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THE INFAQ THEORY OF ISLAMIC PENSION

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ABSTRACT

This paper applies an Islamic economic perspective to a major conundrum besetting the Islamic world, namely, how to provide financial support to expanding ageing Muslim populations. The paper employs a qualitative method involving descriptive and analytical methods whereby primary and secondary data are analyzed to inductively form a formula for an Islamic pension scheme. The results of this study suggest that despite the benefits and worldwide application of pension schemes, proponents of Islamic finance remain ill-prepared and slow to devise prototypes of workable Islamic pension models designed to address the needs of ageing Muslim populations. The vast majority of existing pension schemes fail to comply with the principles and values of Islamic law and ethics. As a generality, Muslim populations would prefer to remain without pension provision rather than endorse a religiously unlawful policy. The paper proposes that infaq as a key institution of Islamic moral economy, provides an ideal foundation for the development of an Islamic pension model that satisfies both legal and ethical Islamic stipulations. Keywords: Islamic pension, Islamic welfare, Muslim elderly, Muslim employees' pensions, infaq and Islamic moral economy.

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INTRODUCTION

In western economies, pensions plans are generally considered to be efficient financial schemes designed to enable ageing employee populations to maintain acceptable standards of living upon retirement. A pension plan is a tax-free investment for the employees' benefit that commits the employer to make regular contributions to a pool of money that is set aside in order to fund payments made to eligible employees after they retire, thereby, helping workers support and plan their future expenditure. Comprising contributions from employers, employees, or both, the pension payments are pooled over a long period of time and form a collective fund. The pension fund, which is controlled by professional fund managers during the life of the pension scheme, is normally invested on the stock market for profit. On retirement, the employee resumes control of the pension and may spend it accordingly. Pensions partially compensate the employees' loss of income at retirement and provide protection in the form of lump sums or pensions to dependents in the event of a pensioner's death.

The western pension model relies on a neo-classical approach to economics and is expressed as being incrementally developed through the rational response from human actors within the framework of the market economy which does not necessarily inculcate moral and religious values. Since the 1960s, however, the general trust in the rational actor agenda has increasingly been contested, leading to claims that neo-classical economics fails to provide a comprehensive and integrated understanding of economic complexity.

During the 1970s various approaches offered more nuanced understanding of economics. The economy and economic policy emerged and became prominent within the neo-classical economic approach. This paved the way for alternative economic models that endogenize religious faith and values as factors influencing human agents when making choice in relation to economic and financial matters. Whilst various movements have concurrently emerged amidst the mid-twentieth century attempting to source solutions for various economic and financial problems besetting underdeveloped

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countries and communities, Islamic economics has institutionalized financial transactions, instruments and products that are ethically responsive and attractive to Muslim populations worldwide. Islamic economics presents a morally loaded model that deviates from mainstream approaches to economics by constructing an authentic understanding of economic life infused with the norms, values and principles derived from Islamic sources. The Islamic moral/political economy agenda now claims to present a more reliable tool to examine and explain economic frameworks and social reality.

Since its inception in the late twentieth century, Islamic economic models have expanded in terms of product diversity in response to diverse Muslim financial needs (Bahlous & Yusof, 2014). However, there has been less effort to innovate or engineer a morally responsive pension instrument to meet the needs of elderly Muslims. Despite economic benefits to aging populations and its worldwide popularity, pensions have largely been ignored in Islamic jurisprudence and attendant economic models. Elderly Muslims often receive only quasi-pension support from their own family and relatives or reluctantly join existing conventional pension schemes in their countries. Yet both factors are problematic. Muslim populations no longer reside within supportive communities characterized by strong family and tribal ties. Such communities have transited into societies with more modern individualistic lifestyles. The advancement of knowledge in human health and the improvement of health services have extended life expectancy which contributes to a greater longevity risk which eventually is borne by family members and relatives who may no longer be able to afford to provide pension support (Reinhart & Rogoff, 2011).

