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The World Market and Interreligious Dialogue

edited by
CATHERINE CORNILLE
& GLENN WILLIS

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The topic of this volume has required the collaboration of scholars not only from different religions, but also from such different fields as theology/religious studies and economics. In an academic atmosphere which praises hyper-specialization, it is indeed uncommon to find scholars willing to reflect on topics and engage insights from beyond their own disciplinary field and from outside of their religious framework. We wish to thank all those who have contributed to this volume and to the 2010 Boston College symposium on Interreligious Dialogue. Professors John Makransky, Ruth Langer, and James Morris played an indispensible role in the organization of the symposium. Thanks in particular go to Professor Peter Ireland from the Economics department at Boston College for his help in envisioning and planning the symposium, and to the economists involved in the project: Francis McLaughlin (BC), Joseph Quinn (BC), Drew Beauchamps (BC), Jenny Aker (Tufts University), Joseph Kaboski (University of Notre Dame), and Walter Nonneman (University of Antwerp). All provided invaluable critical and constructive contributions to the discussions.

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—Catherine Cornille and Glenn Willis
March 2011

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Islamic Law, Sharīʿah-based Finance, and Economics

Caner K. Dagli

Economics and Finance as a Part of Islamic Law (Sharīʿah)

Today many people in the field of Islamic finance are in an ongoing debate as to what makes a given transaction "Islamic" or "Sharīʿah-compliant" or not, one side tending to stick with the traditional forms of contracts as a guarantor of their compliance, the other side seeking to define an underlying philosophical and economic rationale for the prohibitions in the Qurʾān and *ḥadīth*. As we shall see, far from being a mere technical question, reflection upon the inner workings of Islamic law as it concerns economic matters also raises profound spiritual and moral questions applicable to our current situation.

To begin, it is helpful to remember that whether it be Islamic finance, Islamic banking, or contracts, one is speaking of a branch of Islamic law or Sharīʿah. As a developed tradition of law, one can think of Islamic law as encompassing three levels, or three intersecting dimensions.

First, one can speak of positive law, which comprises the actual rules and regulations, or 'the laws on the books.' The second level or dimension is called in Islam "the roots of the law" or jurisprudence (*uṣūl al-fiqh*), which identifies the sources of the law, as well as the

methodology by which those sources are used to arrive at positive law. Different schools gave different amounts of latitude when it came to reasoning by analogy, for example, which led to a certain range of opinion on almost any matter of positive law and also on ancillary matters of theology. The third and most fundamental dimension of Islamic law encompasses the objectives of the law, dealing with the meaning or purpose of the Sharīʿah. What is the Sharīʿah there for? The commands and prohibition in the Islamic sources were generally concrete and particular, such as the prohibition against gambling, alchohol, and adultery.

While the Prophet was alive, he served as the interpreter and legislator *par excellence*, but after his death Muslims were left to take the individual rules and fit them into a larger ethical structure. The science of the "roots of the law" historically came first, in that new legal situations called for the application and reapplication of the rules laid out in the Qurʾān and *ḥadīth*. Almost always, reasoning by analogy was a one-to-one affair. Does beer intoxicate? Then it is prohibited, as is wine. If the Prophet laid down an economic rule based upon a transaction in dates or wheat, it was not unfeasible to use that rule to govern the trading of pistachios and apples. If a man who owned four hundred camels had to give ten in alms, one could extend that quite easily to llamas if the matter arose.

As the science of law progressed, however, jurists felt a need to articulate, not only the application of individual rulings to new situations, but the general objectives of these rulings themselves, their *raison d'etre*, their ultimate significance. This is not to say that jurists did not use general principles, since equity and public interest were part of the earliest discussions of law, and indeed the justifications for many rulings were provided by the Qurʾān itself, which often warns against corruption, injustice, and tyranny. However, in the absence of an explicit text, there was a natural reticence to categorically identify the "reason" why God did anything, and a more conservative approach was preferred, constructing law from precedent rather than from abstract ideas.

But as the law became increasingly complex, the moral principles which had always operated implicitly to determine and understand law were made more concrete and explicit. In its most famous form, the "objectives of the law" (*maqāṣid al-sharīʿah*), as they are usually

known, are discussed as things which the law must preserve. These were categorized into those objectives that were essential, complementary, or desirable, though here we will restrict ourselves to a discussion of the essential objectives of the law.

