putting together all relevant aspects of the subject matter into some coherent whole, in order to convey a much more complete understanding. A study based on such an approach would be important to the attempt to understand the economics of historical Islamdom, as well as future attempts [if any] to apply such a doctrine in organizing society.

²⁰ Including collections of religious verdicts (*fatāwa*) issued by him.

²¹ Bashar, M.L. (1997). Price Control in an Islamic Economy. *JKAU: Islamic Economics*, 9, 29-52.

²² Kamali, M.H. (1994). *Tas'ir (Price Control) in Islamic Law*. *The American Journal of Islamic Social Sciences*, 11(1), 25-37.

In view of the above, this study seeks to undertake a coherent analysis of the Islamic market doctrine. In the forthcoming sections, we will attempt to explicate the Islamic market ideology as one that functions toward the fulfilment of economic good, an integral component of the public good that Islamic law functions to fulfil. Economic good, from the Islamic perspective, entails fair and equitable provision of the means of sustenance to all members of society, and an equitable distribution of wealth, among other things. We will attempt to present the market as an institution that functions to achieve these ends, a function that necessitates its structuring on the ideals of justice. Thus, in a nutshell, our study seeks to explain Islamic market as an ideology that is structured on the ideals of justice to ensure the attainment of society's economic good. We will establish that though the interest of individuals is upheld, public welfare is given precedence when the two [i.e., individual interest and public welfare] are in conflict. Our approach, we hope, will convey a more complete understanding of the Islamic market doctrine, and put the legal norms and prohibitions, with respect to market activities, into a proper perspective.

Before we proceed, two clarifications are necessary. First, with respect to commodities subject to the normative laws of the market, Islamic scholars distinguish between *necessities* and *luxuries*, and this distinction has a bearing on legalities of action in relation to commodities. For instance, Ibn Khaldūn (d. 1406) contends that “people have no compelling need” for *luxuries* (relative to *necessities*) and that they demand them simply for “the diversification of desires”²³. Consequently, people “spend their money voluntarily and willingly [on luxuries], and they retain no hankering after (the money) they have paid”²⁴. Thus, there is no blame on a seller/merchant if he hoards luxury goods in order to make higher economic gains. Our study limits the analysis to commodities that are considered *necessities*; these obviously vary according to location and time, but the general rule applies to them as long as they are considered *necessities*. Secondly, the Islamic market

²³ Ibn Khaldun, A.B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.), p. 339.

²⁴ Ibid, p. 339

doctrine, as a normative ideal, applies to an Islamic context, where a legitimate Islamic political authority is recognized as such, though aspects of it are applicable, generally, in non-Islamic settings. Thus, our analysis assumes an Islamic setting, with a functioning Islamic government.

The rest of the paper is organized as follows. In section two, public interest is discussed as an object of Islamic law, from which derives economic good as an objective of the Islamic economic doctrine. The concept of justice is introduced as an integral element of the Law, and a means through which public good is realized; as a subset of justice, economic justice is presented as the concept upon which the Islamic market doctrine is founded, and as a necessary means to attaining economic good (the object of the Islamic market doctrine). Section two discusses the role of the market in society, from the Islamic perspective, as a precursor to an overview of the Islamic market ideology, which is discussed in section three. In section four, we analyze price formation in the Islamic market, to which issues of production and factor returns are relevant, and are, thus, duly discussed. Finally, we discuss price control (*tas'īr*) in Islamic law, in section five, and then present a historical summary of how the various legal positions on it have been applied in Islamdom. Then we present a conclusion to our discussion in section six.

1.3. PUBLIC INTEREST AND SOCIAL JUSTICE IN ISLAMIC LAW

It is a consensus among Islamic scholars that one of the central objects of Islamic Law (*Shari'ah*) is the advancement and preservation of public interest. Auda (2007) contends that the term *masālih* (public interests), for many Islamic legal scholars, is synonymous with *maqāsid al-Shari'ah* (purposes of the Islamic Law), citing, as an example, Abd al-Malik al-Juwayni's (d. 1085) usage of *al-maqāsid* and *al-masālih al-'āmmah* [public interest] as synonymous terms²⁵. Al-Qarafī (d. 1868) elaborates this relationship, asserting that "[a] purpose (*maqsid*) is not valid unless it leads to the fulfilment

²⁵ Auda, J. (2007). *Maqasid al-Shari'ah as Philosophy of Islamic Law: A System Approach*.

of some good (*maslahah*) or the avoidance of some mischief (*mafsadah*)”²⁶. Thus, the *Sharī’ah* seeks to promote all that is good (for society and its members) and to thwart all that is bad (for society and all individuals within it). So, what specifically does *maslahah* (public “good”) imply with respect to the application of the *Sharī’ah*? Fazlur-Rahman Ansari (1914-1974) answers this question, profoundly, with his assertion that the *Sharī’ah* enjoins the political authority of an Islamic society (i.e., the state) to pursue “the spiritual, moral, intellectual, physical and social preservation and development of the individuals, with a view to the establishment of a righteous society, i.e. a society which is healthy in all respects”²⁷. Clearly, the object of the *Sharī’ah* is linked with the Islamic concept of human life, and public ‘good/interest/welfare’ implies a broad terminology that entails all the facets of a complete life; Imam al-Ghazālī (d. 1111) opines that “Islam sets goals²⁸ for human life” and that “[all] matters (be they activities or things) that help in achieving these goals increase social welfare, and are called *masālih*...; those opposite are *mafāsīd* [i.e., things that cause losses in public welfare]”²⁹. The spirit of the law, thus, is to help the individual achieve success in life by promoting a positive development of his/her personality and creating a society that supports this agenda. In order to achieve this all-important goal of promoting public good, there are very important principles that must be adhered to, and which have been made an integral part of the law. One of such principles is the duty of establishing justice in society. This, Ibn al-Qayyim al-Jawziyya (d. 1350) alludes to with his assertion that the “*Sharī’ah* is God’s justice and mercy amongst His people” and that “Life, nutrition, medicine, light, recuperation and virtue are made possible by it”³⁰.

²⁶ Ibid, p. 2

²⁷ Ansari, M. F.-u.-R. (2008). *The Qur’anic Foundations and Structure of Muslim Society* (Fourth ed., Vol II), p. 57.

²⁸ The ultimate goal is the attainment of eternal bliss [see Al-Ghazālī, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. II). (Fazl-ul-Karim, Trans.), p.45]

²⁹ Ghazanfar, S.M., & Islahi, A.A. (1997). Economic Thought of Al-Ghazali (450-505 A.H./ 1058-1111 A.D.). *Islamic Economics Research Series, King Abdulaziz University-2*, p. 7.

³⁰ Deuraseh, N. (2012). New Essential Values of Daruriyyah (Necessities) of the Objectives of Islamic Law (Maqasid al-Shari’ah). *Jurnal Hadhari*, 4(2), 107-116, p. 109.

Justice, divinely ordained³¹ upon human beings and the political state, may be defined as “giving to everyone his due on the basis of equity”³². The Qur’an portrays it “as an imperative which is unconditionally, universally and absolutely binding...on everyone, under all circumstances, and in all situations”³³. It is “an absolutely indispensable ingredient of the *maqāsid al-Sharī’ah*, so far so that it is impossible to conceive of an ideal Muslim society where justice has not been established”³⁴. Establishing justice is not just a duty but a virtue of a very high regard; it is “nearest to piety” according to the Qur’an³⁵. In its broad sense, it is classified into two categories: justice at the individual level; and justice at the collective level³⁶. At the individual level, justice implies the active pursuit of self-development in harmony with the ethics of the Qur’an, and the observance of fairness in dealings with other members of society (i.e. giving to others their due in the most deserving manner)³⁷. At the collective (communal) level, justice relates to four aspects of the social organization, including justness with respect to: (1) social relations; (2) the process and enforcement of the Law; (3) economic administration; and (4) political administration³⁸; all these have their respective roles to play in bringing about public good. In line with the theme of this study, we focus on two aspects of justice; individual justice, and the administration of economic justice at the communal level. We discuss them not as separate themes, but as aspects of the overall concept of economic justice, which, in turn, is an integral component of the broad conception of justice from the Islamic viewpoint.

³¹ Part of the mission of the prophets sent by God to various nations was to establish justice among the people: “*We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice*” [Qur’an 57:25 (Saheeh International Translation, 2010)].

³² Ansari, M. F.-u.-R. (2008). *The Qur’anic Foundations and Structure of Muslim Society* (Fourth ed., Vol I), p. 209

³³ Ansari, M. F.-u.-R. (2008). *The Qur’anic Foundations and Structure of Muslim Society* (Fourth ed., Vol I), pp. 208-9.

³⁴ Chapra, M.U. (1992). *Islam and the Economic Challenge*, p. 209.

³⁵ “...*Be just; that is nearer to righteousness*” [Qur’an 5:8 (Saheeh International Translation, 2010)].

³⁶ Ansari, M. F.-u.-R. (2008). *The Qur’anic Foundations and Structure of Muslim Society* (Fourth ed., Vol I).

³⁷ *ibid*

³⁸ *ibid*

The administration of economic justice (at the individual and communal levels) is important to the Islamic market doctrine; the ideals of the Islamic market doctrine are built on the principles of justice within the above-mentioned forms. The establishment of the ideals of economic justice is as indispensable to the achievement of economic good as the establishment of justice, in its broad sense, is to the achievement of public good. Thus, the Islamic market doctrine cannot be properly understood without first understanding the ideals of justice at the communal and individual economic levels. First and foremost, it is important to highlight some key Qur'anic concepts upon which the principles of economic justice are built. The first important Qur'anic concept is that "all human beings are equally honorable in respect of their humanity"³⁹. The Qur'an states: *"And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference"*⁴⁰. This principle enjoins all individuals to treat fellow human beings in the manner befitting their humanness, and in the manner they would wish other human beings to treat them. Secondly, the Qur'an guarantees every member of the society the right to sustenance⁴¹. This, according to Fazlur Rahman Ansari (1914-1974), implies that "all human beings have equal right to the means of sustenance found on earth – and that, consequently, the citizens of the Islamic State have equal right to the means of sustenance found in the State"⁴². The third Qur'anic concept is that the reward of labor must be commensurate with the effort applied: *"And that there is not for man except that [good] for which he strives"*⁴³. This implies that the state is duty-bound "to establish an economic

³⁹ Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol II), Book III, p. 73.

⁴⁰ Qur'an 17:70 (Saheeh International Translation, 2010)

⁴¹ ***"And He placed on the earth firmly set mountains over its surface, and He blessed it and determined therein its [creatures'] sustenance in four days without distinction - for [the information] of those who ask"*** [Qur'an 41:10 (Saheeh International Translation, 2010)]

⁴² Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol. II (Book III)), p. 72.

⁴³ Qur'an 53:39 (Saheeh International Translation, 2010)

order wherein the labor of every citizen is fully rewarded”⁴⁴. Finally, it is also a Qur’anic concept that material wealth in society must not be concentrated in the hands of a few privileged members, thus creating wide income and material disparity among members of society⁴⁵.

On the basis of these four concepts the state has a duty to create an economic order with the following features:

1. It should guarantee all members the right to private property and protection against its unlawful violation. Sheikh Yusuf al-Qaradāwi says, in this regard, that “[since] the *Sharī’ah* sanctions the right to personal property, it protects it, both by means of moral exhortation and legislation, from robbery, theft, and fraud”⁴⁶.
2. It should provide equitable opportunity for all abled members of society to engage in economic activity and earn just rewards from it.
3. The system should ensure fair and balanced distribution of wealth in society by:
 - a. Creating a production and exchange arrangement that guarantees fair outcomes to all participants.
 - b. Ensuring productive use of resources, without wastage, idleness, and extravagance.
 - c. Enforcing the welfare system through which the rich take care of the poor and needy. It is important to note that Islam frowns upon deliberate economic inactivity (and, consequently, permanent economic dependence upon others) and encourages its adherents to earn their livelihood with their own hands. It is forbidden for man “to depend on charity while he is able to earn what is

⁴⁴ Ansari, M. F.-u.-R. (2008). *The Qur’anic Foundations and Structure of Muslim Society* (Fourth ed., Vol. II (Book III)), p. 73

⁴⁵ See Qur’an 59:7; it lays out this principle clearly.

⁴⁶ Al-Qaradawi, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.), p. 326.

sufficient for his and his family's needs through his own efforts"⁴⁷. However, it also recognizes that some members of society, due to circumstances beyond their control, find themselves in a position of weakness, and thus have their right to sustenance upon the society⁴⁸.

- d. Enforcing the prohibition of usury and interest (of all forms) as a means of preventing the rich from milking the poor and widening the economic gap.
4. It should enforce the prohibition of all forms of economic exploitation at all levels of society⁴⁹. This point is linked with the idea of equal human value accorded to all persons, the labor's right to fair reward, and the right to fair economic opportunities for all.
5. The individual members of society must be morally trained/persuaded (and/or legally compelled) to:
 - a. Actively pursue economic activity in order to be self-reliant;
 - b. Act within moral bounds in their economic dealings;
 - c. Desist from exploiting other persons for their personal economic benefits;
 - d. Desist from denying others the opportunity to seek their sustenance by either seeking to monopolize aspects of the production and exchange arrangement or using force;
 - e. Refrain from causing damage to, or wasting, resources that are owned individually or collectively;
 - f. Willingly contribute to the welfare scheme that seeks to take care of those in need.

The above-mentioned principles are by no means exhaustive in regards to the completeness of the Islamic concept of economic justice. However, they

⁴⁷ Ibid, p. 121

⁴⁸ This is taken care of through the zakat system and other similar interventions.

⁴⁹ ***"The way (of blame) is only against those who oppress men and wrongly rebel in the earth, for such there will be a painful torment."*** [Qur'an 42:42]

are enough to support the argument to be presented in forthcoming sections of this study.

So, in light of the principles enumerated above, the Islamic economic order (or any aspect of it) would seek to establish a society that promotes the overall economic well-being of its members through creating fair opportunities for economic gains, enforcing the right to private property, curbing exploitative tendencies of economic agents towards one another, and other measures like these that are consistent with the value system of Islam. The market component of the Islamic economic doctrine plays the role of ensuring that the market institution accords all members of society a fair chance of fulfilling their needs in the most just manner, whether they are acquiring or they are providing. Most essentially, economic interests of individuals must not put the general need of the society into jeopardy; that is, the pursuit of the private profit motive must not result in undue denial of other people's right to sustenance, impede others' right to participation, or result in exploitative behaviors.

1.4. THE ROLE OF THE MARKET IN SOCIETY

Islam recognizes the important role of the market in society (the market, primarily, serves the exchange needs of society). Islam recognizes the market as an avenue for people to acquire what they need in exchange for what they possess according to mutual terms. It also recognizes it as a means through which people translate their productive labor into fair economic gains. In a nutshell, it is an avenue through which the economic needs of society are fulfilled. Without such an avenue, people would simply be stuck with their own possessions, unable to obtain the materials they require to have a balanced life. Its absence may even threaten order in society as this would impede production of, and access to, the necessities of life. Every necessity of life is only obtainable through an exchange avenue, and that is what the market represents. Imam al-Ghazālī emphasizes the role of the market in society with the following example: *"...a man has got food, but has got no riding camel.*

*He who has got a camel has got necessity of food. So between them there is the necessity of exchange of these two things and fixation of their value*⁵⁰. In the Qur'an, God asserts how integral the markets were even to the lives of previously sent prophets and messengers of God: ***"And We did not send before you [O Muhammad] any of the messengers except that they ate food and walked in the markets"***⁵¹. This citation highlights, among other things, the role of the market in providing an avenue for access to foodstuff, a necessity of life, and also how the prophets and messenger did not allow spirituality to prevent them from seeking livelihood through the markets. Indeed, among the first things the Prophet is reported to have done, upon migration to al-Madinah, was to designate a place for setting up a market⁵², a proof of how important the Prophet considered the market to the order of society. The market is, thus, pivotal to the attainment of the economic good. It brings to a point the collective outcome of the society's productive activities, and ensures their appropriate distribution. It also serves as means of actualizing the divinely-ordained right to own and earn, such that private individuals are able to attain rewards for their legitimate offer of labor.

As important as the market is, Islam also recognizes it as a meeting point of individuals who, by their innate nature, have an avaricious tendency (see Qur'an 100:8)⁵³. Ibn Kathīr (d. 1373), in his Qur'anic commentary, says the verse implies either that man is "severe in his love of wealth" or that "he is covetous and stingy due to the love of wealth"⁵⁴. The Prophet is also reported to have said: *"If Adam's son [man] had a valley full of gold, he would like to have two valleys, for nothing fills his mouth except dust [of the grave]"*⁵⁵. If

⁵⁰ Al-Ghazali, A.M. (1993). *Ihya Ulum-Id-Din [Revival of Religious Learning]* (Vol. IV). (Fazl-ul-Karim, Trans.), p. 83.

⁵¹ Qur'an 25:20 (Saheeh International Translation, 2010)

⁵² Sadr, S.K. (2016). *The Economic System of the Early Islamic Period: Institutions and Policies*.

⁵³ ***"And indeed he [man] is, in love of wealth, intense"*** (Saheeh International Translation, 2010).

⁵⁴ Ibn Kathir, A.-F.I. (2003). *Tafsīr Ibn Kathīr* (Vol. X). (J. Abualrub, N. Khitab, H. Khitab, A. Walker, M. Al-Jibal, & S. Ayub, Trans.), p. 568.

⁵⁵ *"If Adam's son had a valley full of gold, he would like to have two valleys, for nothing fills his mouth except dust. And Allah forgives him who repents to Him."* [Sahih al-Bukhari, Vol. 8, Hadith No. 6439]

allowed to act freely in such avenues for exchange, the avariciousness of men would be nurtured into producing disastrous consequences for both men (in their persons) and society at large⁵⁶. Love of wealth and the desire to acquire them in multitudes will become the dominant intent of men in their economic pursuits, and eventually destroy their spirituality. For society, there are two possible consequences of such freedom. First, the public would be at the mercy of greedy merchants/suppliers, who would apply all means necessary to increase their market shares and economic gains; consequently, public economic welfare suffers, even though a few private individuals make enormous gains. Such will be a negation of the Qur'anic principle that encourages a wider dispersion of wealth rather than its concentration in the hands of few privileged members of society⁵⁷. Second, the market, if absolutely free, reorganizes its distribution toward areas that attract the largest economic gains. Though economic theory predicts a normalization of profits in the long-term for such free markets, the intermittent short-term movements according to magnitude of gains is, obviously, detrimental to basic needs of the public; the self-regulating market responds to its own needs rather than the needs of the larger public.

In view of the above, Islam places moral obstructions on the freedom of the market to self-regulate; such obstructions are moral obligations upon market participants, fulfilment of which are integral to the Muslim personality. Those with the requisite moral training are, naturally, able to fulfil these; on the other hand, the state is obliged to impose their fulfilment upon men when they falter on their own. Market regulation, therefore, is an integral duty of the state, whose primary objective is to promote public good – a comprehensive concept that captures all aspects of society. Thus, the Islamic market provides a balance between the individual's right/freedom to produce, trade,

⁵⁶ ***“Satan threatens you with poverty and orders you to immorality, while Allah promises you forgiveness from Him and bounty. And Allah is all-Encompassing and Knowing”*** [Qur'an 2:268 (Saheeh International Translation, 2010)]

⁵⁷ In Qur'an 59:8, God says: ***“And what Allah restored to His Messenger from the people of the towns – it is for Allah and for the Messenger and for [his] near relatives and orphans and the [stranded] traveler – so that it will not be a perpetual distribution among the rich from among you...”*** (Saheeh International Translation, 2010).

and earn fair rewards, on the one hand, and society's overall economic welfare, on the other. The individual's exercise of his freedom is not allowed to produce detrimental effects on the welfare of society.

1.5. THE ISLAMIC MARKET IDEOLOGY IN BRIEF

In line with the ideals of economic justice and the spirit of the Law, the Islamic market ideology is oriented towards a *conditionally-free*⁵⁸ enterprise and fair competition; it frowns upon monopolistic tendencies and unjustified restrictions on the individual's freedom to own and earn. It allows for acquisition of property, and permits "any trade except that which involves injustice, cheating, making exorbitant profit⁵⁹, and the promotion of something haram [prohibited]"⁶⁰. It places injunctions against actions of economic agents oriented towards unjustifiably manipulating market conditions to suit their personal interests. It organizes the market in a way that promises fair outcomes to participants if allowed to function without undue manipulations. And, it places a duty upon state authority to act as the moral superintendent of the market, guarding against all that contradict the ideals of justice and jeopardize public interest, including taking actions to correct imbalances that emerge in the market.

It is clear, from the above, that there is no absolute freedom within the Islamic market. Freedom is conditioned by the demands of morality (upon all important stakeholders), exerted through moral inducement, and then through legal coercion (when persuasion fails). The individual is free to make economic gains, but, in doing so, is not permitted to violate the economic (and other) rights of the other members of society. In fact, it is a principle in the application of the law that "any transaction in which one person's gain

⁵⁸ There are moral bounds that define the freedom. Where the moral sense of the individual fails to induce him into acting morally, the law coerces him to do so.

⁵⁹ This will become clearer in the course of the discussion.

⁶⁰ Al-Qaradawi, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.), p. 136.

results in another's loss is unlawful"⁶¹. Such is in line with the principle of fairness; one which looks out, especially, for people who find themselves in disadvantaged positions with respect to exchange transactions. In the prophetic traditions (hadīth), specific acts have been mentioned, which, if perpetrated by private market participants, would threaten the fairly competitive market environment Islam seeks to create; three of them – *najsh*, hoarding, and forestalling – would suffice for our discussion here. *Najsh*⁶² occurs when a person “offers a bid merely to incite another needy buyer into paying a higher price”⁶³. *Hoarding*⁶⁴, on the other hand, occurs when a supplier restricts supply to the market, by hiding what should be delivered for sale, in order to make extra gains. According to Ibn Khaldūn (d. 1406) the outcome of such an act is tantamount to “taking people’s property for nothing” since such people paid the resultant high prices out of “compulsion” and their “souls continue to cling” to whatever they may have spent⁶⁵. Finally, *forestalling* refers to the interception of goods before they reach the markets⁶⁶. In addition to the tendency (of *forestalling*) to restrict supplies to the market, the original merchant may be unaware of the prevailing market conditions⁶⁷, and this disadvantage exposes him to being cheated. This, perhaps, is the reason why the Prophet added that the merchant has the right to annul any such transaction that takes place outside the market if he arrives at the market and finds better terms. It is clear that these restrictions are in place to protect the fairness of the market and to prevent profiteering out of high prices on the needy consumer. This, then, is again consistent with the

⁶¹ Ibid, p. 141

⁶² Ibn Umar narrated that: “*The Prophet forbade the Najsh*” (Sunan Ibn Majah, Vol. 3, Hadith Number 2173)

⁶³ Ibn Majah, M.I. (2007), *English Translation of Sunan Ibn Majah* (Vol. 3), (N. Al-Khattab, Trans.), p. 244

⁶⁴ The Prophet is reported to have said: “*Whoever hoards is a sinner*” [Sahih Muslim, Vol. 4, Hadith Number 1605].

⁶⁵ Ibn Khaldun, A.B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.), p.339

⁶⁶ It is narrated from Abu Hurayrah that the Prophet said: “*Do not meet the traders on the way, and whoever meets any of them and buys from him, the vendor has the choice of annulling the transaction when he comes to the marketplace*” [Sunan Ibn Majah, Vol. 3, Hadith Number 2178].

⁶⁷ Communication was difficult at the time and thus information about market conditions could only be obtained by presence in the market; merchants on journey could be unaware of changes in market conditions until they arrived at the markets.

ideals of justice and the objective of protecting public welfare. This also brings into question the issue of price and its determination within the Islamic market. But, first, the role of government or state authority is briefly examined.

The state has a duty to ensure the achievement of public welfare through the enforcement of the ideals of justice. It is duty-bound to act as a moral police over market activities. It must thwart all monopolistic and monopsonistic tendencies, prevent any form of exploitation, and check all immoral behaviors within the market. In a nutshell, it must protect the interest of the public by ensuring a natural flow of commodities (especially those that constitute necessities) within the market as well as fair outcomes in terms of prices and profits. It has the power to punish violators of market principles, and, where necessary, directly intervene to restore market conditions to normalcy when imbalances emerge. The question of what exactly the state authority can do when prices are the subject of market imbalance will be answered under the discussion on price control in Islamic markets. As a precursor, it is important to examine price formation in an Islamic market.

1.6. PRICE AND PROFIT IN THE ISLAMIC MARKET

1.6.1. Price Formation

The central position that justice occupies in the Islamic market doctrine implies that emergent market prices (and profits that accrue to sellers/suppliers) must necessarily be fair to all market participants. This idea finds proof in a prophetic tradition reported in most of the famous books of hadīth collections⁶⁸. It is recorded in *Sunan Abi Dawood*⁶⁹ that:

The people said: Messenger of Allah, prices have shot up, so fix prices for us. Thereupon the Messenger of Allah said: Allah is the one Who fixes prices, Who withholds, gives lavishly and provides, and I hope that

⁶⁸ Musnad Ahmad, Jami' at-Tirmidhi, Sunan Ibn Majah, etc.

⁶⁹ This is a collection of prophet traditions compiled by Imam Abu Dawood Sulayman ibn al-Ash'ath (d. 889)

when I meet Allah, none of you will have any claim on me for an injustice regarding blood or property⁷⁰.

In this report we find that Prophet Muhammad did not only refuse to interfere with the rising prices, but also declared doing so as injustice. This suggests that whatever price that emerges from the market, under normal conditions (i.e. conformity with the ethic of market behavior), must be harmonious with the ideals of justice; they must not unfairly favor either the buyer or the seller, and both must willingly agree with it as the correct valuation of the commodity in question. For the producer/seller this implies that the price is consistent with his/her basic considerations for cost and profitability. For the buyer, this implies that the price carries no element of exploitation or overvaluation.

In light of the above, and other relevant textual and historical information, I categorize price into two levels; the *Basic Price* (P_b), and the *Prevailing Price* (P_p). The *Basic Price* is the price that reflects the exact per unit cost of producing the commodity in question (including the cost incurred in bringing it to the market). It is a simple summation of all the elements of cost (per unit) in the production process. Its relevance is to serve as a benchmark, for both the seller and public authority, in determining the fairness of the terms of exchange transactions. This is in line with, and makes sense of, the ideals of justice and fairness. Ibn Khaldūn (d. 1406), in *The Muqaddimah*, gives some historical proof of the role of cost in pricing. Firstly, he explains that the cities had higher food prices than the desert regions because the cities had custom (and other) duties “levied on (foods) in the markets and at the city gates” by rulers while such levies were “few or nonexistent among (the Bedouins)”⁷¹. What he implies is that the suppliers transferred the burden of these levies onto consumers, thus translating into higher food prices. Secondly, and perhaps more conspicuously, he explains that foodstuff was more expensive in Spain of his era as opposed to the Berber region because

The Christians pushed the Muslims back to the seacoast and the rugged territory there, where (the soil) is poor for the cultivation of grain and little

⁷⁰ Sunan Abi Dawood, Vol. IV, Hadith No. 3451.

⁷¹ Ibn Khaldun, A.B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.), p.278

suited for (the growth of) vegetables...Thus, (the Muslims) had to treat the fields and tracts of land, in order to improve the plants and agriculture there. This treatment required expensive labor (products) and materials, such as fertilizer and other things that had to be procured. Thus, their agricultural activities required considerable expenditures. They calculated these expenditures in fixing their prices, and thus Spain has become an especially expensive region...The Berber countries are in the contrary. Their fields are fine and their soil is good. Therefore, they did not have to procure anything (from outside) in order to be able to cultivate agriculture...This is the reason for the cheapness of foodstuffs in their country⁷².