Western style pensions are often impermissible, as they violate the fundamental prohibition of shari'ah against *riba*. Pension funds frequently use interest-bearing investments prohibited in Islam and the income from such investment is deemed impermissible. Where there is no risk of *riba*[i] or unlawful investment in an Islamic pension, Muslim employees would still generally opt out of such Islamic pensions due to their perceived unethical nature (Khan & Ahmad, 2014). It is well known that the services of conventional pensions are not *shari'ah* compliant (Haron et al., 2022), falling short of *infaq* expectations. Most employees are not positively affected by the activities of such pension models (Yunusa, 1998). Muslim communities, therefore, tend to disengage with pensions either conventional or Islamic (Reinhart & Rogoff, 2011). Many Islamic scholars, jurists and Muslims regard the concept of pensions as a potential threat to Islamic ethics. Central to their view is that hoarding personal wealth (*Kenz*) beyond what one spends to satisfy their needs and the needs of those they support is reprehensible in Islam, as money and wealth should circulate to the benefit of society and the economy in its entirety. As a matter of faith, a Muslim should not hoard money via a pension plan. Personal wealth is respected as long as it is spent on legitimate needs or invested in assets or permissible trade. Where unspent, money should be used in a productive way in order to comply with the ethics of *shari'ah*.

This paper applies an Islamic economic perspective to a major Islamic world conundrum, namely, how to provide financial support to expanding ageing Muslim populations. The vast majority of investment funds within the existing pension schemes do not comply with *shari'ah* rulings, because the pension fund is routinely invested in assets that generate interest or involve industries such as alcohol, pork, gambling, weapons, tobacco, among others, which are considered unlawful and, therefore, forbidden. Interestingly, however, Islamic jurisprudence through the institution of *infaq* offers an ideal foundation for the development of an Islamically ethical pension scheme. *Infaq* is one of the main pillars of the Islamic economic system that relies on Islamic faith. Literally, *infaq* is the Arabic word for spending. Conceptually *infaq* in the Islamic system means spending money for the betterment of society and its members including the giver and their family. It covers both present and future spending. Presently, one may spend money to purchase goods and services or make monthly contributions to a collective fund which will be spent in the future in order to promote sustainable living. Seen in the light of *infaq* Islamic pensions can comfortably be differentiated from the unethical concept of *Kenz*[ii]. The *infaq* analysis of the Islamic pension satisfies Islamic ethical standards and provides a pragmatic solution to sustainable living for aging Muslim populations.

At first glance a pension arrangement may seem alien to religious teachings. In accordance to other economic activity, it is considered an economic instrument with parties seeking non-spiritual material objectives. Yet a considerable amount of recent research suggests that a meaningful link may exist between religion, economic planning and performance. As this research proposes a pension model based on Islamic ethics and law, a review of existing literature in this field aids an understanding of why ethical and religious considerations are important when producing a pension prototype (section II). We suggest that our proposed pension model will be responsive and compliant to an Islamic economic system. This system encompasses both legal and ethical constraints of Islam. These constraints are based on the religious edicts of Islam and, therefore, must be complied with when innovating new pension models. The nature of these constraints, how they link with a pension model and under what circumstances ignorance of these factors may trigger conflict with Islamic teaching are important factors still to be examined (Section III). *Infaq* theory constitutes the main thesis of this paper. We suggest that an Islamic pension model can be safely innovated if a combination of two or more *infaq*-based arrangements are employed. *Infaq*-based arrangements are mandatory and voluntary in nature satisfying both the legal and ethical constraints of Islam. A discussion of the theory and nature of *infaq*, its division into different types and its mechanisms will be considered afterwards (Section IV). The suggested *infaq* theory must be capable of further application to the economic context and for the purpose of this research this forms our proposed model of an Islamic pension. We propose that certain contractual arrangements within the Islamic law of *muamilat* (contracts) have the capacity to implement the theory of *infaq* within the pension context and to form a carefully considered Islamic pension. These are *waqf* (Islamic trust), *hiba* (gift), *sadaqah* (Islamic almsgiving) *and wa'ad* (unilateral promise) as shari'ah compliant transactions and pertinent to an Islamic pension. These contractual arrangements will be considered further on (section V). The paper concludes by summarizing the proposed framework of an Islamic pension under the theory of *infaq.* In the framework construction, two or more contractual arrangements of *infaq* are combined to surmount simple conformity with the requirements of Islamic law and which offer an ethical mechanism for the salvation of the elderly, and satisfy employers, and wider Muslim communities

(Section VI).