These objectives were usually listed as 1) Religion (*dīn*); 2) Life; 3) Mind/Intelligence (*ʿaql*); 4) Lineage/Honor/Dignity (*nasab* or *ʿirḍ*); 5) Property. From the Islamic point of view, without these five things, no society could be worthy of the name, and so Islamic law seeks to uphold and protect them above all other considerations. Of course, the last of these, property, is especially relevant to the topic at hand, although each of the five objectives—or what could be called fundamental rights—is impossible to disentangle from the others.

It is not my purpose here to embark on a history of Islamic economics. The economic history of Islamdom is quite complex and multifaceted, ranging from the most basic barter systems of tribal nomads to the central planning of large empires. The Qur'ān and *ḥadīth* do not lay out the blueprint of any economic system, just as they do not describe a political system except in the most general terms that society should obey the laws of God. What one finds, rather, are commands and prohibitions regarding transactions and the accumulation of wealth. In what follows, I will discuss some of the important questions regarding Islamic banking and finance, at each of these three aforementioned levels of Islamic law: positive law, the roots of the law, and the objectives of the law. I will discuss these different levels in terms of rules and regulations, the underlying logic of these rules, and finally as aspects of a larger set of philosophical questions.

Zakāh's Role for Individuals and the Economy

One of the most significant and undoubtedly most well-known commands regarding economics in Islam is the *zakāh*. It is one of the five pillars of Islam, sometimes translated as "alms" or "poor-due." As a general rule of thumb, the rule of *zakāh* is to give 1/40th of one's accumulated liquid wealth, though this could and was subject to modification. For example, if separate from one's expenses one kept four hundred ounces of gold continuously for a year, ten ounces would be given in *zakāh* for the needy. One's other wealth, such as one's house, clothes, or furniture, are not subject to *zakāh*.

The *zakāh* can be thought of as institutionalized charity, but in practice it is a public welfare system that discourages hoarding while acknowledging that caring for the needy is an intrinsic duty and that the poor have a claim on the wealth of believers. In the Qur'ān *zakāh* often appears together with the prayer in almost a refrain: the believers are those who "offer prayer and give the poor-due"—the *salah* and *zakāh*. The *zakāh* is significant, not only because it institutionalizes charity and places an absolute value on helping the needy, but because it also closes the question, as it were, of public/private ownership. *Zakāh* demands the compulsory redistribution of wealth, yet it only functions because it presumes private property as the norm. At a strictly legal level, it enshrines a bounded welfare system and social safety net. It is the institutional expression, one might say, of the Prophet's teaching that one is not a believer if he goes to bed full while his neighbor is hungry.

Does *Ribā* Mean "Interest"?

In addition to *zakāh* there are two concepts that are crucial and worth knowing in the Arabic, and these are *ribā* and *gharar*. Lexically, *ribā* means "increase" or "growth," and *gharar* means "risk" and is etymologically related to "delusion" and "deception." Understanding the technical and legal meaning of these ideas are essential to understanding Islamic banking and finance, and an analysis of *ribā* and *gharar* will make up the core of the following pages.

Many who have only a passing familiarity with Islamic law will have heard that the distinguishing feature of Islamic banking and finance is that Islamic law forbids interest, and hence must provide for interest-free mortgages, interest-free savings, and so forth. The idea that Islam forbids interest stems from the equation of the concept *ribā* with "interest." Others will be more careful and say that *ribā* is usury or usurious interest. Much scholarly work has been done recently to show that such an easy equation between *ribā* and "interest" is almost surely mistaken. Indeed, not all *ribā* is interest, and not all interest is *ribā*.

The Qur'ān lays out a general condemnation and prohibition of *ribā*, but does not give a detailed explanation for what it is:

> O you who believe, devour not *ribā*, doubling and multiplying.
> (Q 3:130)

> They say, "Buying and selling are simply like *ribā*," though God has permitted buying and selling and forbidden *ribā* . . . (Q 2:275)

The *ribā* of pre-Islamic Arabia referred to charging a fee on an interest-free loan once it came due. That is, in the words of Imam Mālik, *ribā* in the pre-Islamic Days of Ignorance was that, "A man would be owed a debt by another man for a set term. When the term was due, he would say, 'Will you pay it off or give me *ribā*?' If the man paid, he took it. If not, he increased his debt and lengthened the term for him" (Mālik *Muwaṭṭa' K. al-buyū'*).