The *prevailing price*, on the other hand, is the value at which the commodity is actually traded in the market at any particular point in time. This *Prevailing Price*, it appears, is what Ibn Taymiyyah (d. 1328) refers to as the *price of the equivalent* (*thaman al-mithl*), which, in his words, is “that rate at which people sell their goods and which is commonly accepted as equivalent for it and for similar goods at that particular time and place”⁷³. He asserts that the *thaman al-mithl* of a particular good could change as a result of “deficiency in production or decline in import [of the good]”⁷⁴. Clearly, Ibn Taymiyyah (d. 1328) ascribes the determination of the prevailing price to market conditions (that is, availability of the commodity vis-à-vis its demand) at a particular point in time. In the primary texts, we find the prohibition of hoarding, and other practices with similar potential effects, as proof of the admission that prices are indeed affected by the quantity of the commodity available in the market versus the extent of need for it. This is even more explicit in the prophetic tradition in which Prophet Muhammad is reported to have said: “**No one withholds goods till their price rises but a sinner**”⁷⁵. Thus, in a nutshell, prevailing market conditions determine the *Prevailing Price* while the cost of production determines the *Basic Price*. The difference between the *basic price* and the *prevailing price* is the economic gain (profit) that accrues from

⁷² Ibid, p. 279

⁷³ Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*, p. 83.

⁷⁴ Islahi, A.A. (2005), *Contributions of Muslim Scholars to Economic Thought and Analysis*, p. 29.

⁷⁵ Narrated Ma'mar b. Abi Ma'mar, one of the children of 'Adi b. Ka'b: The Messenger of Allah (ﷺ) as saying: “**No one withholds goods till their price rises but a sinner**”. I said to Sa'id (b. al-Musayyab): “**You withhold goods till their price rises**”. He said: “**Ma'mar used to withhold goods till their price rose...**” [Sunan Abi Dawood, Vol. IV, Hadith No. 3447]

an exchange transaction. But before we discuss this in detail, it is important to discuss capital and labor as essential components of the production and exchange process.

1.6.2. Factors of Production and their Returns

Muhammad Bāqir As-Sadr (1935-1980) derives a theory of production from Islamic jurisprudential sources, aspects of which are relevant here. Basically, the theory puts man as the pivot of production activity. Man is not placed on the same status as the various factors he combines to produce. He is an end in the production process, not a means⁷⁶. Factors of production are “servants of man for the accomplishment of the operation of production since the operation of the production is for the sake of man and as such the share of the producing man differs from the share of the material means on the theoretical basis”⁷⁷. This is corroborated by the ideals of justice, mentioned earlier, that make it a *moral duty* upon men to accord each other the value of humanness, and not treat each other as mere tools for private economic gains. As-Sadr highlights two general principles in developing his argument. First, if a man produces a commodity from a natural base material (resources without any specific right to ownership in their natural state) the commodity produced is the property of the person whose labor brought it into being; “labour-works in nature produce no effect or special right for a person until and unless the person himself performs the labour or spends directly his efforts in the work of cutting wood or grass or similar labour-works”⁷⁸. The producer still possesses the right of ownership even if he was employed to undertake the production by someone else (who himself cannot claim ownership of the base material). If other tools (belonging to persons other

⁷⁶ This concept is derived from the Qur'an principle, which makes everything on earth subservient to man: ***“Do you not see that Allah has subjected to you whatever is on the earth and the ships which run through the sea by His command? And He restrains the sky from falling upon the earth, unless by His permission. Indeed Allah, to the people, is Kind and Merciful”*** [Qur'an 22:65 (Saheeh International Translation, 2010)].

⁷⁷ As-Sadr, M.B. (1984). *Iqtisaduna (Our Economics)* (Vol. II (Part II)). (P.E. Trust, Trans.), p. 12.

⁷⁸ Ibid, p. 5.

than the producer) were utilized in the production process, the producer is obliged to pay their owners a compensation for usage. Such compensations are not shares of ownership in the produced article because the tools (or their owners) are not entitled to any such shares; they are obligations due them for services they rendered. Consequently, any such compensation for usage will be meaningless if the tools belong to the producer himself. Second, if the base material upon which labor is exerted to produce a commodity is owned by the one who sanctions the production, then the commodity is the property of the owner of the base resource, and not the laborer. Thus, “when an individual acquires ownership of a material on the basis of labour and the basis continues in existence, it will not be permissible for another person to acquire a new ownership to the material even if he were to contribute to it a new value by his labour”⁷⁹. This principle simply upholds the rule of “constancy of ownership”; it is not a conferment upon capital the right to share in the commodity thereby produced. In other words, the produced commodity is still the base material “in a particular state of its transformation” and thus the property of its initial owner⁸⁰.

There is a separation between ownership of the commodity produced and its exchange value such that

the material forces which contribute their share in the act of the production of a commodity always receive their reward – on the basis of this separation as his (man's) servants...and not in the produced commodity itself as included in the formation of its exchange-value.⁸¹

For tools (other than the base material) there is one mode of reward – compensation for usage. For labor there are two modes – compensation/rent (*‘ujrah’*) and a share in profit/output. In the first mode, labor enters into an agreement with the hirer to provide its service in return for a specified compensation (wage). The hirer/producer is obliged to pay the compensation, upon labor's fulfilment of its obligation, irrespective of whether the outcome of

⁷⁹ Ibid, p. 23

⁸⁰ Ibid, p. 29

⁸¹ As-Sadr, M.B. (1984). *Iqtisaduna (Our Economics)* (Vol. II (Part II)). (P.E. Trust, Trans.), pp. 25-26.

exchange is a gain or loss. Hence, this arrangement promises security of reward for the laborer in the rendering of labor services, though the reward may be relatively smaller and limited. The second mode of reward for labor is a profit-sharing one in which the provider of labor agrees to take a percentage of the emergent profit in return for his/her labor service. Thus, the labor provider becomes a risk-sharing partner with the owner of the base property in the production. In the event of a loss, the base property owner bears it all; the laborer, on his part, gets nothing for the labor expended. Thus, while the laborer stands to gain relatively higher reward under this arrangement, he/she also stands to gain nothing for his/her effort in the event of a loss. *Mudārabah* is an example of this mode, defined as a “profit-sharing commercial partnership in which one partner supplies the capital and the other the time, skill and effort to invest it”⁸². This is the general idea, though As-Sadr insists that the specific term (*mudārabah*) is applicable only in the “commercial orbit defined legislatively as buying and selling operations”⁸³. *Mudārabah*, perhaps, was the commonest non-agricultural capital-labor production arrangement in the entire history of Islamdom. It was the basic arrangement in international commercial trade, both in the early years of Islamdom (the prophetic era) and in later times (caliphal era).

These modes of compensation/reward are based on the principle that acquisition of gain must be founded on labor expended in an activity. The laborer is entitled to a compensation for the labor he applies directly in the production process. The owners of tools utilized in the production process are entitled to recompense because their tools embody some previously expended labor (that prepared them for use), which become utilized in the course of the production. The difference between the two is that the laborer of the tools is paid for the utilization of its previously expended labor while the laborer in the production is paid for the direct utilization of his labor. It follows, as an auxiliary principle, that a person is not permitted to make a gain by

⁸² Donaldson, W.J. (2000). *Sharecropping in the Yemen: A Study in Islamic Theory, Custom and Pragmatism*, p. 35.

⁸³ As-Sadr, M.B. (1984). *Iqtisaduna (Our Economics)* (Vol. II (Part II)). (P.E. Trust, Trans.), p. 35.

selling a previously acquired material for a higher price unless he improves it through some labor expended on it. Thus, we give a general summary of labor and capital as elements of production cost.

1.6.2.1. Capital

We define capital (at the enterprise/firm level) as *any resource that is utilized by labor to produce a commodity or service*⁸⁴; this would include monetary holdings because “they represent enterprise's entitlement to a certain quantity of real goods, existing on the market, which will make up its fixed capital and circulating capital”⁸⁵. Land is excluded (and treated as separate from capital) given its special treatment in Islamic Law. Thus, we have two categories of capital: physical (or fixed) capital – buildings, machinery, necessary tools, etc.; and liquid (monetary) capital. It is relevant to mention two important distinctions between these two forms of capital. First, physical capital itself goes through a production process, through which one thing is transformed into another; money holdings can only be used to either purchase physical capital, or pay for other services related to the production process (such as labor wages). Secondly, as an extension to the first point, physical capital offers direct and immediate benefits (*assured and measurable*) to its user. Though money has benefits to the producer, such benefits do not derive from some labor embodied in the monetary holding, for which compensation is justified; such benefits derive from the inherent feature of the money itself and thus cannot serve as basis for compensation to its original possessor.

Given the above-mentioned distinction, and As-Sadr's point in regards to compensation for usage, a pre-determined rent on *borrowed* tools utilized in the production process would be justified. This is a widely held opinion among

⁸⁴ This definition follows Ibn Khaldun's analysis of the value of labor in the production process, which will be discussed in the next part of this section.

⁸⁵ Attributed to Fabra (1991) in Siddiqui, S.A. (1996), Factors of Production and Factor Returns Under Political Economy of Islam. *Journal of King Abdulaziz University: Islamic Economics*, 8, 3-28, p. 17.

Islamic scholars. Shaykh Yusuf al-Qaradāwī buttresses this point with the assertion that:

When the owner of an article lends it to another person and charges rent for the use of it, he is rightfully entitled to this rent in consideration of the fact that he prepared the article in question for the renter's use; as the article becomes worn out by usage and depreciates over time, the owner deserves compensation...The person who rents a house lives in it, thus receiving a direct benefit, while the man who rents a piece of machinery uses it and thus derives an immediate benefit.⁸⁶

When physical capital belongs to the producer, charging rent on it would be meaningless; it forms part of his/her total capital, ownership and utilization of which entitles him/her to a profit. The proof of this is the *mudārabah* (partnership) and *muzara'ah* (share-cropping) arrangements which entitle the owner of capital only a share in profit based on a preexistent profit/loss sharing agreement. Any rent that accrues to physical capital must be fair both to the owner and the user. Where necessary, the state could set up a mechanism that ensures justice in such rent pricing in order to avoid exploitation; rent-pricing has an effect on the pricing of the commodity intended to be produced with the rented physical capital.

In the case of borrowed money holdings, the owner of capital is not entitled to rent on cash (interest). Such a rent falls under the prohibition of *ribā*, which according to majority, and most correct, opinion, includes all forms interest on capital⁸⁷; it “makes no distinction between usury and interest, between its simple and compound forms, between productive and unproductive loans, or for that matter between money and commodity borrowings”⁸⁸. Further, “[it] makes no difference whether the rate of return is small or big, or a fixed or variable per cent of the principal, or an absolute amount to be paid in advance or on maturity, or a gift or service to be received as a condition for

⁸⁶ Al-Qaradawī, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.), pp. 280-81.

⁸⁷ See Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol II (Book III)), p. 73.

⁸⁸ Hasan, Z. (1983). Theory of Profit: The Islamic Viewpoint. *Journal of Research in Islamic Economics*, 1(1), 3-14, p. 9.

the loan [or credit]”⁸⁹. Commercial capital (cash) differs from physical assets/tools on the bases of the distinctions mentioned above. Thus, borrowed money holding enters the process as either a partner (*mudārabah*) or a goodly loan (*Qard Hasan*) – interest-free loan.

1.6.2.2. Labor

The points established earlier entitle the laborer either a pre-determined wage or a share of profit. This, perhaps, is the meaning of Ibn Khaldūn’s (d. 1406) assertion that “the value of the resulting profit and acquired (capital) must (also) include the value of the labor by which it was obtained”⁹⁰ since “gains and profits, in their entirety or for the most part, are value realized from human labor”⁹¹. If the provider of labor service chooses share of profit over a pre-determined wage, labor wage will not be an element production cost. Labor’s contribution is embodied in the total value created from the production and its reward is a share of the surplus that emerges after exchange. If labor functions on the basis of wage, on the other hand, wage becomes an element of cost and the laborer no longer functions as a risk-taker along with the owner of capital.

The pre-determined wage rate or percentage share (in profit) must be fair to both the owner of capital and the laborer. Labor is not an element that should be unfairly exploited, by the owner[s] of capital, for higher economic gains. The third Qur’anic concept mentioned earlier, under the founding concepts of economic justice, demands fairness in rewarding the service of labor. This means that the Islamic economy is duty-bound to set up a mechanism that ensures fairness and equity in rewarding labor.

⁸⁹ Chapra U. (2006). The Nature of Riba in Islam. *Journal of Islamic Economics and Finance*, 2(1), 7-25, p. 3.

⁹⁰ Ibn Khaldūn, A.B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.), p. 313.

⁹¹ Ibid, pp. 312-14

1.6.3. Profit/Surplus

The difference between the *basic price* and the *prevailing price* is the *profit/surplus* to the seller/producer per unit of the commodity. The *Basic Price* is the summation of all rents paid, as well as other expenses incurred, in the production of a unit of the commodity. Where the provider of labor agrees to a pre-determined wage, the wage also forms part of this price. The *Prevailing Price* derives from existing market conditions; it is the actual rate at which the commodity is traded in the market. Its change is determined by factors that affect the availability of the commodity vis-à-vis its demand. This implies that the *Prevailing Price* could be greater than, less than, or equal to the *Basic Price*. A *surplus (profit)* emerges when the *Prevailing Price* is higher than the *Basic Price*, a loss occurs when the reverse is true. The higher the difference between the prevailing price and the basic price, the larger the per unit profit a tradesman makes. If the production/exchange was organized as a form of partnership between primary capital and labor, this profit will be shared between them on a pre-agreed term. A loss will be borne by the owner of capital while the provider labor gains nothing for his/her labor services.

As implied by the prophet tradition mentioned earlier, the *Prevailing Price* (and profit for that matter) is outside the control of any single agent under normal market conditions. It is the price concordant with the will of God, and this equitably serves the interests of the interacting parties within the market⁹². This is the meaning of Abu Yusuf's (d. 798) comment that "[there] is no definite limit of cheapness and expensiveness that can be ascertained" and that "[prices] are subject to command and decision of Allah"⁹³. Tradesmen must not seek to widen the gap between the two prices (and make larger profits) through immoral means – dishonesty, profiteering, etc. When such acts are suspected, state authority has the duty to intervene in

⁹² Essid, Y. (1987). Islamic Economic Thought. In S.T. Lowry (Ed.), *Pre-Classical Economic Thought From the Greeks to the Scottish Enlightenment* (pp. 77-102)

⁹³ Islahi, A.A. (2005), *Contributions of Muslim Scholars to Economic Thought and Analysis*, p. 28.

order to protect the consuming public. The hadith of the Prophet's refusal to fix prices also points to the fact that there is no defined limit for market (prevailing) price, and for that matter profit, as long as the functioning of the market is not unduly tempered with, and this point has been alluded to by a number of scholars.

1.7. PRICE CONTROL (*TAS'ĪR*) IN ISLAMIC LAW

On the basis of the hadith mentioned earlier, in which Prophet Muhammad refused to fix prices and associated doing so with injustice, majority of the scholars of Islamic jurisprudence hold the opinion that price control (known as *tas'ir* in jurisprudential texts) is, in principle, not permissible⁹⁴; that is, market price should not be authoritatively imposed upon market participants. However, it is also widely held that the Prophet's response to the request (of price imposition) would have been different if there was suspicion of artificial inducement of the prices through deliberate immoral market behaviors. Ibn Taymiyyah (*d.* 1328), for instance, suggests that the event "was a special case and not a general ruling" and that the report did not mention that "someone had refrained from selling [i.e. hoarding] or doing something which was obligatory, or charged more than the compensation of the equivalent (*'iwad al-mithl*)"⁹⁵. Based on this general presumption, majority of the scholars also make price control permissible under circumstances that violate the fair conditions of the market.

The Mālikī and Hanafī schools of Islamic jurisprudence consider it permissible for the state to intervene when market conditions demand for it⁹⁶. Imam Abū Hanīfah, for instance, is reported to have stated that "[the state] should not interfere except in a condition where welfare of the people demands it"⁹⁷,

⁹⁴ Oran, A.F. (2010). An Islamic Socio-Economic Public Interest Theory of Market Regulation. *Review of Islamic Economics*, 14(1), 125-146, p. 134.

⁹⁵ Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*, p. 96.

⁹⁶ Bashar, M.L. (1997). Price Control in an Islamic Economy. *JKAU: Islamic Economics*, 9, 29-52, p. 33.

⁹⁷ Ibid, p. 33

while Imam Mālik “is reported to have approved of *tasʿīr* only if there are excessive price hikes in necessities or if such a rise is seen as imminent”⁹⁸. The followers of Imam Shafiʿī and Imam Ibn Hanbal, on the other hand, oppose price control, and insist on a literal interpretation of the pivotal prophetic tradition of the Prophet’s refusal to fix prices. Ibn Qudāmah al-Maqdisī (d. 1223), a Hanbalī jurist, insists that “the Prophet did not control prices despite people’s pressure on him” and that “the Prophet equated price control with injustice (*zulm*) and injustice is forbidden”⁹⁹. This summarizes the position of this second group on the issue, though Imam ash-Shafiʿī makes a concession for price control when the poor are threatened by hunger due to exorbitant prices¹⁰⁰. Ibn Taymiyyah (d. 1328) also recommends price control when doing so “facilitates the administration of justice among people; i.e. when traders are forced to sell the commodity which they are obliged (by law) to sell at the market price, or they are being prevented from undue profiteering”¹⁰¹. This, generally, is also the view of his student Imam Ibn al-Qayyim al-Jawziyya (d. 1350). Ibn Taymiyyah (d. 1328) further suggests that emergency situations, such as famine, also call for price control, so that when a person possesses “surplus food and people are faced with starvation, he will be forced to sell at a just price”¹⁰². Thus, it appears that the norm is to allow the market to function without any interference. When undue influence is placed on the balance of the market, thereby threatening public interest, the state is permitted (and sometimes obliged) to intervene in order to bring market conditions back to normalcy. How, then, does the state ensure this is done without violating the principles of justice?

Justice in price control implies upholding the fair interests of both the public (buyers) and the suppliers. Thus, Ibn al-Qayyim al-Jawziyya (d. 1350)

⁹⁸ Kamali, M.H. (1994). *Tasʿīr (Price Control) in Islamic Law. The American Journal of Islamic Social Sciences*, 11(1), 25-37, p. 29.

⁹⁹ Bashar, M.L. (1997). Price Control in an Islamic Economy. *JKAU: Islamic Economics*, 9, 29-52, p. 32.

¹⁰⁰ ¹⁰⁰ Kamali, M.H. (1994). *Tasʿīr (Price Control) in Islamic Law. The American Journal of Islamic Social Sciences*, 11(1), 25-37.

¹⁰¹ Bashar, M.L. (1997). Price Control in an Islamic Economy. *JKAU: Islamic Economics*, 9, 29-52, p. 33.

¹⁰² Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*, p. 98.

implores the authority to not ignore the cost and profit considerations of the producer/supplier¹⁰³. The producer is entitled, divinely, to earn a reward for his exertions in a legitimate economic endeavor. Thus, some scholars propose a consultative approach, whereby “the big traders, buyers and other experts” are summoned for price negotiations. Such a method is useful for understanding the cost structure of the producers, as well as the real plight of the buyers, so that a satisfactory outcome is attained. According to Abul Walid Baji (d. 1081), the Mālikī scholar, this approach will ensure that “the traders are guaranteed as much profit as is necessary for carrying out their business and will not burden people”¹⁰⁴. This is one of the functions that the determination of the *Basic Price* performs, i.e., serving as a benchmark for determining the right price when control becomes necessary. In the history of Islamdom, both opinions on price control have been applied in different times, and under different caliphal authorities, though the Shafi’ī-Hanbalī opinion has been the more pervasive.

The function of market supervision, generally, was performed through *al-Hisbah*¹⁰⁵. This name was accorded to market supervision in the era of the ‘Abbasids (with the officeholder known as “*al-Muhtasib*”¹⁰⁶), though the idea, itself, dates back to the era of Prophet Muhammad, who is said to have appointed ‘Umar Ibn al-Khattab and Sa’ad Ibn Al A’as Umayyah to oversee markets in al-Madinah and Makkah respectively¹⁰⁷. Further, al-Ghazālī (d. 1111) suggests that ‘Ali Ibn Abī Tālib “used to roam in the bazar of Kūfa”,

¹⁰³ Ghazanfar, S.M., & Islahi, A.A. (2003). Explorations in Medieval Arab-Islamic Economic Thought: Some Aspects of Ibn Al-Qayyim’s Economics (AH 691-751/1292-1350 AD). In S.M. Ghazanfar (Ed.), *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp. 128-141).

¹⁰⁴ Bashar, M.L. (1997). Price Control in an Islamic Economy. *JKAU: Islamic Economics*, 9, 29-52, p. 34.

¹⁰⁵ *Hisbah*, in the general sense, is a Qur’anic concept of enjoining good and forbidding evil: “**And let there be [arising] from you a nation inviting to [all that is] good, enjoining what is right and forbidding what is wrong, and those will be the successful**” [Qur’an 3:104 (Saheeh International Translation, 2010)].

¹⁰⁶ The officeholder was known as *sahib al-sūq* prior to the ‘Abbasids.

¹⁰⁷ Rashid, S.K. (2008). Peculiarities and Religious Underlining of ADR in Islamic Law. *Mediation in Asia Pacific: Constraints and Challenges* [Conference]. Kuala Lumpur.

presumably during his term as the fourth caliph of Islamdom¹⁰⁸, to check the pricing activities of merchants and would reprimand culprits for their wrongdoings¹⁰⁹. Islamdom, between the assassination of the third caliph¹¹⁰ and the enthronement of the 'Abbāsids, was largely plagued with political turmoil. However, sometime after the rise of the 'Abbāsids to the caliphate, Islamdom experienced a period of relative peace, which allowed the economy to flourish, with international commerce playing an important role. Though some market supervision existed before this era of economic prosperity, as mentioned earlier, it is recorded that the 'Abbasids, especially, intensified the supervision of the market through the *hisbah*, and supported it with the moral police [*Shurtah*] in the wake of the growth in commerce and general economic activities¹¹¹. Later, when the Saljūks ascended the throne of leadership in the 11th century, following the erosion of the 'Abbasids' authority, *Nizām al-Mulk*¹¹² recommended a continuation of the tradition of the *hisbah*. He asserted that if the office was not strengthened by the rulers, "the poor would be in trouble and the people of the bazaar would buy and sell as they liked, middlemen...would become dominant, corruption open, and the Shari'a without prestige"¹¹³; the sultans responded positively to his recommendation and supported the functioning of the *hisbah*. However, the office became known as *ihtisāb* in Saljūk-dominated territories. The new name continued to be used under the Ottoman caliphate, while the *muhtasib* became known as *ihtisāb aghasi* (or *emini*).

Generally, the 'Abbāsīd authority is said to have avoided price fixation in its market regulatory activities. The *muhtasib* "saw it as a duty to prevent price

¹⁰⁸ Shortly after his enthronement as the fourth caliph of Islamdom, 'Ali Ibn Abi Talib moved administrative activities away from al-Madīna to Kūfa, thus effectively making Kūfa the new capital of Islamdom. Central administrative activities never returned to Arabia afterwards.

¹⁰⁹ Al-Ghazālī, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. II). (Fazl-ul-Karim, Trans.), p.55.

¹¹⁰ 'Uthmān Ibn Affān was the third caliph, following Abu Bakr (first) and 'Umar Ibn al-Khattab (second).

¹¹¹ Oran, A.F., & Khaznekatbi, G., (2009), The Economic System Under the 'Abbasid Dynasty. In M.N. Siddiqi (Ed.), *Encyclopaedia of Islamic Economics* (pp. 257-266)

¹¹² Abu 'Ali Hasan ibn 'Ali ibn Ishaq al-Tusi (1018/9-1092) [*Nizām al-Mulk*] became an influential policy advisor to the Saljūk Sultans when ascended power.

¹¹³ Lewis, B., Menage, V.L., Pellat, C., & Schacht, J. (Eds.) (1986), *The Encyclopaedia of Islam* (Vol. III), p. 490

controls by ensuring that merchants and traders avoided arbitrary price changes in essential commodities”¹¹⁴. Available record does not also point to any government in historical Islamdom as having, on a deliberate and consistent basis, applied price fixation in the markets, thus leading to the conclusion, by Lewis, et al. (1986), that the *muhtasib* “*did not normally have power to fix them [i.e., prices]*”, and would punish merchants “whose prices were higher than the accepted rate [i.e. the *prevailing price*]”¹¹⁵. The reason for this could be ideological or, perhaps, simply the absence of conditions that necessitated such an intervention. The case of Mamlūk-Egypt, however, is an exception. Between the fifteen and sixteenth centuries, Egyptian districts experienced high and volatile food prices, with intermittent scarcity of bread causing mayhem¹¹⁶. However, in spite of the intermittent food shortages, high prices, and the general hardships these brought upon the poor, price fixation was not one of the measures the state adopted. One of the reasons (for the volatile and high food prices) was that the sultan and other senior state officials, who, themselves, engaged in the trading of grains, used their position of power to create monopoly in the grain market. In 1431, for instance, “a decree was issued to buy all the yields from all areas of Egypt for the sultan due to its cheap prices, and that for the purpose of storing those yields until the prices go up so that they can be traded”¹¹⁷. Such a violation of the Islamic moral code would have been difficult to check by the *muhtasib* even if he/she was willing to do so, especially since it originated from members of the political elite. Thus, the office of the *hisbah* was, perhaps, incapacitated to deal with such issues in Mamlūk-Egypt.

The Ottoman era represents a general exception to the history of market regulation in Islamdom; a deliberate policy known as *nerkh* was

¹¹⁴ Kamali, M.H. (1994). Tas'ir (Price Control) in Islamic Law. *The American Journal of Islamic Social Sciences*, 11(1), 25-37, p. 29.

¹¹⁵ Lewis, B., Menage, V.L., Pellat, C., & Schacht, J. (Eds.) (1986), *The Encyclopaedia of Islam* (Vol. III), p. 488

¹¹⁶ Alazzam, I.M. (2014). Factors Influencing the Phenomenon of Rising Grain and Foodstuffs Prices in Egypt during the Circassian Mamluks Era (784 AH/1382 AD – 923 AH/1517 AD). *Asian Culture and History*, 6(1), 53-63.

¹¹⁷ Ibid, p. 56

institutionalized to regulate the market, and among its functions was the fixing of prices for necessities. Under this system, prices were determined by a committee that included the leadership of guilds, experts, and state officers in charge of market activities¹¹⁸. Pricing took great consideration for cost of production and reasonable profit margins for suppliers. Consequently, the “[nerkh] prices were flexible vis-à-vis genuine changes in supply conditions”¹¹⁹. Other aspects of the system ensured a relatively even distribution of merchandise by transferring traders to markets in need¹²⁰. Also, “[price] discrepancy was allowed over certain markets in different locations” to ensure that “flow of goods, especially foodstuff, from countryside to the cities did not cease”¹²¹. However, such an intervention, according to researchers, was not in vain; the structure of the Ottoman economy necessitated such a system¹²². As an economy with the features of a traditional society, insufficiency in production could easily have resulted in higher prices while excessive production could cause prices to plummet; this regulatory system was thus “in the interest of both consumer and producer”¹²³. Besides, the agricultural supplies were, generally, volatile, while the anticipated increased demand in the month of Ramadan resulted in advanced seasonal adjustments¹²⁴.

1.8. CONCLUSION

In this study we have sought to explain the Islamic market doctrine within a functional framework. Islamic Law (*Sharī'ah*) seeks the promotion and advancement of public good, and each aspect of the law plays its role in achieving this end. Imperative to the achievement of public good is the

¹¹⁸ Oğuz, O., & Tabakoğlu, A. (1991). An Historical Approach to Islamic Pricing Policy: A Research on the Ottoman Price System and its Application. *JKAU: Islamic Econ.*, 3, 63-79.

¹¹⁹ Ibid, p. 71

¹²⁰ ibid

¹²¹ Ibid, p. 71

¹²² ibid

¹²³ İnalcık, H. (1994). *An Economic and Social History of the Ottoman Empire Volume I: 1300-1600*. (H. İnalcık & D. Quataert, Eds.), p. 53.