RELIGION AND WELFARE PENSIONS

Devout followers of most faiths hold the belief that their religion is divinely authorised. For the communities of believers, religious teachings matter for socio-economic law and policy making. This manifests today in countries with a secular system of governance. Religiously-based laws enacted in the US are most noticeable in legislation that affects the lesbian, gay, bisexual, and transgender communities or prohibits same-sex marriage and abortion (Clark & Scharffs, 2016). In Germany, the Christian Democratic Union which is a political alliance of Catholics and Protestants and a party that claims to represent Christian-social, liberal and conservative values has been in power for decades.[iii] UK law is historically based on Judeo-Christian values and ethics. The English jurist Matthew Hale (1609–1676) declared Christianity to be a part of common law. William Blackstone (1723–1780), author of the influential commentaries on the laws of England, identified divine law and natural law among the sources of common law.[iv] As Lord Denning (Master of the Rolls 1962-1981) pointed out English law has been beneficially affected by Christianity in a number of ways. These included a belief in the importance of truth, requirements of good faith in statutory interpretation and contractual obligations, the development of the law of negligence, and the basic presuppositions of criminal law.[v] Lord Atkin whose judgment in the landmark case Donoghue v Stevenson[vi] established the principle of duty of care and laid a foundation for the tort of negligence referred to the Good Samaritan which is clearly derived from the teachings of Jesus.

The role of religion in economic planning and political decision-making has already attracted scholarly attention (Iannaccone, 1998; Glaeser, *et al*., 2005). Modern scholars from different disciplines have established a link between religion, religious practice and welfare (Kawachi & Kennedy, 1997). In his seminal work, Weber assessed the impact of Protestant Christian tradition in motivating capitalism (Weber, 1904). More recently, studies focused on Hinduism, Islam and Christianity have shown a relationship between these religions and economic planning for the elderly (Guiso, et al., 2003; North, 2004; Barro & McCleary, 2003; Glahe & Vorhies, 1989). In their effort to elucidate economic reality, postmodernist scholars reintroduced value and morality into economic considerations (Asutay, 2012). They responded to insufficiency within the conventional system and provided insight into socio-economic matters by incorporating religious values and ethics as a cornerstone of life (Sadeq, 2006). Here, religion is perceived as a global source of morality that provides a moral compass, to offer rules that govern economic practice and guide and improve human behaviour.

Religion is important for creating harmony amongst different generations (Iyer, 2008). Incorporating religious values across generations contributes towards improved social security and reinforces the primary objectives of modern welfare programmes (Wilson, 1997). For example, all major religions, including Islam, emphasise the responsibility of the rich to help the poor and needy to alleviate poverty, enhance social stability and social good. The gap between rich and poor potentially disturbs sustainability for the elderly (Sharp, 2018). Therefore, closing this gap may rectify the imbalance (WHO, 2015).

Abrahamic religions offer individualised approaches to address an observable gap between the rich and the poor (Carvalho, Iyer, & Rubin, 2019). From a religious perspective sustaining the elderly is a prerequisite for fair and effective harmonization and dignity of community members (Migdad, 2018). The reinstatement of ethical practices and religious values in economic systems appears both desirable and inevitable. While Muslim employees and the elderly appeal for religious ethics to influence the pension models and practices, the existing models exhibit significant challenges. A dire need exists for alternatives to the existing pension models that can remedy both longevity and disengagement risks on the part of Muslim communities. Alternative proposals should rely on the foundations of Islamic economics, which are discussed next.

PENSION WITHIN ISLAMIC ECONOMICS

As Naqvi observed 'Muslim societies are much more regulated by religious values (*ʿaqīdah*) than any other society' (Naqvi, 1997). Islam contains its own set of values, laws, and ethics that strongly regulate economic activities. Islamic economics determines the permissibility of all economic activity. An Islamic pension can be innovated and operate only where it conforms to the principles and values of Islamic economics (Komilov, (2022). Economics as a science is generally defined as the study of human economic behaviour, as individual economic agents, and as communities and collective entities (Kahf, 2007). At first glance, the addition of the adjective 'Islamic' to 'economics' looks redundant, as it may seem to serve no purpose. Yet, Islamic economics displays a distinct exponent based on the ontology and epistemology of Islam (El-Ghazali, 1994).

Asutay (2012) describes Islamic economics as "an approach to, and process of, interpreting and solving the economic problems of human beings based on the value, norms, laws and institutions found in, and derived from, the sources of Islam".[vii] Many commentators referred to it as 'Islamic moral economy' which is loaded with Islamic ethical values and moral considerations (Asutay, 2012). In this model, the Qur'an and Sunnah (Prophetic traditions) constitute the foundational sources of economic practice (Chapra, 2000; Jan & Asutay, 2019). These foundations suggest a careful distinction between two categories of intertwined relationships. One concerns faith ('*aqīdah*), worship (*ibadat*) and ethics (*akhlaq*), whereas the other relates to socio-economic conduct (*muʿamalat*). The first involves a human relationship with God whilst the second concerns the human relationship *inter se*. As regards the former, believers do not have much freedom to define the terms of the relationship. There is, however, reasonable space for development and innovation in respect of the latter. For instance, Muslims are required to do daily prayer exactly as prescribed, but they are free to choose to engage in business on their own terms. Yet, Muslims' freedom in socio-economic activity is by no means absolute. It is subject to two sets of constraints, legal and ethical, both stem from the theological belief of Muslims (Bhala, 2016).