Many believe that the general prohibitions in the Qur'ān against *ribā*, allowing trade but forbidding *ribā*, refer to this practice, which was deferment on already existing loans at the time of their maturity. The deferment often led to doubling of the principal in a year, and then re-doubling when the deferment period expired and another deferment became necessary. The classical legal tradition would discuss how, under such conditions, a debtor could eventually lose all his possessions to the creditor through the doubling and re-doubling mentioned in the Qur'ān.

Complicating the definition of *ribā* as simply synonymous with interest on a loan are *ḥadīth* of the Prophet. In one example, sometimes called the "*ḥadīth* of the six commodities," the Prophet commanded:

> Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt; like for like, hand to hand, in equal amounts; and any increase is *ribā*.[1]

> Bilāl visted the Messenger of God with some high quality dates, and the Prophet inquired about their source. Bilāl explained that he traded two volumes of lower quality dates for one volume of higher quality. The Messenger of God said: "This is precisely the forbidden *ribā*! Do not do this. Instead, sell the first type of dates, and use the proceeds to buy the other.[2]

This account, and other similar ones which appear in the *ḥadīth* literature, show that an easy equation of *ribā* with loan interest is incorrect. Let us provisionally take the legal definition of *ribā* to mean "unlawful gain." Taking together the Qur'ānic injunctions against this unlawful

1. Muslim, *K. al-buyū'* (Gamal translation).
2. Muslim *K. al-masāqāh* (Gamal translation).

gain, which seemed to deal with debts, and the *ḥadīths* which seemed to deal with certain kinds of sales or trades, jurists came to classify two general kinds of unlawful gain, one through deferment (*ribā al-nasī'āh*), the other through surplus (*ribā al-faḍl*). The unlawful gain by deferment came to be understood as profit from a loan, while unlawful gain through surplus prohibited trading goods of the same genus and kind in different quantities, in light of the aforementioned *ḥadīth*.

Abdullah Saeed explains the increase-*ribā* this way:

> It seems that at the time of the Prophet, some forms of sale were common in Medina and the surrounding region, in which one party sold, say, one kilo of wheat for two kilos to be received at the time of the transaction or in the future, or more wheat of inferior quality for less wheat of good quality to be received at the time of the transaction or in the future. Since most people who resorted to such transactions would be less affluent and would only do so because of necessity, there may have been injustice towards or perhaps some exploitation of the weaker party in such dealings. The economically weaker party to the transaction could have been forced to give a higher countervalue, either in terms of quantity or quality, either at the time of the transaction or in the future. In any case, it was the weaker party who suffered most from having to pay a higher value than he received. Moreover, the commodities mentioned [in the *ḥadīth* of six commodities] were essential for survival in Medina and the surrounding areas . . . The Prophet would not have tolerated the exploitation of the poor in the sale of these essential items. It seems that in line with his prohibition of certain other forms of sale, the Prophet was most probably attempting to block the potential injustice in the barter exchange of these six commodities.[3]

Another authority in Islamic finance, Mahmoud al-Gamal,[4] interprets the *ribā* of the *unlawful gain through surplus* injunctions in terms of economic efficiency and equity. According to this view, the Islamic prohibitions force the parties to acquire information about market conditions and mark the terms of trade to market prices. One could imagine that bartering dates for dates, for example, could lead to abus-

3. Abdullah Saeed, *Islamic Banking and Interest: A Study in the Prohibition of Riba and Its Contemporary Interpretation* (New York: Brill, 1996) 32.
4. See especially his *Islamic Finance: Law, Economics, and Practice* (New York: Cambridge University Press, 2009).

es which bartering dates for barley might not, in that the latter transaction would almost certainly demand that the parties have knowledge of market conditions. This would lead to fewer disadvantageous trades and greater equity and economic efficiency. The goal is to achieve a mark-to-market approach, as Gamal defines it, in establishing trading ratios.

For Gamal, understanding unlawful gain through deferment (on loans) in terms of efficiency and equity is not a great leap: it would mean that credit would have to be extended at the appropriate interest rate, no matter the financial instrument used to extend that credit. That is to say, it would have to properly reflect the cost of money at the time when one extends credit or makes an investment.

The Operative Cause of *Ribā*

When making a legal analogy, which is to say when they take an explicit ruling in the Qur'ān or *ḥadīth* and apply it to a new case, jurists must find an "operative cause" (*'illah*) that links the two analogous examples. This is part of the science of the "roots of the law" or jurisprudence mentioned above. In the case of wine and beer, the efficient cause common to the original case (wine) and the new case (beer) is regarded as intoxication, not that they are liquids or that they are fermented. But in the case of wine and beer one can avoid the question of why intoxication is bad or why God forbade it.