¹²⁴ Oğuz, O., & Tabakoğlu, A. (1991). An Historical Approach to Islamic Pricing Policy: A Research on the Ottoman Price System and its Application. *JKAU: Islamic Econ.*, 3, 63-79.

establishment of justice at all levels, and in all aspects, of society. In light of this, the *Sharī'ah* sets up its economic institution in such a way that ensures the fulfilment of its role in the advancement of public good. Thus, the Islamic economic doctrine is oriented towards establishing a society that promotes the overall economic well-being of its members by ensuring the right to private property and fair opportunities for economic gains, curbing exploitative tendencies of economic agents towards one another, and other measures like these that are consistent with the value system of Islam. Consequently, the market structure is set up, ideally, to provide for the exchange needs of society in an equitable manner, to provide fair opportunity for private gains through exchange, and to ensure justice and fairness in all exchange dealings. Individual interests are important in this, but their advancement must not put public welfare in danger.

The Islamic market, thus, upholds freedom of the individual to engage in trade and earn fair rewards, and the freedom of the market itself to function without undue external influence. Normal market conditions, of scarcity and abundance, interact to bring about the prevailing price, which in turn determines the profit on the exchange of a commodity. Such a price is outside the control of any individual market participant[s], and is seen, philosophically, as harmonious with the will of God. The freedom accorded to individual members of society, on market participation, however, is not absolute; it requires that market behaviors are harmonious with Islamic ethics. This implies that individuals must refrain from dealing in things that are, in themselves, prohibited for public consumption in Islamic Law (such as alcohol, pork, etc.). It also implies that individuals refrain from self-centered behaviors that put the welfare of society into jeopardy; behaviors that are exploitative in nature, and are intended to create advantages for individuals to the detriment of the larger society.

The state has a duty to establish a market that fulfils the abovementioned ideals. Its duty also extends to overseeing market behaviors to ensure conformity with Islamic ethics. This implies two things. First, it must neither

impede individual freedom nor interfere with the normal conditions of the market when there is no reason to do so. Second, it must ensure that market participants do not unduly interfere with the normal working of the market through self-centered behaviors. In the event of such unethical behaviors, the public authority must act to restore the market to its goal-fulfilling path. On price control as a corrective measure, there are two basic juristic opinions. The first (Hanafī-Mālikī) opinion grants the state a right to fix prices of commodities in the interests of both the public and market suppliers; the second (Shafī'ī-Hanbalī) opinion suggests otherwise. Both positions are practically represented in the annals of market supervision in historical Islamdom. Where the state opts for price fixation, it is required to act in accordance with the principle of just valuation; it is required to take the interest of the merchant into consideration so as to produce outcomes that are fair from the merchant's perspective. Both the rule and the exception [to the rule] are concordant with the Qur'anic injunction: *"O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent"*¹²⁵.

¹²⁵ Qur'an 4:29 (Saheeh International Translation, 2010)

CHAPTER 2: THE PHILOSOPHY OF ECONOMIC PURSUITS AND PROPERTY RIGHTS IN THE ISLAMIC DOCTRINAL CONTEXT

2.1. ABSTRACT

This study attempted to explicate the Islamic concept of property rights within the context of the Islamic philosophy of life. It has been established that the objective of human life on earth, according to the Islamic doctrine, is the attainment of eternal success through belief in God and acting in harmony with God's moral dictates. The life of man must be conditioned in a manner that prepares him for the effective pursuit of this spiritual endeavor. This requires the fulfilment of the basic needs of life (to ensure survival, continuity, and effective functioning), which, in turn, requires, among other things, an equitable opportunity for wealth acquisition. Thus, economic pursuit is primarily meaningful in terms of its contribution to the spiritual struggle that defines the life of man. The state, which is divinely-ordained to implement divine laws, is required to facilitate the spiritual path of the individual. Its economic function includes establishing structures that ensure equitable economic opportunities for all members of society, and providing needs that individuals cannot attain by themselves. Thus, in addition to private ownership, Islamic law recognizes state ownership and public ownership, both of which facilitate the state's performance of its duties. Both the individual and the state are necessarily obliged to act in accordance with the moral dictates of God in their respective endeavors, including their economic engagements.

Keywords: Islam, economic pursuit, spirituality, private ownership, state ownership, public ownership

2.2. INTRODUCTION

Islam, as a system of life, demands the application of its doctrine to all aspects of the lives of its adherents, inferable from the Qur'ānic command to those “who have believed” to “enter into Islam completely”¹²⁶. One of the earliest scholarly commentators of the Qur'ān, Ibn Kathīr (*d.* 1373), explained this command as a divine call to Muslims “to implement all of Islam's legislation and law, to adhere to all of its commandments, as much as they can, and to refrain from all of its prohibitions”¹²⁷. Such a demand emanates from the Islamic philosophy [and definition] of human life on earth. Life on earth, according to Islam, is test ground for spiritual success. The ultimate preoccupation of man should be to earn the pleasure of God¹²⁸ as a means to bliss in an eternal life after death. The earth is not a permanent abode for man, but a “period of probation”, and “his objective should be to merit the pleasure of Allah so as to emerge successful in the final test”¹²⁹. A successful spiritual outcome, in this test called “life”, requires harmony between belief (of the heart) and actions of the limbs, which, in turn, requires efforts towards adherence to the totality of God's dictates to mankind, as mentioned above. This demand of total obedience further implies that there is no “significant separation between life-spiritual and life-mundane”¹³⁰. Every single aspect of life (including livelihood, social relations, etc.) is integrated into a whole, and must, thus, unfold within a moral ethos that is harmonious with God's prescriptions. Islam “does not endorse the dualistic philosophy of ‘Give unto God what is God's and unto Caesar what is Caesar's’, because everything belongs to God and nothing...belongs to Caesar – in fact, [not] to any

¹²⁶ “O you who have believed, enter into Islam completely [and perfectly] and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy” [Qur'ān 2:208; (Saheeh International Translation, 2010)]

¹²⁷ Ibn Kathir, A. F.I. (2003). *Tafsir Ibn Kathir* (Vol. I). (J. Abualrub, N. Khitab, H. Khitab, A. Walker, M. Al-Jibali, & S. Ayub, Trans.), p. 581.

¹²⁸ “And I did not create the jinn and mankind except to worship Me” [Qur'ān 51:56; (Saheeh International Translation, 2010)]

¹²⁹ Mawdudi, S.A. (1996). *Islamic Way of Life*, p. 2.

¹³⁰ *Ibid*, p. 1

creature”¹³¹. Thus, morality and religiosity are inseparable components of the *integrated life* that a Muslim must live; “the very concept of ‘godliness’ loses all meaning without the active pursuit of the highest Morality”¹³².

This integrated conception of life informed the intellectual methodology of the Islamic scholars of earlier times. Their discourses on social subjects were not conducted in isolation; such discourses were conducted within the broad framework of the Islamic guide to life (the *Sharī‘ah*), an approach S.M. Ghazanfar¹³³ labels as the “holistic intellectual approach”¹³⁴. An example of the application of such a methodology is Imam al-Ghazālī’s (d. 1111) epic book, *Ihya Ulum ud-Din*, by which he intended to revive the learning of “the rules and regulations for acquiring ranks in the hereafter”¹³⁵. While the first volume of the book laid the foundation of faith and tackled issues of rituals, the rest of the three volumes attempted to encompass all other aspects of a Muslim’s life, such as social relations, economic pursuits, and so on, all connected to the spiritual enrichment of the soul as means to eternal success. Thus, the economic discourse found in *Ihya Ulum ud-Din*, for instance, is not fully understandable if disconnected from the overall theme and context of the book. A similar style is traceable in the works of other prominent scholars of the early times, including Ibn Taymiyyah (d. 1328) and Ibn al-Qayyim (d. 1350). If life is one integrated whole with interrelated compartments that work together towards a single spiritual goal, then the knowledge that dictates how such a life should be lived must necessarily be one integrated whole with the same spiritual orientation as the life it is meant to guide.

¹³¹ Ansari, M. F.-u.-R. (2008). *The Qur’ānic Foundations and Structure of Muslim Society* (Fourth ed., vol. I), p. 163.

¹³² Ibid, p. XXXVIII.

¹³³ Though he mentioned this in specific reference to Imam Al-Ghazālī’s (1058-1111 CE), a similar attribution has been made to other Islamic scholars of the Medieval Period, such as Ibn Taymiyyah. Indeed the intellectual preoccupation of the time was to outline a life-guide that encompassed all relevant aspects of the life Muslims were expected to live.

¹³⁴ Ghazanfar, S.M., & Islahi, A.A. (2003). Economic Thought of an Arab Scholastic Abu Hamid Al-Ghazali (AH 450-505/1058-1111 AD). In *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.23-44), p. 23.

¹³⁵ Al-Ghazali, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. II). (Fazl-ul-Karim, Trans.), p. 13.

The individual, however, is not capable of achieving his goals in isolation from other human beings; the accomplishment of his survival and aspirations requires a social setting, that creates avenue for cooperation with other individuals, who themselves have aspirations of their own to accomplish. Such a social setting itself (i.e., society) must possess some basic arrangement (for internal order, balance, and organization) to be capable of facilitating the individual's quests; this implies the need for the society to possess a system of law and order enforced by a body widely accepted as authority. Islam recognizes this and, thus, entrusts the "state" with the duty of organizing society in a manner that ensures the provision of the basics required by all individuals in order to fulfil their life aspirations. In a nutshell, "[the] individual's success in the test depends not only on his efforts but also on the collective efforts through the society and the society in its institutional aspect, the state"¹³⁶. Thus, while the divine law, as the apparatus for social organization and individual behavior, addresses the needs of an individual on a spiritual path, it also addresses the needs of state as the vicegerent of God on earth (i.e., the organizer of society and the enforcer of divine law).

Islamic economic thought, which derives, primarily, from divine law and prophetic traditions, reflects this interconnected dual treatment of needs. It is integrally connected with the overall Islamic philosophy of life, informed by the primary sources of Islamic knowledge as well as the endeavors of the scholars of early times. Any academic exploration of Islamic economic thought, wholly or in part, must acknowledge, and apply, this interconnectedness to arrive at a holistic understanding. This paper seeks to apply this understanding to the study of property rights in Islam. The nature of our inquiry requires, first and foremost, an analysis of the Islamic philosophy of economic pursuits, which is, essentially, connected with the idea of life as a moral struggle towards spiritual success. This prelude, as we would see, is very important to the key question that this study seeks to answer, which is the question of the right to own property and the freedom to engage in

¹³⁶ Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*, p. 111.

economic enterprise within the Islamic politico-intellectual context. We will also analyze the economic function of the state, within its broad functional role, as a basis of explaining why the state is granted an active role (rather than a passive one) in the economic affairs of society. Finally, we will use the Islamic system of primary wealth distribution to establish how the law addresses the needs of the individual, the society, and the state, each of which has specific needs whose fulfilment must be facilitated.

In regards to our discussion, a point needs to be clarified. We acknowledge that, conceptually, wealth acquisition and economic pursuit/productive activity are not exactly the same thing; productive activity is a part of the broad concept of wealth acquisition. This is especially clear when we consider that inheritance is an integral part of Islamic Law, and through it individuals are able to acquire wealth without expending labor on a productive activity, though the wealth subject to inheritance, itself, may have been acquired through some economic pursuit. However, in this study, we will use the two expressions (i.e., wealth acquisition and economic pursuit) interchangeably, in the sense of an active economic pursuit intended to attain some economic gain.

The rest of the paper is organized in seven sections¹³⁷. In section two, we attempt to explicate the Islamic philosophy of economic pursuits, as a foundation for understanding the nature of property rights in Islam. Section three explains the functional role of the state as the vicegerent of God, as well as its economic function, for which it is granted an active role in the economic affairs of society; we explain the two types of ownership (public and state) which help the state in accomplishing its task of promoting the overall economic welfare of society. In section four we examine private property right in Islam, and issues related to it as addressed in juristic sources. Finally, in sections six and seven, we examine primary resource (land, water, minerals/mines) distribution in an Islamic society, and discuss a special institution of primary wealth distribution known as the *iqṭā'*. Section eight

¹³⁷ In total, the study is made up of eight sections, the introductory section being the first.

discusses ownership and production within a spiritual context, explaining how the two are embedded in spirituality just as any endeavor of the individual. And we draw conclusion on study in the final section.

2.3. THE ISLAMIC PHILOSOPHY OF ECONOMIC PURSUITS

From a general perspective, there are basic things that the individual needs, in regular supply, to live a meaningful life in society. These things are identified, universally, as food, shelter, and clothing, among others. These are basic necessities of life, without which life continuity (i.e., survival) of any member of society is threatened. On the basis of this understanding, Ibn Khaldūn (d. 1406) classifies agriculture, architecture, tailoring, carpentry, and weaving as “necessary” crafts for any civilization; he says of agriculture, for instance, that “it provides the food that is the main factor in perfecting human life, since man can exist without anything else but not without food”¹³⁸. Man must, thus, acquire these basic necessities, directly or indirectly, in order to enhance the quality of his life, and this, necessarily, makes it obligatory for him to engage in some form of productive activity, all things being equal. From the Islamic perspective, this reasoning concerning the necessities of life applies, especially given Islam’s recognition of the equal value God placed in all human beings – the value of humanness¹³⁹. In respect of this, al-Ghazālī says

Food is for preservation of the body, dress is for protection of the body from heat and cold, and abode is for protection of the body and to keep away the causes of destruction of lives and wealth, God created these things for the benefit of mankind¹⁴⁰

The God-given humanness in all individuals has a right of preservation upon the individual, for which he/she must strive to fulfill. With respect to clothing,

¹³⁸ Ibn Khaldun, A.B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.), p. 357.

¹³⁹ “***And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference***” [Qur’an 17:70 (Saheeh International Translation, 2010)]

¹⁴⁰ Al-Ghazali, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. III). (Fazl-ul-Karim, Trans.), p. 173.

for instance, God emphasizes its role as a covering for the human body, not only for Muslims but for all of mankind¹⁴¹. The Prophet is also reported to have said: “*There is no right for the **son of Adam** except in these things: a house in which he lives, a garment to cover his nakedness, a piece of bread and water*”¹⁴².

Moreover, the preservation of the inherent human value is an integral part of the spiritual quest that defines a Muslim’s life, which is explained in the introductory part of this study. This spiritual quest will be ineffectual without the fulfilment of the basic necessities of life. Thus, the effort exerted to fulfil the basic needs of life itself assumes a spiritual definition. In respect of this, Imam al-Ghazālī (d. 1111) asserts that the necessities of life (such as food, dress, abode, etc.) are the source of the strength that man requires for divine service, and without them “divine service is not possible”¹⁴³. Consequently, he concludes that the pursuit of wealth that is intended as a means to fulfilling basic needs of life, themselves perceived as requisites for spirituality, is a spiritual exercise¹⁴⁴. Such a view also derives from a prophetic tradition, in which economic pursuit is likened to a struggle in God’s cause [*jihād*]¹⁴⁵. As a result, economic pursuit is highly recommended in the primary texts of Islam, sometimes made obligatory upon certain category of persons in society. It is part of God’s natural justice that He resourced the earth with means of livelihood for man, and blessed him with the ability to learn the ways of attaining those means¹⁴⁶. Man, on his part, must develop the requisite skills for, and actively pursue, the acquisition of these means for spiritually meaningful purposes. There are no limits on this path except moral ones,

¹⁴¹ “**O children of Adam, We have bestowed upon you clothing to conceal your private parts and as adornment**” [Qur’an 7: 26 (Saheeh International Translation, 2010)].

¹⁴² Jāmi’ at-Tirmidhi, Vol. 4, Hadith No. 2341.

¹⁴³ Al-Ghazali, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. III). (Fazl-ul-Karim, Trans.), p. 179

¹⁴⁴ Ibid.

¹⁴⁵ See Al-Ghazali A. M. (2001). *Kīmiyā-l-Sa’ādat [Alchemy of Eternal Bliss]*. (M.A. Bilal, Trans.), p. 465; also recorded as authentic [sahih] in Sunan al-Kubra [of Imam al-Bayhaqi]

¹⁴⁶ “**And We have certainly established you upon the earth and made for you therein ways of livelihood. Little are you grateful**” [Qur’an 7:10 (Saheeh International Translation, 2010)].

examples of which include the avoidance of damage (to the spirituality of the self and to the personality and spirituality of others), the avoidance of wastage, the avoidance of exploitation, etc.

The able-bodied man is obliged, as part of his spiritual quest, to seek means of, at least, fulfilling his basic needs and the needs of those members of society under his direct responsibility¹⁴⁷; he is not permitted to resort to perpetual begging or dependence on charity to fulfil his needs¹⁴⁸. Al-Qaradāwī opines that “[it] is not permissible for man to avoid working for a living on the pretext of devoting his life to worship or dependence on Allah, as gold and silver certainly do not fall from the sky”¹⁴⁹. And, just as the individual’s life demands the fulfilment of needs for effectiveness of the moral struggle, so does the lives of those whose rights to those needs are upon him (i.e., his dependents). When he pursues economic activity with the additional intent of fulfilling his responsibility towards his dependents, the activity assumes additional spiritual worth for two reasons: (a) the fulfilment of a divinely-ordained responsibility, and (b) the enhancement of another individual’s spiritual path. Additionally, al-Ghazālī (*d.* 1111) mentions other benefits of wealth, for which its acquisition has spiritual worth: fulfilment of some religious duties (such as the pilgrimage of the *Hājj* and the payment of *Zakāt*), pursuit of charitable ventures, preservation of self-honor (through the avoidance of destitution and subsequent dependence on others), etc.¹⁵⁰ He says, for instance, of charitable ventures whose benefits are perpetual (such as building an orphanage), that the “soul [of the doer] benefits even after

¹⁴⁷ Islam places responsibility upon man [i.e., able-bodied male] to cater for the basic needs of his wife (or wives), children, and parents who are weak and unable to cater for themselves; Ibn Taymiyyah (*d.* 1328) opines that “it is wholly obligatory (*fard ‘ain*) for the individual to spend in support of himself and his household” [Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*, p. 113].

¹⁴⁸ The Prophet is reported to have said: “When a man is always begging from people, he would meet Allah (in a state) that there would be no flesh on his face” [Sahih Muslim, Vol. 3, Hadith No. 2396].

¹⁴⁹ Al-Qaradawī, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.), p. 121.

¹⁵⁰ Al-Ghazali, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. III). (Fazl-ul-Karim, Trans.).

death”¹⁵¹. These additional (spiritual) functions of wealth imply that man must endeavor to acquire more than is necessary for his basic needs; not to pile it up and use it for activities that deflate his spiritual essence, but to utilize it for ventures that enhance his spiritual value (such as mentioned above). İnalçık quotes Kinalızade (d. 1561) as saying that “a craftsman should endeavor to make the best product possible without being content merely to earn his livelihood”¹⁵². While this is an enjoinder for the producer to ensure quality in what he/she produces, it is also an encouragement of the individual economic agent to produce beyond the level of subsistence. Production beyond subsistence is not only beneficial to the individual (for things he is able to do in the spiritual path), but also for society in general; it will allow for specialization in production, which, in turn, would guarantee all sections of society access to material needs given an effective exchange arrangement.

Thus, while spirituality is the essence of life, economic pursuit is a necessary part of it; not only for the individual, but for the society at large. Just as no individual can, ordinarily, live a meaningful life without the basic things (fulfilment of which require some productive activity), no society can exist, meaningfully, whose productive sector is dormant. The life of the individual must be balanced, likewise the life of society¹⁵³. Many early scholars of Islam (such as al-Ghazālī (d. 1111) and Ibn Taymiyyah (d. 1328)) considered it a collective social responsibility (*fard kifāyah*)¹⁵⁴ for society to possess an active productive sector, especially in areas of need (such as agriculture, textile, construction, etc.). Many contemporary scholars share a similar view; al-Qaradāwī, for instance, asserts that “the essential industries and professions are not merely permitted by the Islamic *Sharī‘ah*; they are in fact an obligation

¹⁵¹ Ibid, p. 180

¹⁵² İnalçık, H. (1994). *An Economic and Social History of the Ottoman Empire Volume I: 1300-1600*. (H. İnalçık, & D. Quataert, Eds.), p. 45.

¹⁵³ “**And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah , and remember Allah often that you may succeed**” [62:10 (Saheeh International Translation, 2010)]

¹⁵⁴ The entire society is answerable to God if the duty is not fulfilled.

on the Muslim community as a whole”¹⁵⁵. Additionally, the responsibility upon the individual extends to producing beyond subsistence levels. This has additional benefits to the individual’s spiritual quest, and to the society. Imam al-Ghazālī (*d.* 1111) alludes to how the spiritual path of society will be negatively affected if members of society limit their productive activities to subsistence levels:

if people stay confined to a subsistence level (*sadd al ramaq*) and become very feeble, deaths will increase, all work and industry will come to a halt, and society will perish. Further, religion will be destroyed, as the worldly life is the preparation for the Hereafter.¹⁵⁶

Thus, the individual must consider the needs of society as well in his/her economic decision-making. When farmers, for instance, produce food beyond their immediate need for subsistence, they are able to supply their surpluses to other members of society who are into the production of other (necessary) materials. In this way, various segments of society are able to focus on producing specific needs and cooperate in the distribution of surpluses created therefrom. The collective outcome of individual productive activities guarantees for society the availability of various goods classified as necessities, access of which is guaranteed and facilitated by the institution of exchange. However, the social organization must facilitate the efforts of the individual members of society by guaranteeing fairly equitable access to opportunities of production and exchange.

The above points notwithstanding, the endeavor of wealth acquisition possesses potentially injurious consequences for the spirituality of man, and, consequently, the society. Man, in his innate nature, has an insatiable desire to acquire and pile wealth¹⁵⁷. In regards to this al-Ghazālī (*d.* 1111) asserts

¹⁵⁵ Al-Qaradawi, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.), p. 126.

¹⁵⁶ Ghazanfar, S.M., & Islahi, A.A. (2003). Economic Thought of an Arab Scholastic Abu Hamid Al-Ghazali (AH 450-505/1058-1111 AD). In *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.23-44), p. 26.

¹⁵⁷ “**And indeed he [man] is, in love of wealth, intense**” [Qur’an 100:8 (Saheeh International Translation, 2010)]. According to Ibn Kathīr (*d.* 1373), this verse implies either that man is “severe in his love of wealth” or that “he is covetous and stingy due to the love of

that “[one] of the dangers of wealth is that it cannot satisfy anybody”¹⁵⁸; this implies that, naturally, the self always desires more of wealth than it already possesses. When this tendency gains strength¹⁵⁹, it relegates spirituality, and usurps its role as the prime motive of economic pursuit. Eventually, the spiritual quest of the individual suffers in two ways. **(1)** Spirituality no longer functions as the main driver of economic activity; worldly acquisition takes that role. Consequently, man becomes driven by the acquisitive self, and every other aspect of his life becomes organized around his economics. **(2)** When acquisition drives action, morality (i.e. conformity with spiritual ethics) loses value in the life of the individual. Such individuals would either disregard moral bounds in their actions or seek to manipulate the moral code (or interpret it) in their economic favor. Thus, Prophet Muhammad warns: **“Two wolves roaming freely among a flock [of] sheep are less destructive to them than the passion of a man for wealth and fame is to his religion”**¹⁶⁰. With the spread of such (mindsets and) behaviors, society becomes increasingly re-oriented towards a social organization under the control of its economic institution; every aspect of society becomes subordinate to its economy. This is summed up in the following prophetic tradition, in which the Prophet is reported to have warned:

Beware of greed¹⁶¹, for it was only greed that destroyed those who came before you. It commanded them to be miserly and they did so. It commanded them to sever their family ties and they did so. It commanded them to behave wickedly and they did so.¹⁶²

wealth” [Ibn Kathir, A.-F.I. (2003). *Tafsīr Ibn Kathīr* (Vol. X). (J. Abualrub, N. Khitab, H. Khitab, A. Walker, M. Al-Jibal, & S. Ayub, Trans.), p. 568].

¹⁵⁸ Al-Ghazali, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. III). (Fazl-ul-Karim, Trans.), p. 175.

¹⁵⁹ Ever-present spiritual consciousness is the remedy to keeping the self within limits in the pursuit of wealth. The dwindling of this spiritual consciousness puts man in danger of losing sight of the spiritual essence of life, and, gradually, elevates ephemeral goals as motives behind actions.

¹⁶⁰ Jāmi’ at-Tirmidhi, Vol. 4, Hadith No. 2376

¹⁶¹ The Arabic word used in the hadith is ‘ash-shuhh [الشُّحّ]’, which is also translated as ‘avarice’ [see Badawi, E.M., & Abdel Haleem, M. (2008). *Arabic-English Dictionary of Qur’anic Usage*, p. 476]

¹⁶² Sunan Abū Dawood, Vol. 2, Hadith No. 1698

This report depicts the effect of widespread materialistic behaviors on the moral fabric of society. It transforms society from being morally-conscious to being morally-insensitive; from one which dominates its economy to one dominated by it. This possibility makes ever more important the role of moral propaganda and state authority in ensuring that individual economic pursuits remain, largely, embedded in spirituality, in the interest of both the individual and public good. In the history of Islamic societies moral propaganda and state intervention have both played important roles in ensuring the spiritual alertness of the masses. The institution of the *Hisbah*, founded on the principle of enjoining good and forbidding evil¹⁶³, has played that role in (almost) all historical episodes of the Islamic society, albeit under different names.

2.4. THE FUNCTIONAL ROLE OF THE STATE

The state functions as the vicegerent of God on earth¹⁶⁴. It has the duty to implement God's Law and ensure the creation of society as envisioned in the divine scriptures. The goal of the state, in harmony with the goal of Divine Law, should be the creation of society that is healthy in all its interconnected aspects, through the active pursuit of the spiritual, moral, physical, intellectual, and social development of the individual members (of society)¹⁶⁵. In line with this, it must establish structures that facilitate the establishment of order and security, moral education and training, the establishment and promotion of justice (in all its forms), and all other measures that facilitate the positive development of individual personalities within society¹⁶⁶. In doing this, the state must resort to the sources of Divine Law (*Sharī'ah*) as its guide, which implies that the structure of the Islamic society must reflect the ideals of

¹⁶³ See Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)

¹⁶⁴ Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*.

¹⁶⁵ Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol II (Book III)).

¹⁶⁶ *ibid*

the Qur'ān (and the prophetic records of its application – Hadīth). Justice¹⁶⁷, which is an integral Qur'ānic ideal, must be entrenched within the structures of society, and at all levels; its establishment in society is a divinely-imposed duty upon the state¹⁶⁸. This implies granting all members of society (including the weak and vulnerable) their divinely-ordained rights, as well as creating the necessary structures that facilitate the individual's pursuit of these rights. Thus, broadly, the state, in its functioning as the guarantor of public welfare, facilitates the individual's spiritual pursuit by equipping him/her in all relevant faculties (morally, intellectually, materially, etc.).

Economically, the state is duty-bound to pursue the collective welfare of the members of society. It must enhance the economic path of those capable of active economic pursuit, and ensure systemic support for those incapable. In this regard, three things are required of the state. First, it must establish the divinely-ordained economic structure of distribution, production, and exchange. Second, it must not unduly impede the divinely-ordained economic rights of individuals. Third, it must establish the divinely-ordained welfare system through which the weak members of society are taken care of by the society. This implies that the state has an active stake in the economic affairs of society, not a passive one. In fact, it has an oversight responsibility on all levels of the economic organization of society. It must organize the structure of the economy in a manner that ensures equitable distribution of base/primary resources for production, and equitable access to productive opportunities. It must equip itself to be able to cater for the needs of the weak and vulnerable members of society, who are incapable of fulfilling their needs by themselves. It must ensure structural order, such that the economically powerful do not trump upon the economically powerless. All these, among other related things, must be accomplished under the guide of the Divine Law.

¹⁶⁷ Justice implies giving every element of society its due in the most fair and equitable manner (see the essay "The Islamic Market Doctrine – A Detailed Exposition").

¹⁶⁸ ***"We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice"*** [Qur'an 57:25 (Saheeh International Translation, 2010)].