Legal constraints over Islamic economics are referred to as *shari'ah*[viii] within the terminology of Islamic law. This prohibits Muslim engagement in forms of economic activity recognised as *haram*.[ix] This includes any transaction that involve *gharar* (excessive uncertainty), *maysir* (gambling) and *riba* (interest). *Gharar* refers to any transactional risk, uncertainty and hazard incurred by a Muslim because of their lack of knowledge of material information in respect of a particular business or financial transaction.[x] The Qur'an has not referred to *gharar* expressly but condemned it indirectly in verses regarding gambling.[xi] *Maysir*, also referred to as *qimar,* is thought to be the worst form of speculation encompassing the pure form of *gharar*. Islamic jurisprudence defines it as 'taking a risk in the hope of gaining an advantage or a benefit whose materialisation is fully or substantially reliant on a game of chance'.[xii] *Riba* is a Qur'anic Arabic term denoting a prohibited act usually equated to "usury". It concerns an unlawful gain derived from the quantitative inequality of the counter-values of the same genus in any transaction.[xiii]

Ethical constraints within Islamic economics, referred to as *Akhlaq*, provide Muslims with recommendations for either engagement or disengagement from certain practices, though they have no legal force. Ethical recommendations aim to benefit the Muslim community, not simply individual Muslims. Azid and Asutay (2007) indicate that Islam requires economic activity to be practised in ways that are beneficial to Muslim communities. In an economic context, Islam commences with the minimum compliancy rules of *fiqh*[xiv] that are mandatory but further require observant Muslims to display ethical practice and to effectuate the objectives of shari'ah[xv] (Mergaliyev *et al*., 2019). A practising Muslim should therefore conform to both.

Islamic economics is founded on ethical axioms that stem from the theological beliefs of Muslims. These axioms are foundational to the Islamic moral economy, which enable individuals to achieve *falah* (salvation) in this world and the hereafter (Silva, 2007). While shaping Islamic moral economy, they contribute to drawing a clear route to social well-being. Here, a formulation is synthesized through which Muslims view themselves as vicegerents *(khalifa)* of Allah on earth who voluntarily incorporate *ikhtiyar* (right to make free choice) and *tazkiyyah* (sanctification) to secure the *'hifz al-'ird* (to guard Muslims' praiseworthy character) of *maqasid al-Shari'ah* in conformity to *tawhid, rububiyyah* (to believe in Allah's omnipotence), *ʿadl* (Justice) *and ihsan* (beautification). Holistic implications result for the totality of life and play a major role in socio-economic planning, including preparation for retirement (Khaleel & Avdukic, 2019). The foundational ethical axioms underpinning the construction of Islamic pensions are listed below and examined next.

Tawhid

Tawhid signifies belief in the oneness of God, the indivisibility of the self, and the names and attributes of God (Naqvi, 1994). It decrees the nature of the relationship between God and human beings. God provides material resources on earth for the benefit of all social groups to allow equal access of humankind to such resources. While God has created humans and bestowed humanity with diverse resources to facilitate economic activity, responsibility is incumbent on spending these resources righteously. In Islamic economics expenditure is made for charitable or transactional purposes. Both of which constitute the *infaq* sector, which under the economic model is considered a right for Muslims (Qur'an, 57:20).

Tawhid depicts human bodily rights as an *amanah* (trust) to be cared for, especially through old age, when weakness occurs (Qur'an, 36:68). Commanding that the elderly are catered for is intrinsic to the oneness characterising the *tawhidic* paradigm (Qur'an, 17:23). *Infaq* falls within the ambit of an equitable distribution of wealth in an Islamic moral economy. God has created a lifecycle which enfolds man in time-bound phases which usually culminates in old age (Qur'an, 22:5). According to *tawhid* the *infaq* sector develops a successful path for ageing and not merely age-related deterioration. Duties are incumbent on various economic agents to provide for the elderly and to establish systems to care for them.