That brings us to the third aspect of the law, its objective or purpose. Jurists were and are reluctant to stick their necks out too far to speak about God's intents or purposes unless God had done so Himself in the Qur'ān or in the *ḥadīth* through His Prophet. There was thus disagreement among the jurists as to what role the "wisdom" of a ruling should have in reasoning by analogy. If intoxication by alcohol is forbidden, what about caffeine, or nicotine? A prohibition against coffee based upon the prohibition of alcohol would be based on the *moral* of the law, not the operative cause of it, in this case, a decision that the alteration of human consciousness through chemicals is always bad.

As the Islamic community moved further away from the divine revelation in time, reliance upon the "operative cause" in determining legality became increasingly difficult, especially in trade and finance, as the goods traded multiplied and the transactional forms became

more complex. Rulings about gold and dates were good and well, but what about fractional reserve banking and complex derivatives? In a sense, this is where the pinch was felt in moving from the "laws on the books" to new cases for which there was no explicit precedent.

In the case of *ribā*, Muslims have a problem: while remaining systematic and loyal to the Qur'ān and the Prophet's teachings, how can Muslims arrive at rules governing other debt transactions and sales? All the schools of law were presented with the same data, as it were, but arrived at differing interpretations because of the juridical methods they used. In trying to understand the reason why the Prophet mentioned those six commodities (gold, silver, wheat, barley, dates, and salt), for example, the Ḥanafī school said the decisive attribute was that the commodity be weighable or measureable; the Māliki school said it was that they be either currency, or storable foodstuff for human beings; the Shāfi'ī school that they be either foodstuffs or currency; and the Hanbalī school that it be either currency or be measureable or weighable. A similar variety of views exists on the nature of the goods involved with *ribā* (unlawful gain) by deferment transactions.

That is why the jurists arrived at a variety of conclusions about unlawful gain through surplus: they did not agree on the essential quality that distinguished the transactions and commodities mentioned by the Prophet. Moreover, they did not agree on the "operative cause" of the unlawful gain mentioned in the Qur'ān. In some cases this led to what might seem rather illogical conclusions. Some jurists, following their reasoning to a logical conclusion, decided that the rule did not extend to apples, which could be counted but not weighed (presumably with sufficient continuity), or to cloth, or eggs, since these commodities lacked the attributes common to those items mentioned in the *ḥadīth*.

Many scholars of Islamic banking and finance have argued that the legal tradition has focused too much on the *form* of a loan or sale, while ignoring or deemphasizing the moral substance of it. In the case of deferment-*ribā*, this meant in practice that jurists, when dealing with the *ribā*-focused verse,

> And if you repent you shall have the principal of your wealth, and you shall neither wrong nor be wronged. (Q 2:179)

attended to the phrase "the principal of your wealth" but tended to ignore "neither wrong nor be wronged." Or they ignored the fact that in 30:39 *ribā* is compared against charity, not trade, which to some indicates that the rules of *ribā* are focused on injustice especially as it applies to the disadvantaged of society:

> That which you give in *ribā* that it might increase through other people's wealth does not increase with God. But that which you give in *zakāh*, desiring the Face of God—it is they who receive a manifold increase. (Q 30:39)

In their classical form, in general, the rules on *ribā* amounted to something like this:

1) If money is lent, compensation for this financing cannot be for a predetermined amount. Rather, it shares in the profits of the venture. Money is not a commodity, but a bearer of risk, and should be subject to the same uncertainties.

2) An investor may compensate themselves for foregone opportunities if they finance goods by sale or lease. Profits from lease payments or credit sale can even explicitly list a time factor.[5]

This last statement is important, because it may seem paradoxical that Islamic law acknowledges that there is a time factor in money.

We will see that in actually trying to structure financial transactions, Muslims in recent years, trying to come to grips with living in accord with Islam in the contemporary world of banking and finance, have run into a form-over-substance problem in trying to avoid what they considered *ribā* (which they understood to be interest-bearing loans). There are numerous kinds of financial and sale transactions in Islamic law, which I could not possibly discuss in depth here, but it is instructive to look at an example to see how form can become uncoupled from the ethical and spiritual substance of the transaction.

In a conventional mortgage, the buyer borrows money from the bank and purchases a home. He is the owner of the home, which serves as collateral, and he repays the mortgage according to a predetermined interest rate. According to the equation of *ribā* with interest, this would be the forbidden *ribā*.