In light of the discussion above, the state's stake in property goes beyond the enforcement of the individual's divinely-ordained right to property (discussed in the next section); the state also has an active claim to property, which is recognized in the Law. Thus, apart from *Private Ownership*, there are two other forms of ownership – *Public Ownership* and *State Ownership* – in Islamic jurisprudential source. *Public Ownership*, according Bāqir As-Sadr (1935-1980), pertains to “the right of taking possession of a particular property belonging to the people or nation as a whole”¹⁶⁹. In other words, public ownership is the collective right to a property whose benefits accrue to all members of the society. Such form could concede the benefits/usufructs of the property either to Muslim citizens of the Islamic society only or to both Muslims and the *Dhimmī* population (i.e., non-Muslims under the protection of the Islamic society). *State Ownership*, on the other hand, pertains to “the right of taking possession of the property belonging to the divine function (office) of the Islamic state which the Prophet or the Imām [leader] exercises”¹⁷⁰. The difference between these two broad forms of ownership is that in the case of public ownership the owner is the collective membership of society (or Muslims); in the case of state ownership the owner is the office of the government. This difference, subtle as it appears, is reflected in the manner in which the usufructs derived from each form are utilized for the benefit of the Islamic society; the leader of the Islamic society is granted more discretion with respect to utilizing the usufructs of state properties while the scope of utilization for the usufructs of public properties is limited to the balanced benefit of society¹⁷¹. In explaining this, As-Sadr asserts that “it is not permissible to raise fund for the benefit of the poor from the fruits of...[public] ownership, unless it happens to be in the interest and the need of the nation such as when availing of the common ownership in this way helps social balance”¹⁷². The difference, as is conceived in the Law, will be clearer

¹⁶⁹ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 60.

¹⁷⁰ Ibid, p. 59

¹⁷¹ Ibid

¹⁷² Ibid, p. 85

when the issue of primary resource distribution is discussed. However, it is first necessary to understand the concept of private ownership and its spiritual dimension.

2.5. PRIVATE PROPERTY RIGHT

As mentioned earlier, every resource on the face of the earth was created for the utilization of mankind. The natural progression from this is for man to be granted the right to acquire such resources and transform them into forms that make their utilization, for useful purposes, more effective. The needs of society also imply the need for the right of the individual to produce beyond subsistence; the surplus becomes a source of wealth accumulation for the individual, and a source of access to other members of society. Both of these rights are granted in Islamic Law. The clearest evidence of this is in the institution of *zakāt*, which obliges certain category of persons to pay a percentage¹⁷³ of their wealth as tax on annual basis¹⁷⁴. The right to wealth accumulation necessarily precedes the institution of the *zakāt*, since its subject is excess wealth. Again, the divinely-dictated rules on inheritance¹⁷⁵ (in the Qur'ān) points to an individual's right to own and accumulate wealth. It is important to add that both male and female relatives of the deceased have their respective shares clearly spelt out in the Qur'ān, while the rules also capture the cases of deceased males and females. This presents an

¹⁷³ In Sunan Abu Dawood [Vol. 2, Hadith No. 1572], for instance, there are some stipulations in regard to the shares of wealth to be paid out as tax [see Abu Dawud, S.-A.A.-A.-S. (2008). *English Translation of Sunan Abu Dawud* (Vol. 2). (Y. Qadhi, Trans.), p. 248].

¹⁷⁴ ***“Take, [O, Muhammad], from their wealth a charity by which you purify them and cause them increase, and invoke [Allah’s blessings] upon them. Indeed, your invocations are reassurance for them. And Allah is Hearing and Knowing”*** [Qur’an 9:103 (Saheeh International Translation, 2010)].

¹⁷⁵ ***“Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise”*** [Qur’an 4:11 (Saheeh International Translation, 2010)].

additionally important implication, which is that the right to own and acquire property extends to all individuals, regardless of gender; women have as much right to property as men. Such a right is consistent with the recognition of the humanness inherent in all individuals and its right to preservation, achievable through the fulfilment of basic needs. It is also consistent with the idea of easing the spiritual path of the Muslim.

The right to property is not only grant in Islamic Law, but is also protected from violation. The Prophet is reported to have said, with respect to relations among Muslims, that: “[the] whole of the Muslim is sacred to his fellow Muslim, his blood, his wealth and his honor”¹⁷⁶. He also stressed the sanctity of property when he likened a Muslim’s death in defense of his property to martyrdom¹⁷⁷. Indeed, one of the core values of the *Sharī’ah* is the preservation of wealth/property¹⁷⁸; the *Sharī’ah* protects the right to property “by means of moral exhortation and legislation, from robbery, theft, and fraud”¹⁷⁹. Violation of an individual’s property right is not only an act of illegality in the Islamic society, but also constitutes a moral violation, and, thus, a sin¹⁸⁰. Example of the immorality of property violations is the stern public punishment the Qur’ān prescribes for persons found guilty of theft or robbery¹⁸¹. So what exactly is the legal bound of private property from the Islamic perspective?

Private ownership and private right, with respect to property are two different things in Islamic Law. As-Sadr defines *Private ownership* as an individual’s right of appropriation of a “definite property [or a portion it]”, “which gives him,

¹⁷⁶ Sunan Ibn Mājah, Vol. 5, Hadith No. 3933.

¹⁷⁷ The Prophet is reported to have said: “Whoever is killed while protecting his property then he is a martyr” [Sahih al-Bukhari, Vol. 3, Hadith No. 2480]

¹⁷⁸ The other core necessities preserved by the Law are faith, soul, mind, and progeny [see Auda, J. (2007). *Maqasid al-Shari’ah as Philosophy of Islamic Law: A System Approach*, p. 3].

¹⁷⁹ Al-Qaradawi, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.), p. 326.

¹⁸⁰ Habachy, S. (1962). Property Right, and Contract in Muslim Law. *Columbus Law Review*, 62(3), 450-473.

¹⁸¹ “[As for] the thief, the male and the female, amputate their hands in recompense for what they committed as a deterrent [punishment] from Allah. And Allah is Exalted in Might and Wise” [Qur’ān 5:38 (Saheeh International Translation, 2010)].

principally, the right to deprive any person other than himself from the enjoyment of its usufruct in any shape or form unless there existed a need or an exceptional circumstance”¹⁸². When a person acquires the private ownership of a property, he acquires the right to appropriate it willfully within the Islamic moral confines. He is permitted to enjoy, exclusively, the fruits of its utilization; no other person is permitted to utilize the property without the consent of its private owner, though there are instances in which the owner is compelled to share his property (even if for a payment in return). Under such “[complete] power” with respect to the appropriation of the property, “the proprietor”, according to Ibn Taymiyyah (d. 1328), “[is able to] sell or give away the object, lend it or make a gift of it, bequeath it or use it for productive purposes”¹⁸³. *Private right*, on the other hand, pertains to the right of appropriation obtained through some form of labor (such as discovering a mine) or authorization by the state authority. Thus, As-Sadr describes it as “an appropriation, a resultant of another appropriation and subject to it for its continuance”¹⁸⁴. The possessor of this right may be limited, with respect to the property upon which the right is obtained, by the scope of its utilization, by duration, or by the degree to which he can dispose of it. While in the case of ownership the possessor has the right to deprive others the enjoyment of the property, the possessor of private right is limited in this respect; “[others] can enjoy the usufruct of the property in the manner and form as regulated by the *sharʿah*”¹⁸⁵.

¹⁸² As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 61.

¹⁸³ Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*, p. 112.

¹⁸⁴ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 61.

¹⁸⁵ Ibid, p. 61

2.6. PRIMARY WEALTH DISTRIBUTION IN ISLAMIC LAW

Primary wealth refers to natural means of production, whose distribution necessarily precedes productive activity itself¹⁸⁶. The main forms are land, water bodies, and minerals (in land and water, such as oil, gold, sulfur, etc.). Each of these three resources, in an Islamic society, would fall into one of the three forms of ownership (Public, State, and Private), on the basis of how their geographical setting becomes integrated into the Islamic society. Basically, societies became integrated into the Islamic society through one of three ways; conquest, willful conversion, and peace treaty. *Conquest* implies victory in a military battle between the army of the Islamic state and an opposing force, as a result of which the Muslims obtain possession of the resources and properties hitherto owned by the losing peoples. *Willful conversion* implies the peaceful and voluntary acceptance of the religion of Islam by a people, as a result of missionary propagation (*da'wah*). *Peace treaty* pertains to an agreement between the Muslims and other peoples, who surrender to Muslims (or decide against fighting them in a battle), on the basis of some terms. Each of this means to integration into the Islamic society has implications for the distribution of natural resources, as well as their usufructs, as we are about to show.

2.6.1. Land

Lands integrated into Islamdom through any of the abovementioned means are of three kinds – dead-land, cultivated land, and naturally-cultivable land. *Dead-lands* are lands that have become wastelands due to neglect, and would have to be revived before they become cultivable. Majority of Islamic jurists hold the opinion that dead-lands fall under state ownership, regardless of how they were integrated into the Islamic society¹⁸⁷. However, its private

¹⁸⁶ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.).

¹⁸⁷ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.); As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.)

ownership is attained by any individual who revives it and makes it ready for cultivation, through his labor¹⁸⁸. This opinion about the transfer of ownership is based on the widely reported prophetic tradition, which states that: “if anyone revives [a] dead land, it belongs to him, and the unjust root has no right”¹⁸⁹. According to Imām Abū Hanīfah (d. 767), permission must be obtained from the head of the state (Imām) before reclamation of a dead-land can be undertaken; the other schools suggest such a prior permission is not necessary¹⁹⁰. Normally, when private ownership of a previously dead land is attained (through its revival), it becomes subject to the *‘ushr* tax, instead of the *kharāj*¹⁹¹. However, Muhammad Ibn al-Hasan ash-Shaybāni (d. 805) contends that such lands are subject to the *kharāj* if they were irrigated by a water body that was canaled by non-Arabs (i.e., water bodies that are publicly owned)¹⁹². Given the status of dead lands as state property, the Imām is permitted to reserve some part of it for the benefit of the entire, or a segment of, society (for example, land reserved for the grazing of animals); such reserves (*Hima*) would be excluded from revival and private ownership¹⁹³. Reserves cannot be individual specific, nor open to only the rich; access could, however, be open to all members of society, to only Muslims, or to only “the poor and the indigent”¹⁹⁴.

¹⁸⁸ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)

¹⁸⁹ According to Imam Malik, “the unjust root is whatever is taken, or planted without right” [Al-Muwatta’, Book 36, Hadith No. 26; see Anas, M.I. (n.d.). *Al-Muwatta’*. (A.A. At-Tarjumana, & Y. Johnson, Trans.), p. 308].

¹⁹⁰ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)

¹⁹¹ *‘Ushr* is a tax imposed on cultivated land owned by a Muslim; “[it] represents part of the Zakat or alms-giving which is payable on cultivated land under the ownership of the Muslim holder” [Salasal, S.M. (1998). The Concept of Land Ownership: Islamic Perspective. *Buletin Geoinformasi*, 2(2), 285-304, p. 296]. *Kharāj*, on the other hand, is a tax imposed on non-Muslims whose cultivated lands are integrated into the Islamic State as public property but are granted permission to work and cultivated them; it is also charged on those non-Muslims who retain ownership of, and cultivate, their lands per terms of a peace treaty [Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)].

¹⁹² Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)

¹⁹³ *ibid*

¹⁹⁴ *Ibid*, p. 264

Cultivated land is “the land cultivated by human hand” and “in the possession of man and within the orbit of his fructification” at the time of its integration into the Islamic society¹⁹⁵. Such lands, if integrated by *conquest*, will become public property (*waqf*), according to the Mālikī school of thought¹⁹⁶; such lands are owned by “the whole of the Muslim community” in perpetuity, and no individual could acquire private ownership of them¹⁹⁷. The previous owners could be permitted to cultivate it on the basis of either paying the *kharāj* or sharing the produce with the state according to an agreed percentage-share¹⁹⁸. The Shafi’ī school, however, contends that such lands are part of the booty and should be shared among those entitled¹⁹⁹. According to As-Sadr, the sharecropping arrangement Prophet Muhammad made with the Jews of Khaybar after Khaybar was captured by the Muslims²⁰⁰ is a proof that cultivated lands are public property and not subject to booty-sharing²⁰¹, and thus a validation of the Mālikī view. If cultivated lands entered into the Islamic society on the basis of *willful conversion*, however, the owners maintain the private ownership of their lands, and enjoy their ownership right in full; such lands would become subject to the ‘*ushr* tax²⁰². Finally, if cultivated lands were integrated into the Islamic society through a *peace treaty*, then there are two scenarios involved, according to al-Mawārdī (*d.* 1058). The first is that such lands were abandoned by their owners, in which

¹⁹⁵ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 68.

¹⁹⁶ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.).

¹⁹⁷ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 68.

¹⁹⁸ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.).

¹⁹⁹ *ibid*

²⁰⁰ Yahya related to me from Malik from Ibn Shihab from Said ibn al- Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, said to the jews of Khaybar on the day of the conquest of Khaybar, "I confirm you in it as long as Allah, the Mighty, the Majestic, establishes you in it, provided that the fruits are divided between us and you." Said continued, "The Messenger of Allah, may Allah bless him and grant him peace, used to send Abdullah ibn Rawaha, to assess the division of the fruit crop between him and them, and he would say, 'If you wish, you can buy it back, and if you wish, it is mine.' They would take it." [Al-Muwatta', Book 33, Hadith No. 1]

²⁰¹ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.).

²⁰² Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.).

case the lands become public property (*waqf*) for the Muslims. The non-Muslims become more entitled to work on it and pay the *kharāj*. If they accept to become protected members of the community (*Dhimmi*), they will be allowed a longer stay; otherwise, they are allowed residence only for a short period (less than a year)²⁰³. The second scenario is that the land owners do not abandon their lands, in which case there are two situations. They either (willingly) renounce their claim of ownership, and the lands become *waqf* for the Muslims, or they maintain their claim of ownership and are charged regular *kharāj* on their lands per the terms of the agreement; the *kharāj* will be merged with the poll-tax (*jizyah*) if they assume the status of *Dhimmi*²⁰⁴. If the owners maintain their claim to ownership they have the freedom to sell their lands to any resident of the Islamic society.

The third category of land is the *naturally-cultivable land*, which refers to “such of the lands as existed in a state of natural cultivation”, whose “richness [derived] from nature and not from men”, such as “wood-land thickets teeming with trees”²⁰⁵. As-Sadr asserts that the most popular juristic view puts such lands under the principles of state ownership. However, he adds that such a view would be correct only if such lands were integrated into the Islamic society “without war”; that is, they were not owned by any people. If such lands were annexed from a people, then they fall under public ownership (*waqf*)²⁰⁶, which implies that all Muslims will have a right to benefit from their fruits; they could be open to equal access of the Muslims or worked on behalf of the Muslims, and the revenue thereof used for the overall benefit of the Muslims.

It is clear that land, in an Islamic society, is more social than individualistic in its character. Besides the fact that the means to social ownership is wider than the means to private ownership, there are also limits to the freedom of

²⁰³ *ibid*

²⁰⁴ *ibid*

²⁰⁵ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), pp. 68, 91.

²⁰⁶ *ibid*

private owners to do as they please with cultivable lands they possess either by right or by ownership. As a rule, no cultivable land should be neglected until it transforms into a dead-land in the Islamic society. In respect of this, As-Sadr opines that “the right which gives to the individual a title to the fixed possession of the land so as to prevent others from making use of it, he loses by the land’s becoming waste land and (that due to) his neglect of it”²⁰⁷. The owner of a cultivable land is allowed, if unable to cultivate it himself, to enter into partnership with another person ready to cultivate it, on the basis of a produce-sharing agreement, or sell it²⁰⁸. There is difference of opinion as to whether the land could be rented out by its owner on a predetermined monetary rent basis. The opinion which appears consistent with the prohibition of *ribā* is that the land owner is not permitted to rent out land for cultivation on the basis of a predetermined monetary rent. The important point established is that the private owner (or right possessor) of a cultivable land is not permitted to leave it fallow until it becomes wasted. According to as-Sadr, “[there] is no difference in that respect between the individual’s having acquired the title over the land by virtue of his having put in labour to revive it and by other means or reason”²⁰⁹. The now-dead land becomes free to all if it was a state property before its ownership was obtained through reclamation. If, however, it was completely privately-owned before becoming dead through neglect, there are two opinions: one is that the original owner still maintains some relationship with the land (such as the priority to reclaim it as long as no other individual actually revives it); the other opinion is that the ownership is terminated outright²¹⁰. Such is the social nature of land in the Islamic society, due to its pivotal role in ensuring the fulfillment of the needs of society.

²⁰⁷ Ibid, p. 97

²⁰⁸ See Al-Qaradawi, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.).

²⁰⁹ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p.

97

²¹⁰ *ibid*

2.6.2. Water Resources

Al-Mawārdī identifies three types of water resources subject to the rule of distribution in an Islamic society – rivers, wells, and springs. *Rivers* are of three types – large natural rivers, small natural rivers, and canals dug by men²¹¹. When the river is a natural large river, such that no human effort had been involved in bringing it about, its access is open to all members of the society; no individual could exclude another from using it to fulfill his or her needs (drinking, irrigation, etc.)²¹². Thus, large natural rivers fall into the category of public ownership; examples of this include the Tigris and the Euphrates²¹³. When the water body is a small natural river, it would be freely accessible by all members of the society if its depth is sufficient enough for open public usage (i.e., if it does not require damming to be sufficient); people from farther regions may be allowed access if doing so does not jeopardize the access of those nearby. If, on the other hand, it is a small natural river which requires damming for effective usage due to the smallness of its depth, the people ‘up the river’ are granted priority of access before those below and so on²¹⁴. The third category of rivers is *canals* dug by men, and intended for specific uses; there are two types. The first type is the canal which is not connected to a natural water body, as its source of constant flow. Such is owned by the person who dug it; if it was dug by a group, they own it in a joint partnership. It is the right of the owner[s] to exclude other individuals from utilizing the canal. The second type is that which is connected to a natural source, as its source; access to such canals is open to all members of society²¹⁵.

The distribution of the second category of water resources, *wells*, is determined, primarily, by the purpose for which it was built. If a person [or a

²¹¹ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.).

²¹² *ibid*

²¹³ *ibid*

²¹⁴ *ibid*

²¹⁵ *ibid*

group of persons] digs a well on dead land, intending it as serving the needs of the people (for example, to nourish road users or travelers), its water becomes common property, open to all persons; the digger has just as much right to it as everyone else. If, however, the well was dug to serve a temporary purpose (such as the case of nomads who dig a well for their use within the period of their stay on a land), the digger is more entitled to the well for its intended purpose; he/she is required to give others access to drink in cases of necessity. After the transient purpose is achieved, the well becomes public property, with the digger[s] having just as much right to it as all other persons. Finally, if the well, on a dead land, was dug for private use and intended for private ownership, the digger's right to it, as private property, is established "when he is able to draw water from it, as only then is it considered a complete revival of the [dead] land"²¹⁶. Any person who desires to use the water (of the private well) must obtain permission from the owner; under certain conditions, the owner is permitted to even take payment in exchange for the usage of the water²¹⁷.

Finally, *springs* are of three kinds. The first is one which flows naturally (caused by God, not man); such springs are common property, whose access is open equally to all members of the society. The second kind is that which has been activated by man; such is owned by the activator, as well as its immediate surrounding (hareem), which, according to the Shafi'ī school, is determined "by custom and comparison with other similar sites"²¹⁸. The third kind of spring is one which is activated by an individual on his own property. In this case, the activator "is the most entitled to its water for the irrigation of his land; if it is enough for his needs, then no one is entitled to it other than someone in extreme need of a drink"²¹⁹. Importantly, as al-Mawārdī adds, the well-digger and spring-activator, who obtain private ownership of the well and

²¹⁶ Ibid, p. 259

²¹⁷ Ibid

²¹⁸ The Hanafī school, however, suggests that the hareem is "five hundred cubits" [Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.), p. 262].

²¹⁹ Ibid, p. 262

the spring, respectively, are entitled to sell [if they wish], and cannot be prevented from taking payment from such sales²²⁰.

2.6.3. Minerals

Minerals, in the sources of Islamic jurisprudence, are classified into two categories; open minerals, and hidden minerals. An *open mineral* is that “which when discovered is found to exist in its actual mineral state”, regardless of whether significant labor is required to reach it or not²²¹; examples include salt, naphtha, antimony, oil, etc. Such minerals are treated as public property, open to everyone’s access; neither their private ownership nor right to private appropriation can be attained²²². All members of society are allowed to acquire as much (of them) as would be required to fulfill their needs²²³. The hidden/concealed mineral, on the other hand, is that “which requires labour and developing work to light upon its mineral properties”²²⁴; examples of this include gold, silver, iron, copper, etc. As-Sadr contends that such minerals are of two kinds. The first is that which is “close to the surface of the earth”; these are treated like open minerals and, thus, public property²²⁵. The ownership of such mines cannot be acquired privately nor their right to appropriation; every member of the society is entitled to extract as much of them as they need, “provided the quantity does not exceed reasonable limits nor reaches the degree in which the individuals commandeering and helping himself to them becomes socially injurious and occasions putting others to inconvenience”²²⁶. The second kind of hidden

²²⁰ There are scholars who do not support the view that such resources (activated on dead-lands) could be accorded private ownership; they consider such resources as public property. Such scholars disagree with the activators’ right to sell. See Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.).

²²¹ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 111.

²²² Ibid; Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.).

²²³ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.).

²²⁴ Ibid, p. 112

²²⁵ Ibid, p. 114

²²⁶ Ibid, p. 115

minerals are those found deep into the earth, and would have to be searched for and dug out²²⁷. Such, according to as-Sadr, are either state property (according to one juristic opinion) or public property (according to another juristic opinion). It is, perhaps, in line with these views that al-Mawārdī presents two opinions with respect to the acquisition of its private ownership. The first opinion, according to al-Mawārdī, is that mines of hidden minerals are just like those of open minerals and thus their private ownership and/or right cannot be acquired. Such a view coincides with the classification of hidden mines as public property, granting every member of society equal access to it. The second opinion is that hidden mines are state property. Among the holders of this opinion there are two views²²⁸. One group suggests that the Imām is permitted to grant private ownership, such that the grantee is able to work on it, sell it, or leave it as bequest to his heirs upon death. The second group opines that only the right of use could be granted by the Imām, so that if the grantee ceases to work on the mine, his right is annulled and the property is reverted back to the state. Finally, al-Mawārdī suggests, on the basis of juristic texts, that when an individual revives a dead land (by which he becomes its owner), and a mine is discovered on it, the mine becomes his property “in perpetuity”, subjected to the rules of private ownership²²⁹.

2.7. IQTĀ' [GRANT/CONCESSION]

In juristic sources and historical practice, the term *iqṭā'* has been applied to two things, though, according to al-Mawārdī, the two are part of a broad conception of the term. Firstly, *iqṭā'*, juristically, refers to the permission granted by the leader of the Islamic society to an individual to work on a natural resource, “work thereon being deemed to constitute a ground of an appropriation or acquisition of a specific right therein”²³⁰. Such a grant is only

²²⁷ *ibid*

²²⁸ *ibid*

²²⁹ *Ibid*, p. 280

²³⁰ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 123.

permissible for resources within the jurisdiction of the leader²³¹; thus, the state cannot grant *iqtā'* of a private property²³² to an individual other than its legitimate owner. When the state offers an individual *iqtā'* of a land or mine, it fulfils its function of putting to good use the resources it is entrusted with. The grantee, on his part, only has a right to put the natural resource into productive use; “[he] has no right to delay the engagement period of work without justification”²³³. *Iqtā'* is only granted on resource that are characteristic of dead-lands²³⁴, such as dead-lands and mines, revival of which grants the reviver some specific right to it; if the resource does not require “being reclaimed and worked” to become productive then *iqtā'* on it is not permitted²³⁵. Al-Mawārdī identifies two types of dead-lands subject to the question of granting concession. The first type are those lands that were abandoned until they became dead prior to the advent of Islam (such as the lands of ‘Ād and Thamūd); such lands are open to concession (since they become state property upon integration into the Islamic society). The other type of dead-lands is that which was under the ownership of Muslims and then became wasted due to neglect. Such lands could be granted in concession, by the leader of the Islamic society, if their original owners are not known²³⁶. If, on the other hand, the original owners are known, the Imām does not possess the right to grant concession of such lands to another

²³¹ *ibid*

²³² The exception here is a private cultivable land that has become dead land due to the neglect of its owner, as we have mentioned earlier.

²³³ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 125.

²³⁴ Al-Mawārdī suggests that it is possible for the leader to guarantee granting concession of a specific cultivated land in the territory of an opposing enemy, actual granting of which will be done upon conquering and integrating it into the Islamic State [see Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.), p. 272].

²³⁵ *Ibid*, p. 127

²³⁶ The Shafi’ī school is of the view that revival does not grant ownership irrespective of whether the original owners are known or not; the Mālikī school’s view is that revival guarantees private ownership regardless of whether the original owners are known or not; the Hanafī school says revival confers ownership only if the original owners are not known [Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)].

person; the original owners “are more entitled to sell it and revive it”²³⁷. Briefly, this is the first meaning of the term as applied in juristic sources.

The second application of the term *iqṭāʾ*, juristically, pertains to granting authority to certain members of the society to collect the taxes on *kharāj*-lands; “[it] represents a mode or payment of remuneration or compensation for work which the State takes up itself to pay to the individuals against the public services rendered them”²³⁸. Thus, such a concession is restricted to only a certain category of public servants, in respect of which al-Mawārdī mentions two categories. The first category consists of the army personnel, for dedicating their lives to the protection of the lives and property; the other category includes public servants, given authority and jurisdiction by the state and on permanent salary, such as the judges and the *dīwān* (registry) scribes²³⁹. The *iqṭāʾ* of this nature is “nothing but a wage collected at source, directly, without the mediation of the state treasury”²⁴⁰. Whatever the grantee obtains from his/her assigned *kharāj*-land is “subject to tithe [*ʿushr*]”, and thus his/her actual earning is the difference between the *kharāj* collected and the tithe paid from it²⁴¹. The idea is that military personal, judges, and public administrators render services that are considered beneficial to the general public, and since the taxes derived from public property must be used for the general benefit of the Muslims, there is justification to authorize them to exact the taxes in lieu of being paid from the public treasury²⁴². If the *kharāj* is such as in perpetuity (like a producing-sharing agreement), its concession could be granted for several years; otherwise (as in the case of the *jizyah*, whose payment ceases when a non-Muslim converts to Islam), the concession is

²³⁷ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.), p. 271.

²³⁸ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 127.

²³⁹ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)

²⁴⁰ Lewis, B., Menage, V.L., Pellat, C., & Schacht, J. (Eds.) (1986). *The Encyclopaedia of Islam* (Vol. III), p. 1088.

²⁴¹ Ibid, p. 1088

²⁴² As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.).

granted only for a year²⁴³. Theoretically, the *iqṭā'* cannot be subject to inheritance by the heirs of the grantee; even where it is permitted for the duration of the grantee's lifetime, it is revoked²⁴⁴ at "the onset of a chronic disease" that renders the grantee incapable of public service²⁴⁵. There is no permanence of *iqṭā'* with respect to neither the time period granted, nor the area or land allocated; "[the grantee] does not own the land, and there exists no basic title to its proprietary possession or to its usufruct"²⁴⁶. This is the *iqṭā'* in theory; in historical practice, however, the concept evolved into something else towards the later years of Islamdom.

In the early tenth century (i.e., during the 'Abbāsīd era), fiscal challenges made it difficult for the state to meet its increasing financial obligations towards the army²⁴⁷. Consequently, the state resorted to "[ceding] the government of provinces to generals on condition that henceforward they and not the state would pay their own army"²⁴⁸. While this measure eventually led to the development of "autonomous provinces" within the state, it hardly resolved the problem of fiscal obligations towards the military²⁴⁹. The implementation of the *iqṭā'* was, thus, resorted to as a new alternative solution, granting the army permission "to tax a village or a district and thus take directly from the source the sums which were due to them"²⁵⁰. The grantee, on his assigned land (or village), "had to provide for some few retainers as well as to maintain an increasingly large amount of gear and secure the whole of his supplies in kind"²⁵¹. Additionally, the grantee had to

²⁴³ Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.).

²⁴⁴ For it to be irrevocable until death, according to some scholars, there must be mentioned at the start that a chronic disease will not be a reason for annulment [Al-Mawardi, A.-H.I. (n.d.). *Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.)]

²⁴⁵ Ibid, pp. 278-279

²⁴⁶ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.), p. 128.