5. Frank E. Vogel and Samuel L. Hayes III, *Islamic Law and Finance: Religion, Risk, and Return* (The Hague: Kluwer Law International, 1998) 2.

Now consider a transaction in Islamic finance called a *murābaḥah*. There are three parties to the sale: the property buyer, the bank, and the property seller. For example, the property buyer provides 20 percent of the sale price to the seller, and the bank provides 80 percent. At the same time, the bank agrees to sell its share of the house to the buyer at a deferred price payable in monthly installments. The difference between what the bank paid to the seller and what it receives from the buyer is the bank's profit.

So, suppose I want to buy a house that costs $500,000. I pay the seller $100,000 and the bank pays $400,000. The bank then turns around and sells its share to me for $800,000 payable in monthly installments over 30 years. This is roughly what a conventional mortgage would cost me at 5%. The question is, is this interest? Although this seems like a clear distinction between transactions based on debt (conventional mortgage) and transactions based on shared equity (*murābaḥah*), existing contemporary *murābaḥah* loans, when examined more closely, in fact become functionally equivalent to conventional mortgages, involving nearly identical allocations of capital and risk.

Gharar: The Limits and Management of Risk

Along with *ribā*, or unlawful gain, the other core concept I mentioned above is *gharar*, which means risk or uncertainty. A typical definition of *gharar* would be the following by Mustafa Al-Zarqa: "[the forbidden *bay' al-gharar*] is the sale of probable items whose existence or characteristics are uncertain, the risky nature of which makes the transaction akin to gambling."[6] Although *gharar* is not mentioned in the Qur'ān, it is mentioned in *ḥadīth* such as:

> The Prophet forbade the purchase of unborn cattle in the womb, the purchase of the milk in their udders except by a set amount . . . the purchase of spoils of war prior to their distribution . . . and the purchase of the catch of a diver. (Ibn Mājah *K. al-tijārāt*)

It should be recalled here that gambling is categorically forbidden in Islam, which is not unconnected to the spirit of the prohibition of *ribā* and *gharar*. Most jurists have argued that the meaning of *gharar* is risk

6. Cited in Gamal, *Islamic Finance*, 58.

or uncertainty as the dominant aspect of a sale. But jurists necessarily allow for minor *gharar*, since no contract could possibly be free of all risk or uncertainty, and they allow *gharar* when the need for the contract cannot be met otherwise.

Some transactions were allowed, such as forward or "prepayment" sales (*salam*) on items such as crops, since it allowed farmers access to capital for seeds and other expenses. Or in the case of the diver, one could pay him hourly for whatever he catches, but not a fixed cost for what he might catch.

One definition of *gharar* would be "the unbundled sale of risk." For example, the sale of a warranty by the manufacturer or retail seller with a product is allowed, as it is a bundled contingency claim. An obvious example of forbidden *gharar* or trading in risk would be complex derivatives. With derivatives, two parties exchange money based on an underlying asset, without having to own that asset, and often in the absence of any real asset. The most notorious of these in recent times was the "credit default swap," which was no more or less than a bet between two parties that a third party would go into default or have some other "credit event."

Applying *Ribā* and *Gharar* Prohibitions

These twin prohibitions on *ribā* and *gharar* are foundational for Islamic finance and banking. A very helpful conceptual key for trying to understand, at the very least, the economic rationale for the prohibition of *ribā* and *gharar* is given by al-Gamal:

> It is interesting . . . to note that the prohibitions of *ribā* and *gharar* are precisely restrictions on means of trading in risk (the extension of credit exposes the creditor to potential borrower default or bankruptcy, and leverage increases the borrower's own risk thereof). Thus, the spirit of Islamic jurisprudence allows the transfer of credit and risk *only if bundled* within a financial transaction such as sales, leases, and partnerships. Such bundling regulates the riskiness of financial transactions, thus allowing for necessary risk taking to encourage investment and economic growth, while minimizing individual and systemic risks of bankruptcy and wild fluctuations in economic values.[7]

7. *Islamic Finance*, 164–65.

This brings us to the form-over-substance problem with Sharīʿah-based finance today. Some have argued that, in avoiding a full-throated articulation of the moral substance of *ribā* and *gharar*, and in hewing too close to the *form* which classical jurists used in establishing fair practices (forms such as *murābaḥah*), many Islamic experts who sit on the so-called Sharīʿah boards of major banks have missed the point of the prohibition of *ribā* and *gharar*.

Many academic scholars of Islamic law and banking are quite unhappy with many of the developments in so-called Sharīʿah-compliant transactions. They have convincingly argued that many of these "Sharīʿah-compliant" financial instruments involve the *exact same transfer of credit and risk*. Despite the use of premodern Arabic names, the financial instruments are sometimes only vaguely similar to classical Islamic forms. Often the so-called rates of profit are keyed to some bank rate such as LIBOR, and the transactions often require the same kinds of insurance to back them up. Thus, in the case of a mortgage, the *murābaḥah* often functions, so far as the buyer is concerned, as a conventional secured loan. Worse, they are often more expensive, as they incur expenses from the extra administrative costs, and often do not carry the same legal protections that have accrued to conventional mortgages over the decades.

In the words of a disillusioned former member of the Islamic banking industry: "Islamic banks have arrived at a wonderland in which through their creative use of language, there exists an Islamic equivalent to almost all the major products and modes of financing of the conventional interest-based sector."[8] This is not to say that there have not been many "substance-over-form" successes, as many Muslims are organizing institutions that follow both the spirit and form of Islamic law. One way to address the need for Islamic finance with familiar institutions would be to have mutual savings banks and mutual insurance companies. In a mutual bank, the profits belong to the depositors, beyond the costs of running the bank, which is tasked with making investments of a conservative nature. Seeking greater profits could only come at the price of greater risk exposure, which would defeat the purpose of a mutual bank in the first place. Through existing structures, one could bring a nonprofit approach to credit ex-

8. Muhammad Saleem, *Islamic Banking: A $300 Billion Deception* (self-published, 2006) 23.

tension, eliminating the perverse incentives which, incidentally, many say drove us to the financial collapse of 2008.

Philosophy and Economics

To conclude I would like to reflect on some broader questions relating to the science of economics, and also to apply some of the ethical rules of Islamic law to the current situation. Much of this paper has treated the way in which Muslims have tried to use jurisprudence to apply the rulings and principles in the Qur'ān, *ḥadīth*, and the classical legal tradition to the contemporary situation. However, the legal picture would be incomplete without consideration of its nontechnical dimensions. If Islam, or any religion, is going to make a claim to being a comprehensive way of life, it must provide a clear nexus between its spiritual vision and the rules it promulgates.

All ethics exist within a worldview, which is to say that it is literally impossible to make a judgment about what is right except upon the basis of what you think reality is, and this applies to the economic sphere as well as anywhere else. Any religion—by *definition*, one could say—affirms a belief in the sacred, which is to say that no religion—at least, religion in the traditional sense—affirms that material reality *as such* is all that there is. This is certainly true for the theistic faiths such as Islam, Hinduism, and even Taoism in an impersonal mode, but it also true in nontheistic religions such as Buddhism. You will not find a traditional Buddhist who thinks that Enlightenment or Nirvana is merely—that is, purely and simply—a special arrangement of molecules in a physical brain. For Muslims, it is in relation to the sacred that good and evil have any true meaning. Even the material goods which are protected by the Sharī'ah are considered in their deepest sense to be gifts from God, *for* which we are to be grateful and *from* which we are to give to others. We are called to meditate upon creation as a collection of signs of God, and we are also called to deal justly with all creatures while here on earth. Our actions in this world are spoken of in the Qur'ān as things which our hands "send ahead" to the Hereafter.

The Qur'ān teaches that there is within man a heart capable of being whole, which must contend with a soul that wants to follow its passions. The heart, as in most traditional teachings on the true seat of consciousness, is also called the spirit, or the intellect. It is the seat

of faith and of understanding. It is the most obvious fact of the human condition that we have a will in conflict with itself, and this conflict is more certain than death or taxes (see how I tied it in to economics?). In the sentence, "I discipline myself," there is an "I" and a "myself." I am aware of things, *and* I am aware of my awareness. I have thoughts, *and* I judge the goodness of those thoughts. This level of self-awareness, of wakefulness, of truly human consciousness is not always actualized, but nevertheless remains there in potency.

In the Qur'ān, true human intelligence (reason, but not merely in the sense of ratiocination), faith, and spirit are not proper to the soul insofar as they are merely a bundle of needs and impulses. Islam does not condemn hunger, sexual desire, love of family, the desire to live a dignified life, or the desire for material well-being, but even in the law it subordinates these needs to man's final ends, which are not ultimately of this world, and calls upon man to subordinate these desires to the spirit, the heart, and, yes, the reason.