²⁴⁷ Lewis, B., Pellat, CH., & Schacht, J. (Eds.). (1991). *The Encyclopaedia of Islam* (Vol. II).

²⁴⁸ Ibid, p. 508

²⁴⁹ Ibid, p. 508

²⁵⁰ Ibid, p. 508

²⁵¹ Ibid, p. 508

incur the expense of tax collection, previously borne by the state²⁵². Thus, from these perspectives, the introduction of the *iqṭāʾ* helped the fiscal situation of the state significantly.

In the early years of its implementation, the *iqṭāʾ* was, as in theory, “wage collection at source”²⁵³. There was no permanence to it; “the area granted and the grantee were constantly changed”²⁵⁴. Additionally, the tithe was exacted from the grantees of *iqṭāʾ* in the early years; but this became increasingly difficult over time²⁵⁵, as the ‘Abbāsīd caliphs began to lose their hold on the affairs of the expanding empire. Consequently, when the Buyids gained control in Islamdom (starting from the middle of the tenth century), they implemented the *iqṭāʾ* “free of any financial obligation” on the grantees, a practice which became increasingly popular in the Asian part of Islamdom²⁵⁶. It was the Saljūks, however, who made extensive use of the system, and “introduced it in provinces (particularly in eastern Iran) where it had scarcely ever been used”; in doing so, they did not alter it from its original conception²⁵⁷. Over time, the structure of the *iqṭāʾ* began to change, starting from the period characterized by internal struggles under the Saljūks. By the era of the Zangīds (twelfth century), concessions (of the *iqṭāʾ*) had become inheritable, thus granting the system a feature of permanence. The situation evolved such that the *iqṭāʾ* grantee would use his “relative strength” to forcibly purchase or, in some cases, usurper “veritable *mulk* [private] properties on or around the territory granted him”²⁵⁸. Eventually, the situation further evolved such that occupiers of *iqṭāʾ* lands “were reduced to serfdom by reason of the prohibition against their leaving the land when the taxes had not been paid”²⁵⁹.

²⁵² *ibid*

²⁵³ Lewis, B., Menage, V.L., Pellat, C., & Schacht, J. (Eds.). (1986). *The Encyclopaedia of Islam* (Vol. III), p. 1088.

²⁵⁴ *Ibid*, p. 1088

²⁵⁵ *ibid*

²⁵⁶ *Ibid*, p. 1088

²⁵⁷ *Ibid*, p. 1088

²⁵⁸ *Ibid*, p. 1089

²⁵⁹ *Ibid*, p. 1089

In the Ottoman era, a system of concession (the *Timar* system)²⁶⁰, was implemented, which was, in many ways, consistent with the theoretical *iqta'*. Owing, probably, to historical antecedents that influenced the integration of lands into the empire, “about 90 percent all the arable lands” were owned by the state (known as *mîrî*)²⁶¹. These lands were divided into three categories, on the basis of the annual revenues that accrued to them and to whom (within the military/political establishment) it was granted. The grantees of the *Has*, “mostly the provincial governors” as well as “the ruler and his household”, received the highest grants. This was followed, hierarchically, by the grantees of the *Zeamet*, made up of governors of sub-provinces. *Timar* itself represented “prebends assigned to the sipahis or the provincial cavalry”. The grantees of the *timar*, like in theoretical *iqta'*, simply collected wages (tax money) directly from the lands they were assigned; “[they] had no specific rights to lands or peasants except for services defined by law”²⁶². They could neither possess the lands they were assigned to (by law or force) nor could they subject them to inheritance²⁶³.

2.8. OWNERSHIP, PRODUCTION, AND EXCHANGE IN A SPIRITUAL CONTEXT

From a spiritual perspective, the ownership that man acquires of any property/wealth is, in fact, in the form of trusteeship (*khilāfah*); not absolute ownership. This idea emanates from the concept of God as the *Originator*²⁶⁴ and *Provider*²⁶⁵ of all things, including all resources utilized in the production

²⁶⁰ Some features of this system were discernible in Saljūk-Persia and Mamlūk-Egypt [see Bearman, P.J., Bianquis, T., Bosworth, C.E., van Donzel, E., & Heinrich, W.P. (Eds.). (2000). *The Encyclopaedia of Islam* (Vol. X)]

²⁶¹ Bulut, M. (2009). Reconsideration of Economic Views of a Classical Empire and a Nation-State during the Mercantilist Ages. *The American Journal of Economics and Sociology*, 68(3), 791-828, p. 797.

²⁶² Ibid, p. 797

²⁶³ ibid

²⁶⁴ “**Allah is the Creator of all things, and He is, over all things, Disposer of affairs**” [Qur’an 39:62 (Saheeh International Translation, 2010)].

²⁶⁵ “**Indeed, it is Allah who is the [continual] Provider, the firm possessor of strength**” [Qur’an 51:58 (Saheeh International Translation, 2010)].

process. Man, in his position as a trustee of the wealth in his possession, will be held accountable for his stewardship. In this context, property/wealth, from the Islamic perspective, is understood as “a test or trial”²⁶⁶; in fact, it is an integral component of the overall spiritual struggle that defines human life²⁶⁷. Consequently, there are divine ethics on the acquisition, management, and disposal of wealth. In an Islamic society, the state, as moral police, has a duty to ensure that individuals conform to these ethics in their economic pursuits, not only for the sake of the individuals’ spiritual quest, but also for the sake of the overall socio-economic welfare of society. However, from a more individualistic perspective, conformity is a choice the individual makes. If the individual chooses transient (material) satisfaction over eternal bliss, he will acquire and manage wealth without regard to divine ethics. If he/she chooses eternal bliss over transient pleasures, on the other hand, he willingly subjects himself to God’s ethical prescriptions in the acquisition and management of wealth. Thus, the possession of property/wealth and its disposal is embedded in the spiritual struggle that defines a Muslim’s life. Likewise, the ethics of behavior with respect to the acquisition and disposal of wealth is an integral constituent of the Islamic social ethos.

Generally, all levels of economic pursuit, from acquisition of base resources through to production and exchange, have moral injunctions that must be observed by the individual. Firstly, the ownership or right to a base property must be acquired legally; its possession must not involve a deprivation of someone’s legitimate right (through such means as usurpation)²⁶⁸, or inappropriate connivance with public authority at the expense of the general

²⁶⁶ Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*, p. 111.

²⁶⁷ The Prophet is reported to have said: “*The feet of the slave of Allah shall not move [on the Day of Judgement] until he is asked about five things: about his life and what he did with it, about his knowledge and what he did with it, about his wealth and how he earned it and where he spent it on, about his body and for what did he wear it out.*” [Jāmi’ at-Tirmidhī, Vol. 4, Hadith No. 2417]

²⁶⁸ In the Qur’ān it is stated: “***And do not deprive people of their due and do not commit abuse on earth, spreading corruption***” [Qur’ān 26:183 (Saheeh International Translation, 2010)]; also the Prophet is reported to have said: “*Whoever takes a piece of the land of others unjustly, he will sink down the seven earths on the Day of Resurrection.*” [Sahih al-Bukhari, Vol. 3, Hadith No. 2454]

public²⁶⁹. The legitimate means of acquiring property include, among other things, outright purchase (from a legitimate owner), inheritance, gift, and legal authorization through the exertion of labor (for example, reviving a dead-land). In a nutshell, “Islam forbids ownership by deception, cheating or fraud, by usurping or stealing or taking without compensation” as well as through means which causes “injury to the individual and the society”²⁷⁰. Legitimate acquisition of the ownership of the base property (or its private right) places the ensuing productive activity within its proper moral context. Beyond this, the utilization of the resource itself must be accomplished within the moral compass of Islam. In this regard, the individual must avoid the production of any material, object, or commodity whose consumption has been prohibited in the *Sharīʿah*²⁷¹. The most explicit examples of this include wine, swine, and injurious substances (such as cocaine). Likewise, the individual must avoid productive activities that are “[potentially] harmful to the beliefs, morals, honor, or good manners of the society”²⁷². For instance, in the Islamic value context, fornication is inimical to the moral fabric of society (and, thus, to public good). Thus, any economic act or endeavor that promotes fornication (or any other immoral behavior of the like), such as prostitution, erotic arts, etc., is prohibited by the *Sharīʿah*.

Beyond these categories, production is permitted of anything that fulfills some need in society, and for which there is demand. However, there is a hierarchy in production, adherence to which adds spiritual value to the production activity. Ibn Khaldūn (d. 1406) asserts that some crafts “are necessary in civilization or occupy a noble (position) because of (their) object”; agriculture, architecture, tailoring, carpentry and weaving are the “necessary crafts” (each of them fulfills a basic need in human life); medicine, midwifery, writing,

²⁶⁹ “***And do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]***” [Qur’ān 2:188 (Saheeh International Translation, 2010)].

²⁷⁰ Salasal, S.M. (1998). The Concept of Land Ownership: Islamic Perspective. *Buletin Geoinformasi*, 2(2), 285-304, p. 292.

²⁷¹ Al-Qaradawi, S.Y. (2001). *The Lawful and the Prohibited in Islam* (Second Ed.). (K. Hilbawi, M. Siddiqi, & S. Shukri, Trans.), p. 137.

²⁷² Ibid, p 129

singing, etc. “have nobility that other (crafts) do not have” because of the functions they perform in human society²⁷³. This idea is similar, in spirit, with Imam al-Ghazālī’s (d. 1111) idea on the hierarchy of productive activities, according to which agriculture, weaving, architecture, and governance constitute the “four fundamental activities”, whose pursuit are “necessary for human habitation”; the next in the order of importance (and for which priority should also be accorded) are activities which supplement these fundamental four, including iron crafts, production of instruments used in weaving, etc.²⁷⁴. He considers the pursuit of these a collective social responsibility (*fard kifāyah*), neglect of which makes the entire community blameworthy; also included in this category of *fard kifāyah* is the learning of sciences “which are necessary for progress in the world”, such as medicine²⁷⁵. So how does society ensure that the production activities adhere, first, to this hierarchy of need? Firstly, it is a general economic principle that production follows demand, and since these goods are necessary for human habitation, it is expected that the demand for them should create the incentive for their production. However, the nature of the economic function of the state in an Islamic society implies that the state must be directly involved in such a distribution of productive activities. Firstly, the mode of distribution of base resource in the Islamic society is supposed to ensure fairly equitable and balanced access to productive means, such that economic power is not concentrated in the hands of a few privileged members of the society. This implies that even the economically weak members of society have the opportunity to participate in production. This expected wider distribution of production precludes the exploitation of the public by a few, on the basis of its needs. Additionally, one of the goals of state regulation of market activities (*al-Hisbah*) is to ensure a fair distribution of economic activities; “[if] there were a shortage of the supply of some items deemed of public necessity, several scholars have held that the production of these becomes a binding

²⁷³ Ibn Khaldun, A.B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.), pp. 355-356.

²⁷⁴ Al-Ghazālī, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)* (Vol. I). (Fazl-ul-Karim, Trans.), p. 28.

²⁷⁵ Ibid, p. 31

duty on those who are capable of producing them”²⁷⁶, implying that the state could compel producers to produce. Indeed, there are historical instances, such as under the Ottoman *nerkh* system²⁷⁷, in which the state took steps to ensure a fairly balanced distribution of the supply of necessities.

From a more individual perspective, production decision is embedded in spirituality, just as all levels of economic activity. It is obvious that, within the Islamic doctrinal context, profit as a motive of individual economic pursuit is not an end in itself; it is a means to an end²⁷⁸. If profit has a purpose, described as spiritual, then the means that lead to it must themselves be spiritual. In light of this, al-Ghazālī (d. 1111) asserts that the individual, in his production decision, must intend to contribute towards the fulfillment of the various collective responsibilities upon society; the individual’s production decision must be guided by the thinking that “if the various kinds of trade and industry are given up, it will be difficult for the people to manage their livelihood and the majority of the people would be destroyed”²⁷⁹. Such a consideration enhances the spiritual worth of the productive activity being undertaken. If such a consideration becomes pervasive in the society, producers would diversify their productive activities, as a result of which the necessary economic goods would be available to fulfill human needs²⁸⁰. The moral considerations do not end at the start (i.e., production decision and base material acquisition stage) of the production process; production itself must be undertaken within an ethical framework, likewise the exchange that follows production. In this respect, a few principles are worthy of mention, though this list is by no means exhaustive.

²⁷⁶ Oran, A.F. (2010). An Islamic Socio-Economic Public Interest Theory of Market Regulation. *Review of Islamic Economics*, 14(1), 125-146, p. 137.

²⁷⁷ See Oğuz, O., & Tabakoğlu, A. (1991). An Historical Approach to Islamic Pricing Policy: A Research on the Ottoman Price System and its Application. *JKAU: Islamic Econ.*, 3, 63-79; also *The Islamic Market Doctrine – A Detailed Exposition*.

²⁷⁸ The primary function of economic gain/profit is to serve as a means to fulfillment of personal, and social, needs as well as other spiritual ends; this point is discernible from the entire discussion thus far.

²⁷⁹ Al-Ghazālī, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. II). (Fazl-ul-Karim, Trans.), p. 58.

²⁸⁰ *ibid*

From the production perspective, two principles are important; the pursuit of excellence, and the avoidance of exploitation. The pursuit of diligence (and excellence) in the affairs of the individual is an important principle in Islam²⁸¹. On the basis of this, 'Umar Ibn al-Khattab advises: "[do not] be casual in earning an honest living. It is essential to do your best"²⁸². Thus, the first principle worthy of mention here pertains to excellence in production, which implies that quality must not be compromised, especially since the final commodity is intended for human usage. Pursuit of excellence in production also implies striving to minimize, as much as possible, any potentially negative outcome that accompanies the production process, either to society (for example, pollution) or to the individual consumer. The state, as the system's regulator, is tasked with the role of ensuring quality production devoid of damage to society or individual consumers²⁸³; on the issue of the environment, for instance, historical Islamdom usually ensured that "craft ships or factories that might pollute the environment were located in non-residential areas in the outskirts of cities, and animals were not allowed to be slaughtered in the streets or houses for public hygienic reasons"²⁸⁴. The second principle important to the production process is the avoidance of exploitation, especially of providers of labor services (i.e., laborers). In Islamic juristic sources, individuals are rewarded for their labor services either through a predetermined wage scheme or through a pre-agreed percentage-share of the profit to be earned from the venture. It is relatively easier to establish fairness in the profit-sharing arrangement since both parties (owners of capital and labor) agree to their respective percentage shares (prior to the productive engagement) and the actual value each receives depends on the value of profit earned. In the pre-determined wage arrangement however, labor wage is a cost component, and its minimization improves the producer's

²⁸¹ The Prophet is reported to have said in a hadith that: "*Indeed Allah has decreed Ihsān [i.e., the pursuit of excellence] in everything...*" [Jāmi' at-Tirmidhī, Vol. 3, Hadith No. 1409].

²⁸² Al-Ghazali A. I. (2001). *Kīmīyā-l-Sa'ādāt [Alchemy of Eternal Bliss]*. (M.A. Bilal, Trans.), p. 467.

²⁸³ Oran, A.F. (2010). An Islamic Socio-Economic Public Interest Theory of Market Regulation. *Review of Islamic Economics*, 14(1), 125-146.

²⁸⁴ Ibid, p. 136.

revenue-cost gap, and thus widens the economic gain; the tendency for labor to be exploited is high, especially when systemic conditions do not favor possessors of labor services. Islam enjoins respect for the human value in all persons, and part of this respect is to strive to accord all persons their due. This is an integral principle in the demand for justice in social relations²⁸⁵. When moral considerations fail, the state is duty-bound to intervene and ensure individuals are fairly treated. There are additional principles, beyond these two, that the producer must adhere to in the actual production of economic goods. The important point, in a nutshell, is that production in an Islamic society is immersed in morality, both at the individual and societal levels, just as all other aspects of social life.

Finally, it is also essential to mention a few moral principles that must define exchange transactions, since exchange is the means through which the producer and the buyer interact. Again, the object is to establish how this part of the economic process is integral to the morality of social life in the Islamic setting. First, clarity of information is a requirement in all transactions. Since both parties must willingly agree to the exchange, without any feeling of rancor, all terms must be plainly set out with respect to the exact quantity, quality, price, and other relevant details of the exchange. Thus, the seller must own, or be authorized to sell, the commodity he/she is selling, and possess the ability to physically deliver it upon the terms of the agreement²⁸⁶. Again, “the quantity of goods and the standard of their quality should be specified”; likewise, the seller and the buyer must be satisfied with the specified price of the commodity²⁸⁷. In a nutshell, the exchange agreement must be devoid of any ambiguity, the kind that affects the fairness of the transaction. Related to this is the principle of honesty, which is required, especially, of the supplier of the commodity. It is a duty on the seller not to withhold (or hide) any information about the commodity (such as defects in the commodity) in order to avert a fall in its exchange value; such an act

²⁸⁵ See *The Islamic Market Doctrine – A Detailed Exposition*

²⁸⁶ Al-Ghazali A. I. (2001). *Kimiyā-l-Sa’adat [Alchemy of Eternal Bliss]*. (M.A. Bilal, Trans.).

²⁸⁷ Ibid, pp. 474-475.

would constitute deceit, which would be both sinful and punishable by the state. The seller “who conceals defects”, according to al-Ghazālī (*d.* 1111), “is an oppressor, a deceit and a fraud”²⁸⁸. It is also an important principle that the producer/supplier be content with the economic gain that emerges from the normal conditions of the market; they must not seek to unduly increase their market shares and profits by manipulating market conditions to their favor²⁸⁹. Such practices would be detrimental to the consuming public because they open doors to public exploitation for private gains. In summary, all levels of the economic process must unfold within the moral precepts of Islam; moral considerations must override desires for larger material gains. Otherwise, economic pursuit would lose its spiritual meaning, and consequences would ensue to individuals and the larger society.

2.9. SUMMARY AND CONCLUSION

In this study we have sought to analyze property right in Islam within the context of the Islamic philosophy of life. It has been established that the objective of human life on earth, according to the Islamic doctrine, is the attainment of eternal success through belief in God and acting in harmony with God’s moral dictates. The life of man must be conditioned in a manner that prepares him for the effective pursuit of this spiritual endeavor. This requires two interrelated things: first, the fulfilment of requirements for the survival and continuity of life (food, shelter, clothing, etc.); and second, a social setting organized in a manner that facilitates the attainment of all requirements for the success of the spiritual endeavor. Economic pursuit is important to the fulfilment of the basic needs (food, clothing, and shelter) of life, and it attains spiritual value if conducted within this line of thought. God has endowed man with resource, granted him rights to their utilization, and blessed him with the ability to learn how to utilize them for his benefits. It is

²⁸⁸ Al-Ghazālī, A.M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)*, (Vol. II). (Fazl-ul-Karim, Trans.), p. 53.

²⁸⁹ See *The Islamic Market Doctrine – A Detailed Exposition*

the duty of man to learn, and apply, the means of utilizing the resources for the production of economic goods. Thus, the economic pursuit of the individual is highly encourage, and sometimes made obligatory, in the primary textual sources of the Islamic doctrine. Additionally, an organized society is important to man, not only for the purpose of an effective economic pursuit (and fulfilment of needs), but also for other essentials of the spiritual quest (such as regulation of behaviors in a manner positive to spirituality). Thus, God ordains the state to organize society in a manner that facilitates man's moral/spiritual struggle, through the application of the divine law (the *Sharī'ah*).

The economic aspect of the state's function involves three things. First, it must organize the system of distribution, production, and exchange in a manner that grants equitable opportunity for economic pursuit to all members of the society. Second, it must ensure that all individuals are not unduly denied their divinely-ordained economic rights. And finally, it must equip itself to cater for the structural needs of society (such as the provision of common utilities) and the needs of the segment of society that is incapable of fulfilling its own needs. In view of this, there are two forms of ownership (state and public) recognized in Islamic law, in addition to private ownership. These two forms of ownership facilitate the state's attempt to fulfil its function, by helping it meet its fiscal obligations and providing for the common needs of society.

The distribution of primary resources (land, water, and minerals), which must necessarily precede production, ensues according to these forms of ownership, such that all the interest groups (individuals, public, and state) get their interests catered for, albeit not necessarily in equal proportion. The individual, by ownership or right, uses his legitimately acquired property for economic production. The state oversees the effective utilization of resources under its care for the fulfilment of needs within its jurisdiction of duty. All these must be conducted within the ethical compass of Islam. Thus, for the individual economic agent, all levels of his economic process (resource acquisition, production, and exchange) have moral dictates that must be

adhered to. The base resource for production must be legitimately acquired, the production decision must be spiritually defined, and the production and exchange processes must be harmonious with moral principles (such as avoidance of exploitation and the observance of honesty). The state must act in accordance with the Sharī'ah in the distribution of primary resources, and must enforce the moral dictates on human behavior (through ensuring the proper functioning of the institutions it is tasked to create and operate).

In conclusion, economic pursuit, from the Islamic perspective, is embedded in spirituality. Its permissibility is primarily driven by its connection with the spiritual essence of life. Consequently, all levels of economic production and wealth acquisition are immersed in the general ethical framework of Islam. The state, as the enforcer of divine law, must ensure that society is oriented in a manner that facilitates the spirituality of all individuals. This necessarily implies taking an active role in the economic affairs of society; not only overseeing the distribution of primary wealth, but acting as the moral police at all levels of the economic process.

CHAPTER 3: MORALITY, JUSTICE, AND ECONOMIC FREEDOM: A COMPARATIVE STUDY OF THE DOCTRINES OF CAPITALISM AND ISLAM

3.1. ABSTRACT

The study attempts to explain Islam's market doctrine within the philosophical framework of the Islamic social ideology. In order to nullify any misinterpretation that may have emerged in previous studies on the subject, the study is conducted as a comparative analysis of Islam and capitalism. The study establishes that the inherent differences between the Islamic economic order and capitalism derive, primary, from the extent of freedom the individual is accorded in the pursuit of material acquisition. And this difference, in the extent of freedom, also derives from the moral orientation of the two systems. The religious origin of Islamic economic thought makes material pursuit a means that aid the ultimate end, which is spiritual success. Consequently, wealth is pursued within the confines of Islamic morality. Capitalism, on the other hand, is an essentially materialistic ideology, which makes material acquisition an end in itself, guided by the materialistic morality.

Capitalism believes in the ability of unrestricted economic freedom of the individual to bring about outcomes that are both just and welfare-enhancing. It, thus, preaches unlimited individual freedom in the acquisition of property and its utilization, as well as unhindered exchanges. Consequently, governments have a very limited role to play within the capitalist system. Islam, on the other hand, believes that unrestricted economic freedom of the individual has potentially detrimental consequences for the spirituality of the individual, and for the welfare of society. Thus, the individual must not only be guided by moral precepts, but must also be compelled, by the state, to conform to those precepts, when it becomes necessary.

Keywords: Islam, morality, capitalism, economic justice, economic freedom

3.2. INTRODUCTION

In the aftermath of the successful resistances against colonialism in the Muslim world, Muslims have been inspired into seeking Islamic alternatives to the pre-existing institutional structures imposed on them by the colonialists. Consequently, studies have been conducted on the kind of social arrangement Islam offers as an alternative. In the sphere of economics, the attention has been on extracting, from the Islamic system of thought, economic conceptions that will replace capitalist and socialist ideas – the predominant bases on which most post-colonial Muslim societies remained organized. This, and other related reasons, led to the *First International Conference in Islamic Economics* in 1976, in the city of Makkah, which sought to streamline a new discipline known as *Islamic Economics*²⁹⁰. The conference inspired more activity in the research area of Islamic economic thought, producing, among other things, studies on the economic thought of some prominent Islamic scholars of the medieval period, such as Abu Hamid ibn Muhammad al-Ghazālī (1058-1111), Taqī ad-Din Ahmad ibn Taymiyyah (1263-1328), Shams ad-Din Abu ‘Abd Allah ibn al-Qayyim (1292-1350), and ‘Abd ar-Rahman ibn Muhammad ibn Khaldūn (1332-1406).

It has become quite apparent, from these recent studies, that the medieval Islamic scholars addressed various economic questions in their writings, ranging from economic behavior of the individual members of society to the role of the state authority in the economic affairs of society. These economic ideas, derived mainly from primary sources of Islamic knowledge and law (i.e., the Qur’ān and hadīth/prophetic tradition), were part of the broad attempt, by the scholars, to provide an Islamic guide to social life in their respective periods, and this carried significance since the affairs of historical Islamdom were, largely, organized on the basis of the *Shari‘ah* (Islamic law). Consequently, the intellectual approach that

²⁹⁰ Islahi, A.A. (2008). Thirty Years of Research in the History of Islamic Economic Thought: Assessment and Future Direction. 7th *International Conference in Islamic Economics* (pp. 347-70).

produced these ideas was harmonious with the general Qur'ānic conception of life – an integrated whole with functional constituents, each playing its role towards the attainment of a spiritual end. Economic ideas were, thus, treated as integral to the broader conception, not as isolated ideas that could be completely understood on their own. Unfortunately, though most of the recent studies have acknowledged the “holistic intellectual approach”²⁹¹ of the early scholars, they have tended to discuss the economic ideas as divorced from their holistic contexts, as a result of which wrong interpretations of the ideas have ensued. The obvious culprits in this have been studies that have sought to disprove Schumpeter's ‘Great Gap’ thesis, by proving how scientific/analytical these classical Islamic economic ideas are. In doing so, they have often been compelled to explain the economic thought emanating from these medieval sources as if distinct from their holistic sources, and have, in the process, been led to interpret them as similar to the modern capitalist-dominated economic concepts. For instance, in Shaykh Muhammad (S.M.) Ghazanfar's introduction to *Medieval Islamic Economic Thought*²⁹², he asserts that “while terms such as “capitalism”, “market economy”, “price system”, and “voluntary-exchange economy” are of rather recent origin, the assumptions underlying the economic discussions of the medieval Islamic scholars were essentially the same as those of a contemporary market economy, albeit with an administrative role for the state in order to pursue the goal of common good”²⁹³. Such suggestions were reinforced in one of the studies published in the book, in which Imam al-Ghazālī's ideas were likened to laying “the foundation of...the “spirit

²⁹¹ Ghazanfar, S.M., & Islahi, A.A. (2003). Economic Thought of an Arab Scholastic Abu Hamid Al-Ghazali (AH 450-505/1058-1111 AD). In *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.23-44), p. 23.

²⁹² *Medieval Islamic Economic Thought* (published in 2003 and edited by S.M. Ghazanfar) is a collection of studies, all of which have sought to fill the centuries that have been left “blank” by Schumpeter and other historians of economic thought, by presenting the economic ideas of medieval Islamic scholars. All the papers (except one) were previously published in various academic journals.

²⁹³ Ghazanfar, S.M. (2003). Introduction. In S.M. Ghazanfar (ed.), *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.1-5), p. 5.

of capitalism”²⁹⁴. Such conclusions could only imply, in the least, misinterpretation inspired by a wrong methodological application. In respect of the just-mentioned misinterpretation of al-Ghazālī’s idea, for instance, Oslington (2003) suggests that the writers “look[ed] at al-Ghazali’s writings through a modern Western lens that blocks out the eleventh-century, non-European nature of the texts, and especially their religious nature”²⁹⁵.

In this paper, we attempt to explain Islam’s market doctrine using the holistic methodology. In order to nullify any misinterpretation that may have emerged in previous studies on the subject, the study will be conducted as a comparative analysis of Islam and capitalism. It is obvious that these recent misinterpretations have been influenced by modern capitalist-dominated economic ideas, hence our choice of capitalism. Our study will thus attempt to filter intellectual sources (Islamic and Western) in order to establish the inherent difference between the two systems. This attempt is significant, not only for correcting the existing interpretational errors with respect to the Islamic economic ideology, but also for establishing a useful conceptual framework for explaining historical developments in the Islamic world. The broad nature of the two ideologies, however, makes it an impossible task to comparatively examine all of their features in single study such as this one. Thus, we limit our discussion to the issue of ownership, production, and exchange in the two systems. We would be establishing the role of morality and ethics in the two systems (founded on their respective conceptions of the essence of human life). As a natural progression from this, we will examine the significance of ethics in economic relations within the two ideologies (captured by their respective views on economic justice). Finally, on the basis of these two issues, we will attempt to draw out the respective positions of Islam and capitalism

²⁹⁴ Ghazanfar, S.M., & Islahi, A.A. (2003). Economic Thought of an Arab Scholastic Abu Hamid Al-Ghazali (AH 450-505/1058-1111 AD). In *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.23-44), p. 28.