By the time economics arose as a separate discipline within the eighteenth-century West, the traditional Christian view of the cosmos had been swept away, and the view of man as a being comprised of *body*, *soul*, and *spirit* had given way to, at best, the Cartesian bifurcation between a world of mathematical quantities (the objective world out there) and the world of the thinking being (the subjective world within). Although Descartes' conception was not an atheistic one, between the reduction of the human soul to *res cogitans*, and the withdrawal of God to the role of an Architect who winds up the universe and then lets it go its merry way, it wasn't long before even the soul and God both disappeared from the realm of serious consideration.

This all matters for economics because, in the main, economics could not avoid the reductionist worldview which took physics and mathematics as its pivot. The economist and philosopher E. F. Schumacher, author of the famous *Small Is Beautiful* and the lesser known but more profound *Guide for the Perplexed*, notes that "the great majority of economists are still pursuing the absurd idea of making their 'science' as scientific and precise as physics, as if there were no qualitiative difference between mindless atoms and men made in the image of God."[9] Many of the founders of neoclassical economics

9. E. F. Schumacher, *Small Is Beautiful: Economics as if People Mattered* (London: Blond & Briggs, 1973) 51.

(Jevons, Edgeworth, Pareto, Walras) drew explicit analogies between physics and economics, and the drive towards almost complete quantification and mathematization in mainstream economics certainly bears this out.

One of the important features of *classical* economics was a labor theory of value, where the value of a good was related, in some fashion, to the amount of labor required to produce it. The different versions of this theory and its development are important for our purposes only to point out that, in that classical picture, there was something intrinsic to the good or service which was taken into account in putting a value on it. Neoclassical economics, which came to the fore in the late nineteenth and early twentieth centuries and has dominated ever since, dispensed with theories of value and instead focused on *pricing*. Rather than intrinsic needs, people had preferences. There was neither a need to differentiate needs from wants, nor to distinguish goods from each other, except on the basis of their "utility."

In the classical conception, value could and often did have a decidedly earthbound nature, in that the value was measurable in terms of physical objects and processes as physical things. Even there, however, one could at least hold on to a sentimental conception of intrinsic value. However, to completely disregard *any* consideration of the intrinsic value of things in favor of their comparative utility at the margins is to eliminate questions of good and evil as far as the science of economics is concerned. There is no consideration of whether some commodity is good or bad, because no one needs to ask that question. If this conception were just a tool of analysis, a kind of technique for studying markets, it might not be so pernicious, but notice that the neoclassical conception of utility leaves no room for the kind of human being discussed above, one who possesses passions and desires but who is capable of rising above them in light of a reality that transcends this world.

Let us pause and ask: how can a rational person believe that things like hunger and sexual desire can exist on the same utility curve as generosity, appreciation for beauty, and the yearning for God? How can all of these things be grouped under the single label "utility"? What kind of picture of man could allow such a theory to carry any weight?

Part of the reason why neoclassical economics can reduce values to tastes and needs to wants (as my colleague Waleed el-Ansary

so aptly puts it)[10] while continuing to retain plausibility, I believe, is Darwinism. I am not talking about "survival of the fittest," though this is the aspect of Darwinism most regularly invoked in the history of economic discourse. No, I refer to the reduction and flattening of man which Darwinism entails and indeed demands.

Let us consider the example of generosity or sacrifice. How does a Darwinist explain that most glaring human fact, that we have both an "I" and a "myself," and that the true I sometimes rises above the false one? What happens when I sacrifice my needs for the needs of another, or even my very life? Well, by some happenstance a long time ago, our ancestors were born with a mutation which—purely by accident—gave them an impulse to act for the benefit of others. Somehow that trait led to greater survival, which is to say that those poor creatures who had no impulse towards what we would call generosity or sacrifice (never mind a sense of beauty or the sacred) did not manage to survive—again purely by accident. You would not expect a creature without a sexual drive to reproduce, and for more subtle reasons a creature without the altruistic impulse would not survive long enough to reproduce, or would not be attractive as a sexual partner. And despite any protestations to the contrary, this explanation dispenses with any ideas of higher or lower faculties, or control of instincts. Rather, one has a balance or equilibrium of impulses. For the Darwinist, the desire to procreate and the desire to write poetry are both matters of the neurophysiology of the brain. There is no objective standard by which love can be placed "above" thirst. They are different arrangements of molecules in the organism.