²⁹⁵ Oslington, P. (2003). Economic Thought and Religious Thought: A Comment on Ghazanfar and Islahi. In S.M. Ghazanfar (ed.), *Medieval Islamic Economic Thought: Filling the “Great Gap” in European Economics* (pp.45-48), p. 45.

on the freedom of the individual in the pursuit of economic ends, with specific reference to issues of ownership, production, and exchange. Much of our discussion, especially of capitalism, unfolds as historical analysis, given the fact that capitalist ideas were formed through a historical process. For instance, as we shall see later, the gradual transformation of European society from a feudal one in the medieval era to a capitalist one (from the sixteenth century onwards) was paralleled by a gradual transformation of social theory from one that was essentially religious to one that was essentially materialistic. The Islamic ideology, though it took shape over time, did not experience any significant change in its essence. Thus, history is referred to only when it is relevant in helping us understand some specific concepts.

Our study is organized in five sections (including the introductory section). In section two, we discuss the meanings of morality in Islam and capitalism, largely derived from their respective conceptions of the essence of human life. Section three establishes why an ethic-based definition of economic justice is incompatible with capitalism but compatible with Islam. In section four, we utilize the tools derived from sections two and three to analyze the inherent difference between Islam and capitalism in their respective conceptions of economic freedom (in terms of ownership, production, and exchange). Finally, we conclude in section five.

3.3. ON THE QUESTION OF ETHICS AND MORALITY

It is important, as a foremost step, to reiterate the already discernible fact that the two systems of thought derive from different sets of ethics. While Islamic economic thought derives from a religion which places spiritual success above everything, and makes it the mandatory motive for the actions of a spiritually-conscious man, capitalist thought is founded on the idea of the unrestricted freedom of man to persistently acquire and accumulate wealth. For Islam, pursuit of wealth is endorsed only for its functional role in the broader conception of life, and is thus

submerged in the ethos that defines life itself; wealth is pursued only as a means to an end, not an end in itself. A life that is lived exclusively for the acquisition and accumulation of wealth is, thus, conceived, in the Islamic perspective, as devoid of its true essence; orienting life in such a manner constitutes an act of irrationality. Capitalism, on the other hand, is nourished by the idea of acquisition as end in itself, making material acquisition the prime dictator of individual action and of the organization of society. The capitalist outlook is “the continual accumulation of wealth for its own sake, rather than for the material rewards that it can serve to bring”, an idea which Max Weber terms ‘the spirit of capitalism’²⁹⁶. Rationality, within this ideological context, is determined by principles that are consistent with, and facilitate, the acquisitive spirit. Morality is, consequently, defined differently in each of the two ideologies. Indeed, capitalism has had to battle with the prevailing traditional morality of the context of its historical development, and gradually rid itself of it. Today, the very idea of capitalism, in theory and practice, is understood as free from any confined set of moral principles, such as the ones that dictated human action in pre-capitalist Europe.

In feudal medieval Europe, the predominant social ideology placed religion at the center of human activity, and made it the “ultimate standard” of all institutions²⁹⁷. All aspects of society were integrally connected, each playing its role towards a purpose “set by the divine plan of the universe”²⁹⁸. Society is characterized as “an organism of different grades, and human activities form a hierarchy of functions, which differ in kind and significance, but each of which is of value on its own plane, provided that it is governed, however remotely, by the end which is common to all”²⁹⁹. All members (regardless of class) must take means that are enough to meet their needs, and not more³⁰⁰; the rich had charitable obligations towards the

²⁹⁶ Giddens, A. (2005). Introduction. In M. Weber, *The Protestant Ethic and the Spirit of Capitalism* [1930] (pp. vii-xxiv), p. x.

²⁹⁷ Tawney, R.H. (1937). *Religion and the Rise of Capitalism*, p. 19.

²⁹⁸ Ibid, p. 19

²⁹⁹ Ibid, pp. 19-20

³⁰⁰ ibid

poor. Thus, within this system of thought, economic pursuit played an integral functional role in the organism called society. To pursue a “life of mere money-making was recalcitrant”, to which “stigma” was attached³⁰¹. Economic extortion was abhorrent, and it is in this context that the injunctions on usury and price were discussed. The feudal lord’s property and peasant’s/craftsman’s labor, though, were transformed into forms acceptable to the religious outlook of a functional society, and were, thus, validated by it. Neither labor nor land was to be freely traded; peasants “were bound by duty and were not free to offer their labor in the market”³⁰². “Society was interpreted, in short, not as the expression of economic self-interest, but as held together by a system of mutual, though varying obligations”³⁰³. Society’s welfare was guaranteed as long as each element of society played its role effectively without affecting the balance.

Parallel to the increasing prominence of trade and commerce, and general rise of capitalistic tendencies, was a gradual transformation of the role of economics in social ideology, until the economic motive gained dominance in social thought as the key driver of human action and social organization. By the turn of the modern era, social ideology in the West had evolved into one dominated by economic considerations, founded on an ethos which Max Weber describes as ‘the spirit of capitalism’. An illustration of the effect of the economic motive on socio-political thought is the relation between the rise of individualist thought and the development of the classical liberalist tradition. Michael O’Flynn (2009) asserts that “[the] primacy of the individual was insisted upon as soon as property-owners and their representatives came to regard capitalist relations as the basis of their freedom”³⁰⁴. Their demand for the establishment of the ideals of capitalism, “justified in terms of the perceived interests of the individual”, “gave coherence to

³⁰¹ Ibid, pp. 20-21

³⁰² O’Flynn, M. (2009). *Profitable Ideas: The Ideology of the Individual in Capitalist Development*, p. 10.

³⁰³ Tawney, R.H. (1937). *Religion and the Rise of Capitalism*, p. 21.

³⁰⁴ O’Flynn, M. (2009). *Profitable Ideas: The Ideology of the Individual in Capitalist Development*, p. 2.

the modern liberal individualist tradition”³⁰⁵. Individual freedom to freely pursue economic gain “was thought to require liberal government”, and any regime would be declared tyrannical that was perceived to “interfere with the rights of private property, or the process of capital accumulation”³⁰⁶. Thus, interference with private contracts became synonymous with political tyranny, and the campaign to end this “intensified as capitalist relations developed”³⁰⁷.

While this may be the case for the dominant Western social ideology, which evolved into one consistent with the ideals of capitalism, the Islamic ideology, on the other hand, has remained consistent with the core ideals of Islamic spirituality. Varying positions have emerged, in the course of history, on various aspects of the ideology, including the economics. However, there is no ideological position that has succeeded in divorcing the Islamic social doctrine from its spiritual essence. The Islamic conception of life shares similarities with the broad conception that characterized social theory in medieval Europe, though it differs in specific aspects with respect to the concept itself and the social laws that derive from it. Life on earth, according to Islam, is test ground for spiritual success. The ultimate preoccupation of man should be to earn the pleasure of God³⁰⁸ as a means to bliss in an eternal life after death. The earth is not a permanent abode for man, but a “period of probation”, and “his objective should be to merit the pleasure of Allah so as to emerge successful in the final test”³⁰⁹. Such a conception places spirituality above every other consideration in human decision making and conduct, which, in turn, demands conformity with divine dictates. From a broader social perspective, this conception implies the necessity of organizing society in a manner that facilitates the individual’s pursuit of his spiritual duty. There is no “significant separation between life-spiritual and life-mundane”³¹⁰; the individual organizes his

³⁰⁵ Ibid, p. 2

³⁰⁶ Ibid, pp. 2-3

³⁰⁷ Ibid, p. 3

³⁰⁸ “***And I did not create the jinn and mankind except to worship Me***” [Qur’ān 51:56; (Saheeh International Translation, 2010)]

³⁰⁹ Mawdudi, S.A. (1996). *Islamic Way of Life*, p. 2.

³¹⁰ Ibid, p. 1

life within the confines of its spiritual essence, while society is organized within the confines of the divine plan. Every single aspect of life (including livelihood, social relations, etc.) is, thus, integrated into a whole, and must unfold within a moral ethos that is harmonious with God's prescriptions. Economic pursuit plays a functional role within this integrated conception, and is, thus, submerged into it. Wealth is not acquired for its own sake, but only as a means to the fulfilment of wants which, themselves, facilitate the spiritual path. The importance of economic production, in this context, is not limited to the individual but to the society at large. It is in light of this that economic pursuit is actually encouraged, and made obligatory on certain category of persons within society. The specific details of this become clearer when we compare the salient features of the two ideologies later. However, what must be established is that this immersion of material acquisition into the confines of the spiritual essence makes it irrational, from the Islamic perspective, for any individual to make material acquisition the sole motive of his life, and to flout divine laws in its pursuit. Such a life would be one without purpose, and destined for eternal doom. This exact conclusion is starkly opposed to the 'spirit of capitalism' which nourishes the capitalist mindset.

The spirit of capitalism is a "philosophy of avarice", according to Max Weber, which professes "the idea of a duty of the individual toward the increase of his capital", the very act of which is perceived "as an end in itself"³¹¹. It is an ethic, whose "*summum bonum*" is "the earning of more and more money, combined with the strict avoidance of all spontaneous enjoyment of life"³¹². Human qualities such as honesty, frugality, punctuality and industry are classified as virtues only in so far as they facilitate the individual's acquisitive quest, and their exhibition beyond what is required for wealth accumulation is "unproductive waste"³¹³. Money-making is "a calling", which when pursued legally is classified as an "expression of virtue and proficiency". In short, the capitalist spirit is an ethic in which money-making

³¹¹ Weber, M. (2005). *The Protestant Ethic and the Spirit of Capitalism* [1930]. (T. Parsons, Trans.), p. 17.

³¹² Ibid, p. 18

³¹³ Ibid, p. 19

dominates man and becomes “the ultimate purpose of his life”, such that it compels him to organize his life in a manner consistent with its ideals. While such a tendency has existed in other societies and ages, it was only in modern Europe that it took the form of an ethic and coerced the individual into submission to its precepts. This ethic “had to fight its way to supremacy against a whole world of hostile forces,” including traditionalism of the medieval era³¹⁴. Once it had succeeded, it repainted society to reflect its specifications. The materialistic ethic it defined for society provided impetus for development of capitalist tendencies in Europe. Karl Polanyi asserts, for instance, that the emergence of market society in the nineteenth century, preceded by the Industrial Revolution, was, among other things, inspired by an “utterly materialistic” creed, previously unknown to the world, which “believed that all human problems could be resolved given an unlimited amount of material commodities”³¹⁵. This creed, in the least, is a variant expression of the capitalist spirit.

The natural progression from this materialistic creed is a relegation of any form of religious morality to the periphery of society, since it elevates the economic motive to the position of primacy. Religious morality would be considered inhibitive to the acquisitive spirit since it impedes wealth accumulation, an example of which is the prohibition of usury under medieval laws and its condemnation in theory. Polanyi observes a phenomenon, intellectual and practical, in nineteenth-century market society that reflects this exact ‘natural progression’, in which human motives became dichotomized into “economic” and “ideal” motives. Human activity became largely “related to the production of material goods”, inspired by either the “fear of starvation or the lure of profit”; such were the economic motives³¹⁶. All other considerations, such as moral duty, solidarity, honor, etc., became classified under

³¹⁴ Ibid, pp. 20-21

³¹⁵ Polanyi, K. (1944). *The Great Transformation: The Political and Economic Origins of Our Time*, p. 40.

³¹⁶ Polanyi, K. (1947). On Belief in Economic Determinism. *Sociological Review*, 37(1), 96-112, p. 100.

the ideal motive³¹⁷. Thus, man's activity becomes inspired by the "materialistic morality", which resists "all attempts to correct it in practice" since such attempts derive from an unreal "idealistic morality"³¹⁸. Nineteenth-century Europe thus becomes "organised on dualistic lines", such that everyday activity is material and religion is ideal³¹⁹. Such a pervasive dichotomy has not occurred in Islam, at least in theory. The integrated conception outlined above has remained largely unaltered, and intellectual efforts continue to integrate new social realities into this conception. In reality, a significant part of the era of Islamdom witnessed the attempt to govern according to Islamic law, with the '*ulamā*' (religious scholarship) occupying a prestigious position in the eyes of both the ruling establishments and the ruled.

Thus, Islam prescribes religious morality as the basis of human action and social organization, with eternal spiritual success as the source of inspiration. Wealth acquisition plays a functional role in the life of the Muslim and in society. Consequently, it is pursued within the confines of Islamic morality. Islamic morality determines why, how, and when material pursuit is undertaken. When placed appropriately within its spiritual context, wealth acquisition itself becomes a spiritual exercise which adds value to the entire spiritual struggle that defines an individual's life. Capitalism, on the other hand, prescribes materialistic morality, with wealth accumulation as the inspiration. In this conception, religious morality is regarded as an impediment to the acquisitive spirit, and thus unwelcomed. The individual freedom that is preached by capitalism encompasses "free, unrestricted, private control over personal capacities and properties under rule of law", law here implying secular law (which is founded on the ideals of individual freedom, as given birth to by the liberalist tradition)³²⁰. These stark positions on morality must not be ignored in any attempt to compare the two systems of thought. For, it is precisely in

³¹⁷ *ibid*

³¹⁸ *Ibid*, p. 101

³¹⁹ *Ibid*, p. 101

³²⁰ O'Flynn, M. (2009). *Profitable Ideas: The Ideology of the Individual in Capitalist Development*, p. 2.

these variant conceptions that the inherent differences in the character, form, and precepts of the two systems are derived.

3.4. ON THE CONCEPTION OF ECONOMIC JUSTICE

Macpherson (1985) defines economic justice as a concept that imposes some “ethical principle deduced from natural law (or divine law) or from a supposed social nature of man” on economic relations, which it treats as distinct from general social relations³²¹. In Macpherson’s analysis of the idea, he traces a relationship between its epochal importance and the rise of the market in the history of societies, and contends that the first usage of the term is traced to Aristotle, who applied it as a defense mechanism against the attempt of economic relations to dominate social relations in the fourth-century BC Greek society. Thus, according to Macpherson, economic justice, as a specific concept, arose only when economic relations appeared as distinct from the overall social relations, threatening to become the dominant force of the society. Aristotle identified two aspects of the concept – commutative and distributive justice. Commutative justice pertained to justness in exchange transactions, which is established by exchange on the basis of the just price. The just price, in his analysis, is a socially-determined (not market-determined) price “which yields to the producer of each commodity a return proportionate to the status customarily enjoyed by a person of his occupation or skill”³²². Distributive justice, on the other hand, pertained to distributing the total product of the society in a just manner, such that every household attains an income moderate enough to meet the good life. Though Aristotle was unsuccessful in overturning the rising influence of economic relation in his society, he succeeded in establishing an ethical basis for challenging the threat of economic relations on social values. The usage of the term in fourteenth-century Europe, by St. Thomas Aquinas, coincided with the rise, to prominence, of

³²¹ Macpherson, C.B. (1985). The Rise and Fall of Economic Justice. In C.B. Macpherson, *The Rise and Fall of Economic Justice and Other Papers* (pp. 1-20), pp. 2-3

³²² Ibid, p. 6

commercial relations in feudal European society, and its attempt to predominate overall social relations. Aquinas explained commutative justice as implying that exchanges are done at the just price, which is the price that gives “each producer a return for his labour appropriate to his rank and skill”³²³. He further contended that gain from trade is just if it does not “exceed a suitable return for the merchant’s labour, the risks he took, and the costs of transportation”³²⁴. But such a gain can only be justified if it is moderate per customary standards, and the trade from which it is attained benefits the community. Generally, gain from commerce was endorsed if it derived from merely taking advantage of geographical differences in terms of trade; they were prohibited if, on the other hand, they derived from taking advantage of a superior bargaining power, such as the case of usurious lending. The moral limitations on trade in the Europe of the medieval era were the result of the social setting and the values that defined it, and, thus, “defensive mechanisms” against the threat of market dominance³²⁵. In this regard, they “had some success”, but eventually proved ineffective in preventing the market from dominating the traditional values of the system³²⁶.

When the feudal order made way for the mercantile state in the fifteenth century, the medieval concept of economic justice also made way, “[but] was not replaced by any new theory of economic justice”³²⁷. National interest, which was basically “the accumulation and exertion of private and corporate capitals”, replaced ethics as “the criterion of the good”³²⁸. Thus, the intellectual debate was transformed into concerns of stimulating national capital through accumulation of gold and silver or other means; it no longer mattered whether national gains from international trade was the result of taking advantage of mere geographical differences in terms of trade or the exertion of superiority in bargaining power. In short, ethical

³²³ Ibid, p. 7

³²⁴ Ibid, p. 7

³²⁵ Ibid, p. 7

³²⁶ Ibid, p. 8

³²⁷ Ibid, p. 8

³²⁸ Ibid, p. 8

considerations no longer mattered in policy debate. In the condemnation of the idea of economic justice to theoretical irrelevance, Thomas Hobbes played an important role. In *Leviathan* (1651), Hobbes asserted that the just value is that which the contracting parties (in an exchange transaction) are willing to give in exchange³²⁹. His assertion implied that “[all] market exchanges are...exchanges of equal value, that is, values deemed equal by the exchangers”³³⁰. This conclusion implies the irrelevance of any ethically-founded conception of justice in exchange transactions in a market society. He further opined, in regards to distribution, that the market rewards man on the basis of his merit. Hence, distribution in a market society is just, and “cannot be judged by any non-market standard”³³¹. All subsequent liberal theories continued in this tone, leading to the eventual disappearance of economic justice as an element of political and economic theory; “in the mainstream of both political theory and political economy, from the seventeenth century on, there was no more concern with economic justice”³³². This eventual theoretical disappearance of economic justice is thus linked with its incompatibility (or irrelevance) within a free-functioning market setting. Classical political economists of the eighteenth and nineteenth centuries believed in the market’s ability to produce just distribution, and, thus, their interest in analyzing the distribution of national income among the factors of production excluded issues of justice. Later liberal theorists have also relied on the market, thus giving little attention to economic justice, though they have often called for state intervention to equipoise the negative allocative effects of the market. The most notable contribution to the concept, in the twentieth century, is John Rawls’ theory, though “it is scarcely recognizable as a theory of economic justice” since it is premised on the assumption of “dissociated individuals”, whose “essential attribute” is one of “market-maximizing behaviour”; the concept of economic justice, on the other hand, is premised on the “assumption that social norms and ethical values should

³²⁹ Ibid

³³⁰ Ibid, p. 9

³³¹ Ibid, p.9

³³² Ibid, p. 10

prevail over, or not be eroded by, impersonal market values”³³³. Additionally, in Rawls’ analysis, income redistribution on the basis of ethical principle is severely limited by the dictates of the market³³⁴. His ethical principle of distribution is, thus, dominated by market relations of the capitalist economy. This, indeed, “is the only position consistent with his fundamental Hobbesian assumption of unsocial maximizing individuals as the irreducible units of modern society”³³⁵. Thus, by the nineteenth century, the concept of economic justice became “permanently crippled”, and the reason is that the triumph of capitalism “rendered the old notions of distributive and commutative justice helpless and useless”³³⁶. From the seventeenth and eighteenth centuries, economic relations separated from, and dominated, all other relations, and consequently, justice became reduced to “market calculation of maximum utility”³³⁷. “As long as the capitalist market economy was generally accepted as on balance beneficial, there was scarcely any use for a concept of justice at all, little thought was given to it in mainstream theory”³³⁸. Its revival in the twentieth century, which emanated from political practice rather than theory, coincided with “a decline of confidence in the beneficence, and indeed in the possibility, of a freely competitive capitalist market economy”³³⁹.

Macpherson’s brief historical analysis of the concept of economic justice illustrates the concept’s incompatibility with capitalism, both as a social system and an ideology. An ethically-defined economic justice is not compatible with capitalism’s belief in the justness of free-functioning market, thus precluding the need for ethical principles. Its revival in social (or political) theory or political practice, since the medieval period, has always been associated with some protest against either the tendencies of the capitalist system or the effects therefrom. Its revival in the

³³³ Ibid, p. 12

³³⁴ ibid

³³⁵ Ibid, p. 13

³³⁶ Ibid, p. 13

³³⁷ Ibid, p. 14

³³⁸ Ibid, p. 14

³³⁹ Ibid, p. 14

political practice of twentieth century, for instance, was inspired by three factors, according to Macpherson: the first is the rise of social-democratic parties and the growth of trade unions, which led to the introduction of “welfare-state measures” in advanced capitalist democracies³⁴⁰; the second is the decline in market competition brought about by “concentrations of capital”, rendering the claim of the market, to treat all exchangers equally, unjustified³⁴¹; and the third is the ceding of part of the market’s allocative role to governments in advanced capitalist countries, partly due to “the need to save the system from itself”³⁴². All three factors imply a decline in confidence, within the political realm, in the free-functioning market’s ability to produce just outcomes.

As established in the preceding section, Islam is system that is founded on religious morality. Thus, the economic order of Islam is not averse to control of economic relations on the basis of ethics. From a historical perspective, Islam emerged in a social context that was also engulfed in a struggle between its traditional ways and the rising influence of economics due to growth in commerce (and the changes that accompanied such a growth). Most historical sources allude to how Makkah, from the fifth century to the rise of Islam, became a major commercial center, with the periodic paganist pilgrimage to the *Ka’ba* providing additional impetus to commerce. The tribe of Quraysh, which was then the leading tribe, had played a major role in mobilizing capital for international and domestic trade, and, thus, soon produced a merchant class that became an important component of the society. Makkah soon transformed from a society organized homogeneously along kinship lines into one with “a more complex set of social relations”³⁴³ based on commerce, wealth and power. This produced a new social stratification, with the wealthy merchants forming the uppermost class, while the

³⁴⁰ Ibid, p. 15

³⁴¹ Ibid, p. 15

³⁴² Ibid, p. 15

³⁴³ Ibrahim, M. (1982), *Social and Economic Conditions in Pre-Islamic Mecca*, p. 346

lowest were the slaves³⁴⁴ and their children. In the middle classes were those who acted as middlemen in trade, craftsmen, labourers on wage, etc. Over time heterogeneity in Makkah became more ingrained, not only in terms of social stratification, but also in terms of ethnicity as more people of varying origins became attracted to it³⁴⁵. The wealthy, and most powerful, class became occupiers of the “inner city” around the central sanctuary of the *Ka’ba*³⁴⁶, and became known as ‘Quraysh of the Inside’, forming a sort of “merchant aristocracy of caravaneers and business men”³⁴⁷. The outer part of the city was occupied by members of the other clans less prestigious, and the occupants were referred to as the ‘Quraysh of the Outside’. There was a third group that formed a class of workers (made up of the Bedouins and foreigners) who provided services of varying kinds in exchange for wages, while there was yet ‘the “Arabs of Quraysh”, the dependent Bedouin tribes’, situated outside of Makkah³⁴⁸. Thus, a society with a social order that placed much value on relations of kinship was soon transformed into one with complexity of relationships dictated by economic considerations. The gap between the rich and the poor served as an additional means for the rich to maximize their wealth and exert more control on the society. They offered loans at exorbitant interests, and subjected their defaulting debtors into literal slavery. Bedouins who were indebted to the merchants of Makkah “were forced to leave their tribes” for Makkah “lest they become a liability on its [i.e., the tribe’s] collective wealth”; they joined the inflating wagon of the poor in Makkah³⁴⁹. Somehow “the transition from a nomadic to a settled economy” brought forth the “tendency to replace tribal solidarity by individualism”; the rising self-centeredness allowed those “with a

³⁴⁴ This category included war captives, persons taken as captives due to their indebtedness, or persons sold into slavery. The slaves were ‘capital’ for their owners, and would be made to work as servants in the homes or form part of trade caravans [ibid, p. 346].

³⁴⁵ Wolf, E.R. (1951), *The Social Organization of Mecca and the Origins of Islam*.

³⁴⁶ Ibid, p. 334

³⁴⁷ Lewis, B. (1993), *The Arabs in History*, p. 30

³⁴⁸ ibid

³⁴⁹ Ibrahim, M. (1982), *Social and Economic Conditions in Pre-Islamic Mecca*, p. 346

measure of power” to manipulate “nomadic ideals and practices” for personal benefits³⁵⁰.

Given this background, it is not surprising that the early revelations, though largely focused on building the faith of the new Muslims, responded to such materialistic tendencies, as experienced in Makkah, with moral injunctions. But, more importantly, when Islam, as a social system and an ideology, took shape over the course Prophet Muhammad’s mission, its broad social outlook became well-outlined. From the Islamic perspective, society was to be an integrated unit with interrelated constituents, each playing its role towards achieving public good, which Fazlur-Rahman Ansari (1914-1974) defines as “the spiritual, moral, intellectual, physical and social preservation and development of the individuals”³⁵¹. As explained earlier, the life of the individual is driven by the spiritual end, and everything around him must be organized to facilitate this end, including the broader society itself. The state is granted the responsibility of creating and maintaining the kind of righteous society that enhances the individual’s pursuit of the spiritual end. Within this broad responsibility is its duty of ensuring that the economic institution maintains its status – a functional constituent of the integrated unit (i.e., society). Thus, in addition to the moral appeal that is made to the individual with respect to his economic activities, the state is obliged to organize the social structure in a manner that ensures conformity with Islamic ethics in economic relations, and is granted jurisdiction to enforce laws in order to coerce the individual to conform to moral dictates in his economic dealings with others. It is in light of this that Islam’s conception of economic justice is to be understood.

The idea of justice in economic relations is not expressed in exactly the same terms in Islamic primary and secondary sources as in Western sources. In fact, there has not been the coinage of a term synonymous with ‘economic justice’ in

³⁵⁰ Watt, M.W. (1956), *Muhammad at Medina*, p. 261

³⁵¹ Ansari, M. F.-u.-R. (2008). *The Qur’anic Foundations and Structure of Muslim Society* (Fourth ed., Vol II (Book III)), p. 57.

Islamic sources, at least of the pre-modern era. Nonetheless, there have been outlines of ethical principles to guide human conduct in economic relations, in the light of Qur'ānic ethical principles and their practical illustration by Prophet Muhammad (as recorded in the prophetic traditions/*hadīth*). With respect to distribution, there are two Qur'ānic principles worthy of highlight: first, the Qur'an guarantees every member of the society the right to sustenance³⁵²; and second, material wealth in society must not be concentrated in the hands of a few privileged members, thus creating wide income and material disparity among members of society³⁵³. The first principle above implies, according to Fazlur Rahman Ansari (1914-1974), that "all human beings have equal right to the means of sustenance found on earth – and that, consequently, the citizens of the Islamic State have equal right to the means of sustenance found in the State"³⁵⁴. Consistent with this principle is the Islamic welfare system, which mobilizes resource, mainly through the *Zakāt*, to take care of the needs of such members of society who are incapable of fulfilling their needs through active economic pursuit or other lawful means. The *Zakāt* is also a means of income redistribution, through the state, since it is obtained only from such members of society whose wealth reaches a prescribed limit, thus making it a partial fulfilment of the second principle. However, the most manifest application of the second principle is in the distribution of primary wealth, which precedes production of economic goods. In this, there is allowance for private ownership (and all the benefits that accompany it), which is outlined in such a manner as to prevent, as much as possible, discrimination against any member (or section) of the society. An example of this attempt at nondiscrimination is the ownership of a resource through the exertion of labor to revive it into a state of productiveness. But the principle of primary resource distribution also allows for two other forms of ownership – state and

³⁵² ***"And He placed on the earth firmly set mountains over its surface, and He blessed it and determined therein its [creatures'] sustenance in four days without distinction - for [the information] of those who ask"*** [Qur'an 41:10 (Saheeh International Translation, 2010)]

³⁵³ See Qur'an 59:7; it lays out this principle clearly.

³⁵⁴ Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol. II (Book III)), p. 72.

public – intended to serve as means of augmenting the welfare ends of the state³⁵⁵. The state is either able to mobilize additional liquid resources through the utilization of resources under these two forms of ownership or, in the case of such resources as large water bodies or open minerals, individual members of the society are allowed free equitable access in order to fulfil their needs.