Richard Dawkins has said that Darwin made it possible to be an intellectually fulfilled atheist. It turns out to make neoclassical economics easier, too. If the difference between a desire to eat and a desire to marry is nothing more than different arrangements of the molecules of the brain, it makes perfect sense to arrange those preferences along a single mathematical curve, or to order them in a single list, and to talk about preferences, marginal rates of substitution, indifference curves,

10. See his "The Quantum Enigma and Islamic Sciences of Nature: Implications for Islamic Economic Theory," *Proceedings of the 6th International Conference on Islamic Economics and Finance* (Jeddah: Islamic Development Bank, 2005) 143–75; "The Spiritual Significance of Jihād in Islamic Economics," *American Journal of Islamic Social Sciences* 14:2 (1997) 231–63; "The Traditionalist Critique of Contemporary Economic Theory," *Sophia: A Journal of Traditional Studies* 11.1 (2005) 115–55.

and the like. There is no need to differentiate between spiritual and material goods. Indeed, how could such a theory *not* emerge if one truly believes that the soul is the mind, that the mind is the brain, that the brain is chemicals, is molecules, is atoms, is quarks? Of course economics should be like physics; after all, it's really the study of complex physical systems—us.

For me, it has always been a paradox that economics, which speaks about "rationality," completely undermines any full account of human reason. Rationality, economically speaking, is *utility-maximizing behavior under economic constraint.* Reason was once thought of as a lofty faculty, and at the very least it was opposed to the passions, and considered superior to them. According to the Darwinian conception, reason is no better or worse than the passions, and the same is true for spirit, love, etc. They are all mutations that have survived quite without purpose in the way human beings usually understand the word *purpose.*

If one objects that this is not how most Darwinians and neoclassical economists think of themselves, I would say you were right. Even Richard Dawkins and Sam Harris and other so-called New Atheists cling tenaciously to ethics and morality. My argument is that Darwinism and neoclassical economics go together as *ideas*, and ideas do matter. It is not that Darwinians do not try to act morally or feel horrified by evil, since they most certainly do. Rather, I am arguing that joining the notions of the "sacred," or "higher" and "lower" faculties, with the Darwinian view of man is intellectually incoherent.

Moreover, it is impossible that such ideas will not eventually make their power felt. Would Alan Greenspan have acted as he did if, rather than venerating Ayn Rand, he were instead a follower of Gandhi? Is it really possible to disentangle the ideological and deliberate quantification of the social sciences, from the fact that the Wall Street "wizards" thought they could manage huge risk with their stupendously complex mathematics (which had such terrible consequences for the entire economy)? Are we supposed to believe that the efficient-market hypothesis, and the general sentiment that the market will take care of everything, does not come from the same ideological impulse that imputes god-like qualities to evolution itself?

I began by discussing the meaning and purpose of Islamic law. The five "objectives of the law" are not preferences. They are objec-

tive goods: they are good independent of us and they are good for us. When a jurist says that Islam protects wealth and says that no society can sustain itself without the protection of private property, this does not absolutize this need nor relegate it to a mere preference.

Moreover, the right to property is informed and shaped by the other rights: religion, life, intelligence, and honor. In this conception, there is no way a monomaniacal obsession with quantity and material things could take over considerations of property. Today, the objective of wealth or property, in being degraded, has mutated and now threatens to consume everything else.

From the point of view of someone outside of Islam, Islamic law and its spiritual underpinning are really only one example of the sacred worldview shared by all religious civilizations. When E. F. Schumacher wrote his famous essay "Buddhist Economics," he began by saying: "The choice of Buddhism for this purpose is purely incidental; the teachings of Christianity, Islam, or Judaism could have been used just as well as those of any other of the great Eastern traditions."[11]

We cannot solve all the problems facing us today through mere technique and nuance, and we should seek wisdom where wisdom has always been nurtured—our religious traditions. We ought not to seek for human welfare in ideas that are intrinsically dehumanizing, or seek human happiness in a system that tries to quantify happiness. The intellectual underpinnings of modern economics are intrinsically monstrous, since they eliminate, by definition, any consideration of the spiritual center that makes human beings who they are. There is no possibility of a consequential engagement by people of faith with contemporary economic realities so long as they accept the general framework and assumptions governing economic and social life today. Otherwise, we will simply be choosing between the options presented to us and trying to make some adjustments to an inherently corrupt system, at the margins and with little lasting effect.

11. Schumacher, *Small Is Beautiful*, 55.