With respect to exchange, there are three principles of the Qur'ān on the basis of which ethics of exchange are imposed. The first two relate to value in exchange transactions³⁵⁶: one is a direct moral instruction to give full measure in sales transactions, and this is especially relevant given that in the earlier periods, some commodities (such as dates and grains) were used as mediums of exchange; and the other relates to using some power to deprive other individuals their due in relation to economic transactions, such as using some superior bargaining power to obtain high value for something that is worth less. In these two principles is an injunction to observe fairness in exchange dealings, such that no exchanger in a transaction gets cheated. The third principle, which is related to the first two, is the principle of clarity³⁵⁷, such that no party is cheated on account of information asymmetry. It is the duty of the state to organize the arrangement for production and exchange in a manner that reflects the ethical principles of Islam, including those outlined above, and must enforce the ethical demands in economic relations. The state is accorded the duty of superintendence over market activity, including pricing, and is duty-bound to intervene when there is reason to suspect injustice in the pricing of commodities. Pricing is commonly-determined, given the conditions of the setting in which the market is located. Such a price is deemed fair, since it reflects the relevant conditions of its setting. No individual is permitted to attempt to influence the price in his favor through hoarding or other similar acts. When such

³⁵⁵ See *The Philosophy of Economic Pursuits and Property Rights in the Islamic Doctrinal Context*

³⁵⁶ ***"[Always] give full measure, and be not among those who [unjustly] cause loss [to others]; and [in all your dealings] weigh with a true balance, and do not deprive people of what is rightfully theirs; and do not act wickedly on earth by spreading corruption but be conscious of Him who has created you just as [He created] those countless generations of old"*** [Qur'ān 26:181-184; (Muhammad Assad's Translation)]

³⁵⁷ Discernible from Qur'ān 2:282

attempts are made, the state has the duty to intervene in order to bring price to socially acceptable levels. Historically, the state has performed its duty of market supervision through an institution that became widely known as *al-Hisbah*, and in some instances, such as during the Ottoman era, the state has pursued a deliberate policy of price setting in order to ensure fairness in pricing.

It is clear, from the discussion above, that the Islamic economic order and capitalism have divergent positions on economic justice, and this divergence derives from the role of ethics in the two systems. The capitalist belief in the power of the self-regulating market to produce just outcomes precludes the significance of ethical limitations to exchange and distribution. Thus, the concept fell to theoretical irrelevance with the rise of the market society. Subsequent attempts at reviving the concept have emerged from factors that could best be interpreted as implying a decline in confidence in the market's ability to produce just outcomes. The concept is, however, integral to the Islamic economic ideology given the moral basis of the ideology, though its manner of treatment differs from that which was produced in pre-capitalist Europe. Islamic ethics place limits on economic relations, and oblige the state to enforce these limits in order to ensure justness in distribution and exchange. This is consistent with the place that economic relations occupy in the Islamic social theory – an aspect of social life pursued as a means to other ends, and not as ends in themselves.

3.5. ON FREEDOM OF THE INDIVIDUAL AND THE FUNCTIONING OF THE MARKET

The concluding part of the previous section established that the belief in the free-functioning market's distributive and allocative powers precludes the need for an ethics-based concept of economic justice within the capitalist system. Apart from the claim that the free market system produces just outcomes, and thus must be free of any ethical confinements, there is a far more pervasive argument in

justifying the primacy of the idea of a free market, which constitutes the main characteristic of the capitalist system/ideology. This argument emanates from Adam Smith who, in *Wealth of Nations*, theorizes that uninterrupted pursuit of individual economic interests will ultimately bring about an improvement in public welfare through the 'invisible hand'. On the basis of this main thesis, Smith accords the government, or public authority, a minimal role in the organization of economic relations. Capitalism has often become synonymous with this Smithian idea, which we will explore in much more detail later. Islam, on the other hand, does not believe in the ability of an absolutely-free market to produce either just outcomes or greater public welfare. Thus, in spite of the anti-monopolist orientation of its economic system, as well as the reasonable freedom it extends to individuals in their economic pursuits, there is an active role for public authority or government in economic affairs of society. In fact, lack of enforceable moral limits in economic relations is perceived, in the Islamic ideology, as detrimental to the spiritual aspirations of both the individual and society. These positions will become clear as we explore, in detail, the idea of freedom in economic relations in both the Islamic and capitalist systems.

O'Flynn (2009) contends that the individualist campaign played a pivotal role in the establishment of capitalism. The perceived independence that accompanied "control over private property" gave impulse to the campaign for the individual's freedom to own property and dispose them as he deemed fit, and freely engage in exchange relations without government interference³⁵⁸. Eventually, when capitalism succeeded in establishing itself as a system and an ideology in Europe, it became synonymous with these ideas. Additionally, the primacy of individual freedom in economic relations implied that the market was to regulate itself without external influences; prices were to be solely determined by the mechanism of

³⁵⁸ O'Flynn, M. (2009). *Profitable Ideas: The Ideology of the Individual in Capitalist Development*, pp. 1-2.

demand and supply³⁵⁹. By and large, therefore, three features – private ownership, freedom of contract, and self-regulating market – characterize capitalism, and they, together, imply a minimal role for the government. Private ownership is the “general rule”, covering all manner of resources and wealth, such as land, mines, etc.; the private owner is guaranteed protection from the unlawful violation of his property as long as he attains it through any legitimate means, such as purchase (from another legitimate owner), receipt as gift, bequest, etc.³⁶⁰. Additionally, the individual is free to choose the manner of economically utilizing his resource in order to attain as large an economic gain as possible; such freedom is extended to the exploitation of individual skills and capabilities as well as choice of profession. The natural extension to this is the freedom to enter any legitimate exchange contract in pursuit of self-interest. This freedom (of ownership, production, and exchange) is tied to the belief in the Smithian thesis mentioned earlier. In a passage from *Wealth of Nations*, Adam Smith asserts that

Every individual is continually exerting himself to find out the most advantageous employment of whatever capital he can command. It is his own advantage, indeed, and not that of society which he has in view. But the study of his own advantage naturally, or rather necessarily, leads him to prefer that employment which is most advantageous in society...By pursuing his own interest he frequently promotes that of society more effectually than when he really intends to promote it.³⁶¹

He implies, by the above, that when individuals freely pursue their economic activities, motivated by their self-interests, a mechanism, which he refers to as the ‘invisible hand’, directs these into an outcome that is beneficial to the entire society. For the ‘invisible hand’ to perform its function, the system must be one of free exchange, such that not only are individuals free to exchange but prices are determined purely by the interaction of demand and supply.

³⁵⁹ See Polanyi, K. (1944). *The Great Transformation: The Political and Economic Origins of Our Time*.

³⁶⁰ As-Sadr, M.B. (1994). *Iqtisaduna (Our Economics)* (Vol. I (Part II)). (WOFIS, Trans.), p. 5.

³⁶¹ Smith, A. (1776). *An Inquiry into the Nature and Causes of the Wealth of Nations*, pp. 244-246.

In elaborating this mechanism of price determination, Smith defines two types of prices – the natural price and the market price. The natural price is the sum of the per unit socially-determined³⁶² average cost of each input (wage, rent, and profit) in the production process. The market price, on the other hand, is “[the] actual price at which any commodity is commonly sold” in the market, and it is determined by “the proportion between the quantity which is actually brought to market, and the demand of those who are willing to pay the natural price of the commodity”³⁶³. When the quantity of the commodity supplied to the market is equal to the demand (based on its natural price), the commodity will be sold at the natural price and, thus, sold at its exact worth. In this, the seller gains only the natural profit. However, when the supply exceeds the ‘effectual demand’, some portion of the supply must be sold below the natural price, and this low price brings down the entire price, causing the market price to fall below the natural price. Conversely, when the ‘effectual demand’ exceeds supply, some of the effectual demanders would be willing to pay more (than the natural price) for the commodity, and this drives the market price high above the natural price, enlarging the economic gain of the seller. However, according to Smith, these price fluctuations are only temporary. The natural rates of wage, rent, and profit are flexible and will adjust in response to the market imbalance. When such adjustments take place, the quantity will also adjust towards the effectual demand and bring price back to the natural rate, as well as wage, rent, and profit. “The natural price, therefore, is, as it were, the central price, to which the prices of all commodities are continually gravitating”³⁶⁴. Smith further asserts that, when greater than natural prices exists in a market for longer than usual, for some reason, the knowledge of this will pull competitors into supplying the commodity, and this beats down the price eventually. Thus, the “consequence of the competition that develops under free

³⁶² For rent, for instance, he describes the natural rate as that which is regulated “partly by the general circumstances of the society or neighbourhood in which the land is situated, and partly by the natural or improved fertility of the land” [ibid, p. 38].

³⁶³ Ibid, pp. 38-39

³⁶⁴ Ibid, p. 40

exchange” is to “increase the general welfare” of society³⁶⁵. But such competition will ensue only when individual producers are free to enter and exit industries. “The existence of competition is necessary if the ‘invisible hand’ is to bring about an increase in the welfare of the general population”³⁶⁶. Thus, competition, which is a product of freedom, enhances the welfare of society through the opportunity for private gains that opens up due to the response of price to market conditions. In effect, “the operation of the free market should lead to a state of society in which everyone is as well off as they can be”³⁶⁷.

On the basis of this conclusion, Adam Smith restricts the role of government to three functions: (1) the provision of security (protection); (2) the administration of justice; and (3) provision of goods that self-seeking individuals would be unwilling to provide, such as public goods. The implication of Smith’s argument against government interference in economic relations is that such an influence would cause the population to lose the power to control its own economic affairs, leading to detrimental effect on the overall welfare of society. The kind of result produced by self-interest-driven economic activities, through the ‘invisible hand’, cannot be replicated by the deliberate planning by some person or political authority³⁶⁸. This is the basic argument in defense of the capitalist belief in the free market, that individual economic freedom within the context of free voluntary exchange produces the greatest possible welfare effect for society, as a result of which government must remain on the periphery.

While there is belief in individual freedom within the Islamic context, as a result of which some measure of freedom is accorded the individual, there is also wariness to the idea of absolute freedom, as a result of which the state is granted a much more active role in the organization of economic affairs. This stems from the largely spiritual orientation of the Islamic ideology, as we will explain. It has been

³⁶⁵ Wright, J. (2003). *The Ethics of Economic Rationality*, p. 25.

³⁶⁶ Ibid, p. 30

³⁶⁷ Ibid, p. 32

³⁶⁸ ibid

established in the previous section that the social goal of the Islamic ideology is the preservation and development of the individual in his spirituality, intellectuality, morality, and in his physical conditions. The pursuit of this objective is not static, but continuous on a daily basis. In this, the individual has a part to play, likewise the state, which is tasked with managing the affairs of society. In this broad social goal, economic relations play only a functional role, both for the individual and for the society as a whole. The level of economic production is not elevated above its functional role; it should remain submerged in the broad picture which, for the state, is the creation and preservation of a morally upright society, and for the individual, the pursuit of the spiritual end. Nonetheless, economic pursuit is considered indispensable, as a result of which great attention is paid to its organization at both individual and societal levels. In the least, economic pursuit allows for the fulfilment of the necessities of life, which is necessary for continuous and orderly existence, as a result of which it is made obligatory both on the individual and society³⁶⁹. But the danger of unrestricted economic pursuit to the spiritually-oriented soul is not ignored, since it is acknowledged that avarice is a natural tendency in man³⁷⁰. Thus, on the one hand, man is accorded sufficient freedom to allow him attain his economic necessities and, on the other hand, enforceable moral limits are placed in his path in order to regulate his pursuit and to keep it within the confines of its function. Man's ability to wander about unrestrictedly may have the tendency to produce unimaginable levels of economic production, but this could be detrimental to other elements of the broad goal. Consequently, the focus must not be solely on economic production, but on all equally essential elements of the broad objective. It is in this context that freedom of enterprise within the Islamic doctrine must be understood.

³⁶⁹ See *The Philosophy of Economic Pursuits and Property Rights in the Islamic Doctrinal Context*

³⁷⁰ “**And indeed he [man] is, in love of wealth, intense**” [Qur'an 100:8 (Saheeh International Translation, 2010)]. According to Ibn Kathīr (d. 1373), this verse implies either that man is “severe in his love of wealth” or that “he is covetous and stingy due to the love of wealth” [Ibn Kathir, A.-F.I. (2003). *Tafsīr Ibn Kathīr* (Vol. X). (J. Abualrub, N. Khitab, H. Khitab, A. Walker, M. Al-Jibal, & S. Ayub, Trans.), p. 568].

Just like capitalism, Islam grants the individual the right to legitimately acquire property, under private ownership, and utilize or manage it in a manner he deems fit. This right of private ownership is protected from violation³⁷¹. Unlike capitalism, however, there is an ethical confine within which the exercise of this freedom unfolds. Firstly, there is the principle of *khilāfah* (trusteeship), which makes man only a trustee over whatever material or resource he legitimately acquires. This principle emanates from the concept of God as the *Originator*³⁷² and *Provider*³⁷³ of all things, including all resources utilized in the production process. Consequently, the human possessor is subject to accountability for the manner in which he utilizes the resource under his stewardship. In order to excel in this accountability, thus, man must utilize the resource in his possession in accordance with the laws of God, who is the absolute owner and the granter of the stewardship. Hence, on the one hand, there is freedom of the individual to utilize the resource in his possession, and, on the other hand, there is a consciousness of an impending accountability. In this sense, there is a moral restriction on the freedom, and, thus, cannot be considered absolute. Additionally, the state is accorded the duty of promoting the welfare of the society, which, as said earlier, is broader than economic welfare. In pursuing this, it must, among other things, uphold the right of the individual to, and the freedom of utilization of, property. However, as the preserver of the overall interest of society, the state must not allow the exercise of an individual's right to jeopardize the broad interest of society. For instance, while the owner of a cultivable land is free to utilize his land in a manner that meets his productive aspirations, he is not permitted to leave the land uncultivated until it becomes a dead-land. Such negligence will be detrimental to the subsistence of society in general. If the owner neglects his land until it becomes dead, there are two opinions: one is that the original owner still maintains some relationship with

³⁷¹ See *The Philosophy of Economic Pursuits and Property Rights in the Islamic Doctrinal Context*

³⁷² **"Allah is the Creator of all things, and He is, over all things, Disposer of affairs"** [Qur'an 39:62 (Saheeh International Translation, 2010)].

³⁷³ **"Indeed, it is Allah who is the [continual] Provider, the firm possessor of strength"** [Qur'an 51:58 (Saheeh International Translation, 2010)].

the land (such as the priority to reclaim it as long as no other individual actually revives it); the other opinion is that the ownership is terminated outright³⁷⁴. This possibility of an outright termination is an indication of how the social interest can, sometimes, override personal interests in the Islamic social policy.

Again, the duty assigned to the state grants it an active claim to property, as a result of which two other forms of ownership are outlined in Islamic law, especially with respect to primary resources. *Public Ownership*, according Bāqir As-Sadr (1935-1980), pertains to “the right of taking possession of a particular property belonging to the people or nation as a whole”³⁷⁵. In other words, public ownership is the collective right to a property whose benefits accrue to all members of the society. Such ownership form could concede the benefits/usufructs of the property either to Muslim citizens of the Islamic society only or to both Muslims and the *Dhimmī* population (i.e., non-Muslims under the protection of the Islamic society). *State Ownership*, on the other hand, pertains to “the right of taking possession of the property belonging to the divine function (office) of the Islamic State which the Prophet or the Imām [i.e., the leader] exercises”³⁷⁶. The difference between these two forms of ownership, subtle as it appears, is reflected in the manner in which the usufructs derived from each form are utilized for the benefit of the Islamic society; the leader of the Islamic society is granted more discretion with respect to utilizing the usufructs of state properties while the scope of utilization for the usufructs of public properties is limited to the balanced benefit of society³⁷⁷. Such permission for state/public ownership is to equip the state in order that it is able to exercise its duty of meeting the economic needs of all segments of society, especially the weak and vulnerable who are incapable of active economic pursuit. Public ownership, for instance, guarantees equal access to all members of society for resources whose benefits are directly derivable, such as water bodies and salt mines, while, in the case of resources that need to be worked upon, the revenue

³⁷⁴ As-Sadr, M.B. (1994). *Iqtisāduna (Our Economics)* (Vol. II (Part I)). (P.E. Trust, Trans.)

³⁷⁵ Ibid, p. 60

³⁷⁶ Ibid, p. 59

³⁷⁷ See *The Philosophy of Economic Pursuits and Property Rights in the Islamic Doctrinal Context*

derived therefrom could only be used by the state in a manner that benefits all members of the society. State's involvement in the economic affairs of society is, however, not limited to these forms of ownership. The more important role of the state is its regulation of production and exchange activities.

For the individual producer, his decision on what and how to produce must not be solely guided by profitability, if his production activity is to have any spiritual worth at all. Such a decision must be cognizant of potential effect of the activity, and its fruit, on the society's well-being, which, of course, is not limited to the fulfilment of its economic needs, but extends to its moral and spiritual health. In light of this, the producer must intend the good of society through his production activity, and, thus, refrain from such acts that have potentially detrimental effect on social good. As an explicit example, promiscuity, according to the Islamic ideology, is inimical to the moral fabric of society (and, thus, to public good). Thus, any economic act or endeavor that promotes it (or any other immoral behavior of the like), such as prostitution, erotic arts, etc., must be avoided. In a more general sense, production of any commodity whose consumption is proscribed in Islamic law (such as alcohol/wine, cocaine, etc.) must be avoided³⁷⁸. Such moral considerations, however, are not limited to the choice of commodity to produce, but extend to the conduct of the producer in the course of the production process. In this regard, there are ethical principles, such as the avoidance of exploitative behaviors, which the producer must adhere to, since production is a part of the accountability attached to the stewardship of resources in an individual's possession. The state, on its part, has the duty of monitoring the production process to ensure nothing detrimental to the welfare of the public ensues. It is in the state's jurisdiction to punish producers who flout moral injunctions, as a result of which they endanger the wellbeing of society.

Finally, as we have previously established, the state is obliged to organize and maintain an exchange arrangement, within the social structure, that upholds the

³⁷⁸ See *The Philosophy of Economic Pursuits and Property Rights in the Islamic Doctrinal Context*

ethical principles of exchange in order that fairness may be maintained in exchange transactions. We have also established that the state is required to supervise market activity to ensure that individuals do not succeed in any attempt to unduly influence market conditions in their favor, and at the detriment of the larger public. Generally, the Islamic doctrine is oriented in such a manner that it guarantees all members of the society an equally fair chance of voluntary exchange and making gains from it. Consequently, some specific market practices (such as *najsh*, hoarding, and forestalling) have been proscribed in the prophetic traditions (hadith). *Najsh*³⁷⁹ occurs when a person “offers a bid merely to incite another needy buyer into paying a higher price”³⁸⁰. *Hoarding*³⁸¹, on the other hand, occurs when a supplier restricts supply to the market, by hiding what should be delivered for sale, in order to make extra gains. Finally, *forestalling* refers to the interception of goods before they reach the markets³⁸². Obviously, such practices threaten the fairly competitive market environment by creating unfair advantages to particular individuals within the market, to the detriment of other participants. The most obvious effect of such practices (and others alike) is to create artificial increases in prices, as a result of which higher gains would accrue to the perpetrators. In the case of hoarding, for instance, the shortage that emerges therefrom creates an unfair superior bargaining power for the hoarder, since the commodity in question is in perpetually high demand³⁸³, as a result of which he is able to obtain higher prices for them. This constitutes extortion, an act which contradicts the ethics of Islamic social relations. It is part of the duty of the state to ensure that such practice do not prevail in the market, by intensifying its

³⁷⁹ Ibn Umar narrated that: “*The Prophet forbade the Najsh*” (Sunan Ibn Majah, Vol. 3, Hadith Number 2173)

³⁸⁰ Ibn Majah, M.I. (2007), *English Translation of Sunan Ibn Majah* (Vol. 3), (N. Al-Khattab, Trans.), p. 244

³⁸¹ The Prophet is reported to have said: “*Whoever hoards is a sinner*” [Sahih Muslim, Vol. 4, Hadith Number 1605].

³⁸² It is narrated from Abu Hurayrah that the Prophet said: “*Do not meet the traders on the way, and whoever meets any of them and buys from him, the vendor has the choice of annulling the transaction when he comes to the marketplace*” [Sunan Ibn Majah, Vol. 3, Hadith Number 2178].

³⁸³ Hoarding is general permitted for non-necessities, since such goods are demanded out of desire for luxury, and not as a consequence of some pressing need [see Ibn Khaldun, A.B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.), p.339].

supervision on market activity. Individual violators of such moral principles must be punished by the state, and corrective measures taken to ensure that the market returns to normalcy.

The issues raised above also bring up the question of pricing in the Islamic doctrine³⁸⁴. For simplicity, I have classified price into two levels (the basic price and the prevailing price). The basic price is the per unit sum of the cost components of the production process³⁸⁵, respective rates of which are determined by the prevailing conditions of the setting in which the production takes place. The prevailing price, on the other hand, is the actual price at which the commodity is traded in the market, and can change in response to change in conditions that bring about shortage or abundance. The difference between the two prices is the economic gain (profit) to the producer/seller. The prevailing price is fair to both buyers and sellers, as long as there is no attempt to unduly influence it. And as long as market participants behave well (i.e., conform to the ethical principles), the prevailing price is not to be interfered with; the state must not interfere with this price. In other words, its determination, under normal circumstances, must not be in the hands of a single market agent or public authority. The state/public authority regulates market activity to ensure such non-interference. However, when there is reason to believe that the prevailing conditions will not produce a price that is fair, the state authority is obliged to step in with corrective measures. In this regard, the state is allowed to fix a price if it deems it the fairest approach, and, in doing so, must take cognizance of the conditions of production, and some reasonable measure of reward for the producer's labor.

In a nutshell, the extent of individual freedom in economic relations in the doctrines of Islam and capitalism is tied to their broad moral orientations. Capitalism is, essentially, materialistic, as a result of which economic pursuit is granted primacy.

³⁸⁴ Pricing has been discussed in detail in *The Islamic Market Doctrine: A Detailed Exposition*

³⁸⁵ This is similar to Adam Smith's natural price, except that it excludes a predetermined profit, which, in his analysis, is synonymous with interest on capital. The inclusion of the rental cost of capital has been thoroughly discussed in *The Islamic Market Doctrine: A Detailed Exposition*.

Consequently, its ethic is the (almost) absolute freedom of the individual to pursue his economic aspirations without the interference of any ethical confinement or some public authority. The individual must be free to legitimately acquire private ownership of any resource or material, freely choose the manner of utilizing it, and voluntarily enter exchange relationship that, in themselves, are unhindered either by the government or any ethical principle. When such conditions prevail, the 'invisible hand' will transform private self-centered pursuits into improved public welfare. Islam, on the other hand, is, essentially, other-worldly, as a result of which the spiritual end attains primacy. Material pursuit plays only a functional role for both the individual and the society, and is, thus, confined within the moral ethos of Islamic social life. The state is the explicit promoter of public welfare, and must, thus, actively regulate human activities to keep them within the confines of Islamic ethics. The integral welfare policy of the Islamic doctrine also grants the state some claim to ownership/stewardship over some resources, in order to ensure its equitable accessibility by the members of society, unlike in the capitalist system, in which the predominant form of ownership is private.

3.6. CONCLUSION

The inherent differences between the Islamic economic order and capitalism derive, primary, from the extent of freedom the individual is accorded in the pursuit of material acquisition. And this difference, in the extent of freedom, also derives from the moral orientation of the two systems. Islamic economic thought has its origin in the religious doctrine of Islam, in which the ultimate end is spiritual success. Wealth acquisition plays a functional role in the life of the Muslim and in society. Material acquisition is, thus, a means to an end rather than an end in itself. Consequently, it is pursued within the confines of Islamic morality. Islamic morality determines why, how, and when material pursuit is undertaken. In other words, economic pursuit is not divorced from the integrated conception of life, guided by the spiritual end; likewise, the economic activity is confined by principles within the

broad ethical framework of the religion. Capitalism, on the other hand, is an essentially materialistic ideology, which makes material acquisition an end in itself. Material acquisition is guided by the materialistic morality, to which religious morality appears an impediment to the acquisitive spirit. It, thus, preaches unlimited individual freedom in the acquisition of property and its utilization, as well as unhindered exchanges.

This materialistic orientation of the capitalist system is justified by the belief that unhindered pursuit of self-interests will eventually yield welfare gains for society, in measure that deliberate plans cannot. But such an outcome is guaranteed only when there are no impediments, moral or authoritative, in the individual's path of economic pursuit. Additionally, economic relations will produce just outcomes if this ethic (of individual freedom and free market) prevails. Thus, the pure capitalist system precludes any ethics-based conception of justice, since it is inherently just. But Islam disagrees with this, given its concern for social welfare, which is broader in definition relative to capitalism's conception. Unrestricted freedom of the individual (in economic pursuit) has potentially detrimental consequences for the spirituality of the individual, and for the welfare of society. Thus, the individual must not only be guided by moral precepts, but must also be compelled, by the state, to conform to those precepts, when it becomes necessary; this is for the good of the individual, and the larger society.

These positions culminate in the characteristic differences between the two systems. Islam grants some measure of freedom to the individual in the acquisition of resources, production, and exchange. However, there is an ethical confine within which the exercise of this freedom unfolds. The state regulates the economic activity of the individual to ensure that it stays within its ethical confine, and doing this is for the welfare of the individual and that of society. Thus, the Islamic freedom is a *restricted freedom*. Capitalism, on the other hand, grants the individual unrestricted freedom in economic pursuit as long as it is exercise within the boundaries of secular law, which, itself, is founded on the ethic of individualism.

Any restriction on this freedom is perceived as detrimental to society, since such a restriction impedes the welfare gains that are attained through the pursuit of self-interest. The capitalist freedom is, thus, *absolute freedom*. Capitalist free market is *absolutely-free*, Islamic free market is *conditionally-free*.



CONCLUSION: THE ROLE OF ECONOMICS IN AN ISLAMIC SOCIETY

The ideal Islamic society is an organism that brings together individuals who are equal in their spiritual essence³⁸⁶, each of whom is driven by the spiritual end³⁸⁷. The society is established on the basis of cooperation, which is necessary not only for the social reinforcement towards good³⁸⁸, but also for the fulfilment of needs basic to the effective pursuit of the spiritual end³⁸⁹. Thus, the establishment of social cooperation introduces new dimensions into the spirituality of man, as a result of his needing to deal with other men, which must be moderated in a manner that enhances the spiritual quest. Social relations, political administration, economic relations, etc., all of which arise through this cooperation, must be connected to the spiritual end, in order for society to serve as a channel that positively enhances the individual's spirituality. Such harmony (between social life and the spiritual end) is established through the Islamic moral code (*Sharī'ah*), "which imparts *uniform pattern of behavior and the bond of community* to the group", thus providing "a genuine and firm basis for reciprocal social responses"³⁹⁰. The Islamic moral code addresses human needs at two levels – the individual and societal levels. It defines a moral confine for the conduct of the individual with respect to himself as well as his relations with fellow individuals; and it ascribes to the state the duty of organizing and maintaining the social cooperation in a manner

³⁸⁶ "AND SO, set thy face steadfastly towards the [one ever-true] faith, turning away from all that is false **in accordance with the natural disposition which God has instilled into man**: [for,] not to allow any change to corrupt what God has thus created – this is the [purpose of the one] ever-true faith; but most people know it not" [Qur'an 30:30 (Muhammad Assad's Translation, p. 790)].

³⁸⁷ "And I did not create the jinn and mankind except to worship Me" [Qur'an 51:56 (Saheeh International Translation, 2010)]

³⁸⁸ "**The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those - Allah will have mercy upon them. Indeed, Allah is Exalted in Might and Wise**" [Qur'an 9:71 (Saheeh International Translation, 2010)]

³⁸⁹ Such needs are tied to the natural appetites in man such as hunger, self-dignity, sexual gratification, etc. Islahi, A.A. (1988). *Economic Concepts of Ibn Taymiyyah*

³⁹⁰ Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol II (Book I)), p. 4.

that meets the spiritual aspiration of the individual. The state has the duty to ensure that all individuals have an equal opportunity to attain their aspirations, by executing its political function in harmony with the ideals of justice as outlined in the Qur'ān (and the secondary sources of Islamic law). This implies that its institutional framework must allow all individuals to freely thrive in their service to God, by creating equitable avenues for the fulfilment of their needs without disturbing the moral and social balance of society. In other words, the socio-political institutions must be established on the basis of divine justice, and integrated within the confines of the divine plan just as all aspects of the life of the individual are integrated within the confine of his spiritual essence. The sphere of economics is not detached from this integration, for both the individual and the society. The economic sphere serves to fulfil some of the needs (such as food, shelter, clothing, etc.) of the individual, required for a meaningful orderly life, which is necessary for the effective pursuit of the spiritual end. All individuals have the divinely-granted right to the fulfilment of needs related to the economic sphere, and the state is obliged to ensure the actualization of this. Consequently, on the one hand, the state organizes the economic institution in a manner that accords equitable economic opportunity to all members of society, and, on the other hand, it maintains a welfare system through which the rich takes care of the poor.

The economic institution organizes distribution, production, and exchange on the basis of the Sharī'ah, and in accordance with the ideals of justice. The economic institution is built on the presumption of the *morally-confined* freedom of the individual to own property and engage in economic production and exchange, as explicitly established in the Qur'ān and prophetic tradition. The state ensures the fulfilment of this right (and its preservation from violation) through its institutional framework that distributes primary resources and regulates production and exchange. Distribution of primary resources is organized on the basis of three forms of ownership – private, public, and state. The public and state forms of ownership perform special functions in the advancement of the broad economic

end of society. The resource under public ownership is equally accessible to all members of society; the fruits that derive from it must be fairly beneficial to all individuals. Such a resource is not transferrable to private ownership, since doing so denies access to other members of society. However, the state could grant its right of use to an individual or group for a share in the profit that accrues or some charge (*kharāj*), which would be used for the collective benefit of society. State ownership, on the other hand, grants the office of the state the discretion to utilize the resource in the manner that facilitates the execution of its function as the preserver of public welfare. Thus, both forms of ownership are expected to produce benefits to the broader society in a manner that private ownership cannot. The utilization of resources under all these ownership forms unfolds within the confines of the moral code. The individual owner of property (or possessor of a right to its use) approaches it only as a steward who must account for his stewardship to God, the absolute owner. Thus, he keeps the utilization confined within the dictates of the *Absolute Owner* in order to attain a successful stewardship. Additionally, the individual user/producer has a moral duty towards other individuals he deals with in the course of the utilization, to treat them fairly and with the dignity that their humanness demands. Both of these conditions are necessary for the preservation of the moral fabric and order of society. Consequently, the state, which oversees the broader welfare, must regulate activities to ensure their harmony with such conditions. It enforces divine proscriptions with respect to production activities, and protects the interests of the owners of services/tools that are utilized by the producer in the production of economic goods. Importantly, the state uses its legal powers to ensure that production does not threaten the physical and moral health of society. Neither the physical environment nor the morality of the community must be sacrificed in order for individual private interests to prevail.

The true essence of production is to serve the needs of society by granting access of the produced articles to those in need at some reasonable rate of exchange.

This can only be effectively attained if there is an exchange arrangement that promises, for all members of society, a fairly equitable opportunity for entry into exchange transactions under reasonable terms. In pursuit of this end, the *Sharī'ah* envisions a market that is fairly competitive, and, consequently, prescribes a code of behavior that seeks to prevent the creation of undue advantages in the market for some persons or groups to the detriment (or exclusion) of others. Through market regulation, the state enforces the universal right to market participation by precluding activities that are intended to create unfair monopolistic advantages. As a rule, market price is commonly determined per the prevailing conditions of the market setting. This prevailing price determines profit for the producer/seller, given the unit cost of production (elements of which are valued according to commonly accepted rates). As long as manipulations do not occur to alter the prevailing conditions of the market, the prevailing market price is not interfered with. However, when manipulations (and/or new conditions that threaten the overall social balance) emerge, the state is obliged to act in order to return conditions to normalcy (or nullify the threat[s] to social balance). Part of the options available to the state is to fix market prices, taking into consideration the prevailing conditions of production, and the plight of the general consuming public.

BIBLIOGRAPHY

- Abu Dawud, S.-A. A.-A.-S. (2008). *English Translation of Sunan Abu Dawud* (Vol. 2). (Y. Qadhi, Trans.) Riyadh: Darussalam.
- Abu Dawud, S.-A.-A. A.-S. (2008). *English Translation of Sunan Abu Dawud* (Vol. 4). (N. Al-Khattab, Trans.) Riyadh: Darussalam.
- Alazzam, I. M. (2014). Factors Influencing the Phenomenon of Rising Grain and Foodstuffs Prices in Egypt during the Circassian Mamluks Era (784 AH/1382 AD - 923 AH/1517 AD). *Asian Culture and History*, 6(1), 53-63.
- Al-Bukhari, A. I. (1997). *The Translation of the Meanings of Sahih Al-Bukhari (Arabic-English)* (Vol. 8). (M. Muhsin Khan, Trans.) Riyadh: Darussalam.
- Al-Bukhari, A. I. (1997). *The Translation of the Meanings of Sahih Al-Bukhari (Arabic-English)* (Vol. 3). (M. Muhsin Khan, Trans.) Riyadh: Darussalam.
- Al-Ghazali, A. M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)* (Vol. II). (Fazl-ul-Karim, Trans.) Karachi: Darul-Ishaat.
- Al-Ghazali, A. M. (1993). *Ihya Ulum-Id-Din (Revival of Religious Learnings)* (Vol. I). (Fazl-ul-Karim, Trans.) Karachi: Darul-Ishaat.
- Al-Ghazali, A. M. (1993). *Ihya Ulum-Id-Din [Revival of Religious Learnings]* (Vol. IV). (Fazl-ul-Karim, Trans.) Karachi: Darul-Ishaat.
- Al-Ghazali, A. M. (1993). *Ihya Ulum-Id-Din [Revival of Religious Learnings]* (Vol. III). (Fazl-ul-Karim, Trans.) Karachi: Darul-Ishaat.
- Al-Ghazali, A. M. (2001). *Kimiya-I-Sa'adat [Alchemy of Eternal Bliss]*. (M. A. Bilal, Trans.) Lahore: Kazi Publications.
- Al-Mawardi, A.-H. I. (n.d.). *Al-Ahkam As-Sultaniyyah [The Laws of Islamic Governance]*. (A. Yate, Trans.) London: Ta-Ha Publishers Ltd.
- Al-Qaradawi, S. Y. (2001). *The Lawful and the Prohibited in Islam* (Second ed.). (K. Al-Hilbawi, M. Siddiqi, & S. Shukri, Trans.) Cairo: Al-Falah Foundation for Translation, Publication, and Distribution.
- Anas, M. I. (n.d.). *Al-Muwatta'*. (A. A. At-Tarjumana, & Y. Johnson, Trans.) Karachi: Darul-Ishaat.
- Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol. II (Book III)). Karachi: Dr. Muhammad Fazl-ur-Rahman Ansari.
- Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol. I). Karachi: Dr. Muhammad Fazl-ur-Rahman Ansari.

- Ansari, M. F.-u.-R. (2008). *The Qur'anic Foundations and Structure of Muslim Society* (Fourth ed., Vol. II (Book I)). Karachi: Dr. Muhammad Fazl-ur-Rahman Ansari.
- Asad, M. (n.d.). *The Message of the Qur'an*.
- As-Sadr, M. B. (1984). *Iqtisaduna (Our Economics)* (Vol. II (Part II)). (P. E. Trust, Trans.) Tehran: World Organization For Islamic Services (WOFIS).
- As-Sadr, M. B. (1994). *Iqtisaduna (Our Economics)* (Vol. I (Part II)). (WOFIS, Trans.) Tehran: World Organization For Islamic Services (WOFIS).
- As-Sadr, M. B. (1994). *Iqtisaduna [Our Economics]* (Vol. II (Part I)). (P. E. Trust, Trans.) Tehran: World Organization for Islamic Services (WOFIS).
- At-Tirmidhi, A. I. (2007). *English Translation of Jami' At-Tirmidhi* (Vol. 3). (A. Khaliyl, Trans.) Riyadh: Darussalam.
- At-Tirmidhi, H. M. (2007). *English Translation of Jami' At-Tirmidhi* (Vol. 4). (A. Khaliyl, Trans.) Riyadh: Darussalam.
- Auda, J. (2007). *Maqasid al-Shari'ah as Philosophy of Islamic Law: A System Approach*. London & Washington: The International Institute of Islamic Thought.
- Badawi, E. M., & Abdel Haleem, M. (2008). *Arabic-English Dictionary of Qur'anic Usage*. Leiden & Boston: Brill.
- Bashar, M. L. (1997). Price Control in an Islamic Economy. *JKAU: Islamic Economics*, 9, 29-52.
- Bearman, P. J., Bianquis, T., Bosworth, C. E., van Donzel, E., & Heinrichs, W. P. (Eds.). (2000). *The Encyclopaedia of Islam* (Vol. X). Leiden: E.J. Brill.
- Bulut, M. (2009). Reconsideration of Economic Views of a Classical Empire and a Nation-State during the Mercantilist Ages. *The American Journal of Economics and Sociology*, 68(3), 791-828.
- Chapra, U. (2006). The Nature of Riba in Islam. *The Journal of Islamic Economics and Finance*, 2(1), 7-25.
- Deuraseh, N. (2012). New Essential Values of Daruriyyah (Necessities) of the Objectives of Islamic Law (Maqasid al-Shari'ah). *Jurnal Hadhari*, 4(2), 107-116.
- Donaldson, W. J. (2000). *Sharecropping in the Yemen: A Study in Islamic Theory, Custom and Pragmatism*. Leiden, Boston, & Koln: Brill.
- Essid, Y. (1987). Islamic Economic Thought. In S. T. Lowry (Ed.), *Pre-Classical Economic Thought From the Greeks to the Scottish Enlightenment* (pp. 77-102). Massachusetts: Kluwer Academic Publishers.

- Fabra, P. (1991). *Capital for Profit*. Rowman & Littlefield Publishers.
- Ghazanfar, S. M. (2003). Introduction. In S. M. Ghazanfar (Ed.), *Medieval Islamic Economic Thought: Filling the "Great Gap" in European Economics* (pp. 1-5). London & New York: RoutledgeCurzon.
- Ghazanfar, S. M. (Ed.). (2003). *Medieval Islamic Economic Thought*. London: Routledge.
- Ghazanfar, S. M., & Islahi, A. A. (1997, October). Economic Thought of Al-Ghazali (450-505 A.H./ 1058-1111 A.D.). *Islamic Economics Research Series, King Abdulaziz University-2*. Jeddah, Saudi Arabia: Scientific Publishing Centre, King Abdulaziz University.
- Ghazanfar, S. M., & Islahi, A. A. (2003). Economic Thought of an Arab Scholastic Abu Hamid Al-Ghazali (AH 450-505/1058-1111 AD). In *Medieval Islamic Economic Thought: Filling the "Great Gap" in European Economics* (pp. 23-44). London and New York: RoutledgeCurzon Taylor and Francis Group.
- Ghazanfar, S. M., & Islahi, A. A. (2003). Explorations in Medieval Arab-Islamic Economic Thought: Some Aspects of Ibn Al-Qayyim's Economics (AH 691-751/1292-1350 AD). In S. M. Ghazanfar (Ed.), *Medieval Islamic Economic Thought: Filling the "Great Gap" in European Economics* (pp. 128-141). London and New York: RoutledgeCurzon.
- Giddens, A. (2005). Introduction. In M. Weber , *The Protestant Ethic and the Spirit of Capitalism [1930]* (pp. vii-xxiv). London & New York: Routledge.
- Habachy, S. (1962). Property Right, and Contract in Muslim Law. *Columbus Law Review*, 62(3), 450-473.
- Hasan, Z. (1983). Theory of Profit: The Islamic Viewpoint. *Journal of Research in Islamic Economics*, 1(1), 3-14.
- Ibn Kathir, A.-F. I. (2003). *Tafsir Ibn Kathir* (Vol. X). (J. Abualrub, N. Khitab, H. Khitab, A. Walker, M. Al-Jibal, & S. Ayub, Trans.) Riyadh: Darussalam.
- Ibn Kathir, A.-F. I. (2003). *Tafsir Ibn Kathir* (Vol. I). (J. Abualrub, N. Khitab, H. Khitab, A. Walker, M. Al-Jibali, & S. Ayub, Trans.) Riyadh: Maktaba Darussalam.
- Ibn Khaldun, A. B. (1958). *The Muqaddimah* (Vol. II). (F. Rosenthal, Trans.) Princeton: Princeton University Press.
- Ibn Majah, M. I. (2007). *English Translation of Sunan Ibn Majah* (Vol. 3). (N. Al-Khattab, Trans.) Riyadh: Darussalam.
- Ibn Majah, M. I. (2007). *English Translation of Sunan Ibn Majah* (Vol. 5). (N. Al-Khattab, Trans.) Riyadh: Darussalam.

- Ibrahim, M. (1982). Social and Economic Conditions in Pre-Islamic Mecca. *International Journal of Middle East Studies*, 14(3), 343-358.
- İnalçık, H. (1994). *An Economic and Social History of the Ottoman Empire Volume I: 1300-1600*. (H. İnalçık, & D. Quataert, Eds.) Cambridge: Cambridge University Press.
- Islahi, A. A. (1988). *Economic Concepts of Ibn Taymiyyah*. Leicester: The Islamic Foundation.
- Islahi, A. A. (2005). *Contributions of Muslim Scholars to Economic Thought and Analysis*. Jeddah: King Abdul-Aziz University Scientific Publishing Center.
- Islahi, A. A. (2008). Thirty Years of Research in the History of Islamic Economic Thought: Assessment and Future Direction. *International Conference in Islamic Economics* (pp. 347-370). Jeddah: Islamic Economics Research Center, King Abdulaziz University.
- Kamali, M. H. (1994). Tas'ir (Price Control) in Islamic Law. *The American Journal of Islamic Social Sciences*, 11(1), 25-37.
- Lewis, B. (1993). *The Arabs in History*. Oxford: Oxford University Press.
- Lewis, B., Menage, V. L., Pellat, C., & Schacht, J. (Eds.). (1986). *The Encyclopaedia of Islam* (Vol. III). Leiden and London: E.J. Brill and Luzac and Co.
- Lewis, B., Pellat, C., & Schacht, J. (Eds.). (1991). *The Encyclopaedia of Islam* (Vol. II). Leiden: E.J. Brill.
- Macpherson, C. B. (1985). The Rise and Fall of Economic Justice. In C. B. Macpherson, *The Rise and Fall of Economic Justice and Other Papers* (pp. 1-20). Oxford and New York: Oxford University Press.
- Mahomedy, A. C. (2015). Islamic Economics: Still in Search of an Identity. In H. El-Karanshaw, A. Omar, T. Khan, S. S. Ali, H. Izhar, W. Tariq, et al. (Eds.), *Developing Inclusive and Sustainable Economic and Financial Systems- Islamic Economics: Theory, Practice, and Social Justice* (Vol. 2, pp. 31-39). Doha, Qatar: Bloomsbury Qatar Foundation Journals.
- Mawdudi, S. A. (1996). *Islamic Way of Life*. Batha: Cooperative Office for Call and Guidance at Batha.
- Muhammad Assad's Translation. (n.d.). *The Message of the Qur'an*. (M. Assad, Trans.) Muhammad Assad.
- Muslim Ibn al-Hajjaj, A. (2007). *English Translation of Sahih Muslim* (Vol. 3). (N. Al-Khattab, Trans.) Riyadh: Darussalam.

- Muslim Ibn Al-Hajjaj, A. (2007). *English Translation of Sahih Muslim* (Vol. 4). (N. Al-Khattab, Trans.) Riyadh: Darussalam.
- O'Flynn, M. (2009). *Profitable Ideas: The Ideology of the Individual in Capitalist Development*. Leiden & Boston: Brill.
- Oğuz, O., & Tabakoğlu, A. (1991). An Historical Approach to Islamic Pricing Policy: A Research on the Ottoman Price System and its Application. *Journal of King Abdulaziz University: Islamic Economics*, 3, 63-79.
- Oran, A. F. (2010). An Islamic Socio-Economic Public Interest Theory of Market Regulation. *Review of Islamic Economics*, 14(1), 125-146.
- Oslington, P. (2003). Economic Thought and Religious Thought: A Comment on Ghazanfar and Islahi. In S. M. Ghazanfar (Ed.), *Medieval Islamic Economic Thought: Filling the "Great Gap" in European Economics* (pp. 45-48). London & New York: RoutledgeCurzon.
- Philipp, T. (1990). The Idea of Islamic Economics. *Die Welt des Islams*, 30(1/4), 117-139.
- Polanyi, K. (1944). *The Great Transformation: The Political and Economic Origins of Our Time*. Beacon Press.
- Polanyi, K. (1947). On Belief in Economic Determinism. *Sociological Review*, 37(1), 96-112.
- Puthenpeedikayil, S. (2015). Notions of Free Market and Social Welfare in Islamic Economics. *Journal of Modern Accounting and Auditing*, 11(9), 476-486.
- Rashid, S. K. (2008). Peculiarities and Religious Underlining of ADR in Islamic Law. *Mediation in Asia Pacific: Constraints and Challenges*. Kuala Lumpur.
- Sadr, S. K. (2016). *The Economic System of the Early Islamic Period: Institutions and Policies*. New York: Palgrave Macmillan.
- Saheeh International Translation. (2010). *The Qur'an (with Surah Introduction and Appendices)*. Birmingham: Maktabah Booksellers and Publishers.
- Salasal, S. M. (1998). The Concept of Land Ownership: Islamic Perspective. *Buletin Geoinformasi*, 2(2), 285-304.
- Smith, A. (1776). *An Inquiry into the Nature and Causes of the Wealth of Nations*.
- Tawney, R. H. (1937). *Religion and the Rise of Capitalism*. Harcourt, Brace and Co.
- Tripp, C. (2006). *Islam and the Moral Economy: the Challenge of Capitalism*. Cambridge: Cambridge University Press.
- Watt, M. W. (1956). *Muhammad at Medina*. Oxford: Clarendon Press.

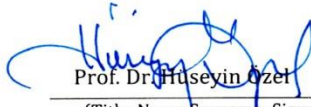
Weber, M. (2005). *The Protestant Ethic and the Spirit of Capitalism [1930]*. (T. Parsons, Trans.) London & New York: Routledge.

Wolf, E. R. (1951). The Social Organization of Mecca and the Origins of Islam. *Southwestern Journal of Anthropology*, 7(4), 329-356.

Wright, J. (2003). *The Ethics of Economic Rationalism*. Sydney: University of New South Wales Press Ltd.



APPENDIX 1: ETİK KOMİSYON MUAFİYETİ

	HACETTEPE UNIVERSITY GRADUATE SCHOOL OF SOCIAL SCIENCES ETHICS COMMISSION FORM FOR THESIS										
HACETTEPE UNIVERSITY GRADUATE SCHOOL OF SOCIAL SCIENCES ECONOMICS DEPARTMENT											
Date: 8/5/2018											
Thesis Title: THE ISLAMIC "FREE MARKET": EXPLAINING SOME KEY ASPECTS OF THE ISLAMIC THEORY OF THE MARKET AND ITS RELATION WITH SOCIETY (THREE ESSAYS)											
My thesis work related to the title above: 1. Does not perform experimentation on animals or people. 2. Does not necessitate the use of biological material (blood, urine, biological fluids and samples, etc.). 3. Does not involve any interference of the body's integrity. 4. Is not based on observational and descriptive research (survey, interview, measures/scales, data scanning, system-model development).											
I declare, I have carefully read Hacettepe University's Ethics Regulations and the Commission's Guidelines, and in order to proceed with my thesis according to these regulations I do not have to get permission from the Ethics Board/Commission for anything; in any infringement of the regulations I accept all legal responsibility and I declare that all the information I have provided is true.											
I respectfully submit this for approval.  Date and Signature											
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Name Surname:</td> <td>ABDUL-RAHİM ADADA MOHAMMED</td> </tr> <tr> <td>Student No:</td> <td>N12143969</td> </tr> <tr> <td>Department:</td> <td>ECONOMICS</td> </tr> <tr> <td>Program:</td> <td>ECONOMICS (ENGLISH)</td> </tr> <tr> <td>Status:</td> <td> ☐ MA ☒ Ph.D. ☐ Combined MA/ Ph.D. </td> </tr> </table>		Name Surname:	ABDUL-RAHİM ADADA MOHAMMED	Student No:	N12143969	Department:	ECONOMICS	Program:	ECONOMICS (ENGLISH)	Status:	☐ MA ☒ Ph.D. ☐ Combined MA/ Ph.D.
Name Surname:	ABDUL-RAHİM ADADA MOHAMMED										
Student No:	N12143969										
Department:	ECONOMICS										
Program:	ECONOMICS (ENGLISH)										
Status:	☐ MA ☒ Ph.D. ☐ Combined MA/ Ph.D.										
<u>ADVISER COMMENTS AND APPROVAL</u>											
 Prof. Dr. Hüseyin Özet (Title, Name Surname, Signature)											



**HACETTEPE ÜNİVERSİTESİ
SOSYAL BİLİMLER ENSTİTÜSÜ
TEZ ÇALIŞMASI ETİK KOMİSYON MUAFİYETİ FORMU**

**HACETTEPE ÜNİVERSİTESİ
SOSYAL BİLİMLER ENSTİTÜSÜ
İKTİSAT ANABİLİM DALI BAŞKANLIĞI'NA**

Tarih: 8/5/2018

Tez Başlığı: **THE ISLAMIC "FREE MARKET": EXPLAINING SOME KEY ASPECTS OF THE ISLAMIC THEORY OF THE MARKET AND ITS RELATION WITH SOCIETY (THREE ESSAYS)**

Yukarıda başlığı gösterilen tez çalışmam:

1. İnsan ve hayvan üzerinde deney niteliği taşımamaktadır,
2. Biyolojik materyal (kan, idrar vb. biyolojik sıvılar ve numuneler) kullanılmasını gerektirmemektedir.
3. Beden bütünlüğüne müdahale içermemektedir.
4. Gözlemsel ve betimsel araştırma (anket, mülakat, ölçek/skala çalışmaları, dosya taramaları, veri kaynakları taraması, sistem-model geliştirme çalışmaları) niteliğinde değildir.

Hacettepe Üniversitesi Etik Kurullar ve Komisyonlarının Yönergelerini inceledim ve bunlara göre tez çalışmamın yürütülebilmesi için herhangi bir Etik Kurul/Komisyon'dan izin alınmasına gerek olmadığını; aksi durumda doğabilecek her türlü hukuki sorumluluğu kabul ettiğimi ve yukarıda vermiş olduğum bilgilerin doğru olduğunu beyan ederim.

Gereğini saygılarımla arz ederim.

8/5/2018

Tarih ve İmza

Adı Soyadı: ABDUL-RAHİM ADADA MOHAMMED

Öğrenci No: N12143969

Anabilim Dalı: İKTİSAT

Programı: İNGİLİZCE İKTİSAT

Statüsü: ☐ Yüksek Lisans ☒ Doktora ☐ Bütünleşik Doktora

DANIŞMAN GÖRÜŞÜ VE ONAYI

Prof. Dr. Hüseyin Özel
(Unvan, Ad Soyad, İmza)

Detaylı Bilgi: <http://www.sosyalbilimler.hacettepe.edu.tr>

Telefon: 0-312-2976860

Faks: 0-3122992147

E-posta: sosyalbilimler@hacettepe.edu.tr

APPENDIX 2: ORJİNALLİK RAPORU



**HACETTEPE UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
THESIS/DISSERTATION ORIGINALITY REPORT**

**HACETTEPE UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
TO THE DEPARTMENT OF ECONOMICS**

Date: 9/3./2018

Thesis Title / Topic: **THE ISLAMIC "FREE MARKET": EXPLAINING SOME KEY ASPECTS OF THE ISLAMIC THEORY OF THE MARKET AND ITS RELATION WITH SOCIETY (THREE ESSAYS)**

According to the originality report obtained by myself/my thesis advisor by using the Turnitin plagiarism detection software and by applying the filtering options stated below on 5/3/2018 for the total of 131 pages including the a) Title Page, b) Introduction, c) Main Chapters, and d) Conclusion sections of my thesis entitled as above, the similarity index of my thesis is 8 %.

Filtering options applied:

1. Approval and Declaration sections excluded
2. Bibliography/Works Cited excluded
3. Quotes excluded
4. Match size up to 5 words excluded

I declare that I have carefully read Hacettepe University Graduate School of Social Sciences Guidelines for Obtaining and Using Thesis Originality Reports; that according to the maximum similarity index values specified in the Guidelines, my thesis does not include any form of plagiarism; that in any future detection of possible infringement of the regulations I accept all legal responsibility; and that all the information I have provided is correct to the best of my knowledge.

I respectfully submit this for approval.

8/5/2018

Date and Signature

Name Surname: ABDUL-RAHİM ADADA MOHAMMED

Student No: N12143969

Department: ECONOMICS

Program: ECONOMICS (ENGLISH)

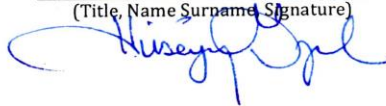
Status: ☐ Masters ☒ Ph.D. ☐ Integrated Ph.D.

ADVISOR APPROVAL

APPROVED.

Prof. Dr. Hüseyin Özel

(Title, Name Surname, Signature)





HACETTEPE ÜNİVERSİTESİ
SOSYAL BİLİMLER ENSTİTÜSÜ
YÜKSEK LİSANS/DOKTORA TEZ ÇALIŞMASI ORJİNALLİK RAPORU

HACETTEPE ÜNİVERSİTESİ
SOSYAL BİLİMLER ENSTİTÜSÜ
İKTİSAT ANABİLİM DALI BAŞKANLIĞI'NA

Tarih: 9/3/2018

Tez Başlığı / Konusu: **THE ISLAMIC "FREE MARKET": EXPLAINING SOME KEY ASPECTS OF THE ISLAMIC THEORY OF THE MARKET AND ITS RELATION WITH SOCIETY (THREE ESSAYS)**

Yukarıda başlığı/konusu gösterilen tez çalışmamın a) Kapak sayfası, b) Giriş, c) Ana bölümler ve d) Sonuç kısımlarından oluşan toplam 131 sayfalık kısmına ilişkin, 5/3/2018 tarihinde tez danışmanım tarafından Turnitin adlı intihal tespit programından aşağıda belirtilen filtrelemeler uygulanarak alınmış olan orijinallik raporuna göre, tezimin benzerlik oranı % 8'dir.

Uygulanan filtrelemeler:

- 1- Kabul/Onay ve Bildirim sayfaları hariç,
- 2- Kaynakça hariç
- 3- Alıntılar hariç/dâhil
- 4- 5 kelimedenden daha az örtüşme içeren metin kısımları hariç

Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü Tez Çalışması Orijinallik Raporu Alınması ve Kullanılması Uygulama Esasları'nı inceledim ve bu Uygulama Esasları'nda belirtilen azami benzerlik oranlarına göre tez çalışmamın herhangi bir intihal içermediğini; aksinin tespit edileceği muhtemel durumda doğabilecek her türlü hukuki sorumluluğu kabul ettiğimi ve yukarıda vermiş olduğum bilgilerin doğru olduğunu beyan ederim.

Gereğini saygılarımla arz ederim.

8/5/2018

 Tarih ve İmza

Adı Soyadı: ABDUL-RAHİM ADADA MOHAMMED

Öğrenci No: N12143969

Anabilim Dalı: İKTİSAT

Programı: İNGİLİZCE İKTİSAT

Statüsü: ☐ Y.Lisans ☒ Doktora ☐ Bütünleşik Dr.

DANIŞMAN ONAYI

UYGUNDUR.

Prof. Dr. Hüseyin Özel

(Nevah, Ad Soyadı, İmza)