Rububiyyah

Rububiyyah[xvi] which is innate to Islamic moral economy implies "divine arrangements for nourishment, sustenance and direction towards perfection" (Ahmad, 1979). It constitutes an act of worship of God as long as the activity is not harmful to society. In this sense, every constructive human activity can be an act of worship of God (El-Ghazali, 1994). Human economic activity can help believers attain perfection. It therefore signifies the existence of a careful harmony between the economic, the social and the environmental objectives and actions. *Rububiyyah* is entrenched in the underpinning philosophy that God not only creates but also guides creation to perfection (Azad, 1981). This is exemplified when Muslims collectively contribute to the *Baitul-mal*[xvii] to develop the *infaq* sector in a holistic way. The growth of the *ummah* must be organic and systematic. Ibn Salam meticulously elaborates on the various branches of the *infaq* sector in his book *Kitab al-Amwal*. He sets a precedent to reconsider avenues for exploration under a modern financial economy to redistribute wealth and to develop a contemporary approach to pensions from an *infaq* perspective. Ibn al-Salam's typology ensures a sustainable system for cash inflow to support society, emphasising provision for the elderly as a communitarian and individual responsibility. Care of the old and needy falls within the ambit of *infaq* as a sustainable development arm of Islam, with pensions as an important prong for such development.

Alʿadl Wa-al-Ihsan

Alʿadl wa al-iḥsan is an important axiom of Islamic moral economy. It literally means justice and beneficence. In a technical sense, it encourages believers to promote good deeds and establish justice (*ʿadl)* through equal and fair distribution of wealth among individuals (Asutay, 2007). It presumes that individuals are of equal value. Muslims are expected to obey God's commands in the Qur'an by engaging in meritorious acts and demonstrating care for one another (Qur'an, 16: 90). Justice and good deeds strengthen the fabric of brotherhood and create social balance. Ethical obligations to promote good deeds and establish justice closely link to *tawḥidic* maxims. It requires Muslims to share resources by paying *zakah*[xviii] and *sadaqhah.*[xix] This obligation is designed to support the needy and less fortunate in society, such as orphans and the disabled, with the aim to alleviate poverty and social misery and to exert a positive impact on economic growth and social stability

(Naqvi, 1981).

Al Ikhtiyar

Ikhtiyar literally equates to free will. In Islamic philosophy, it refers to the recognition of humans as agents possessing free will. God has created human beings with cognitive faculties to distinguish between good and bad deeds, thereby enabling humans to evaluate what is right and wrong (Adlina, 2011). According to Islamic belief, the destiny of individuals is decided by their freedom of choice to decipher right and wrong. This implies that individuals are free to choose from a variety of economic and financial options. Yet, this free agent rationality is ethically bound within norms of social justice and beneficence. Accordingly, individuals bear full responsibility for their choices as a matter of accountability before God on the Day of Judgement. Accordingly, they are responsible to make choices that promote socio-economic development (Naqvi, 1994).

The Islamic approach to *Ikhtiyar* is clearly demonstrated in modern day Islamic micro finance whereby the poor are assisted, among others, via the *waqf* institution. The global estimated value for *awqaf* exceeds one trillion US dollars. In modern Islamic finance *waqf* is gaining prominence allowing Muslims to make n responsible choices through it. *Waqf* institution often underlies other micro economic schemes, including pensions, interest-free loans, and business financing to boost Islamic moral economy.

Farḍ

Farḍ refers to mandatory obligations imposed by Islam on Muslims either individually or collectively. For example, Islam affirms that Muslims bear a responsibility (*farḍ)* to their society and especially to the needy, including orphans and other less privileged social groups. Islam places special emphasis on avoiding social negligence, and many verses in the holy Qur'an urge Muslims to care for one another (Karim, 2010), particularly, those in need (Qur'an, 70: 24-25). Islamic teachings submit that all wealth and power on earth belongs to God. The Qur'an indicates that wealthy individuals are trustees of the wealth bestowed on them, so they are obliged to spend the wealth in accordance with God's guidance. As their wealth contains a social claim, the rich should satisfy this by caring for the needy and the dispossessed - this is often achieved by paying *zakah* (mandatory charity) and *sadaqhah* (voluntary charity). Wealth in Islam encompasses a social dimension, regardless of whether it is retained by the state or by individuals. For this reason, Asutay (2007) describes Islamic moral economy as constituting a 'utopian economic model', which aims to distribute income and wealth equitably.

Tazkiyyah

Tazkiyyah refers to the purification of one's soul via improving personal relationships with God, society, the environment and the state (Ahmad, 1979). Implicit in self-development is the promotion of justice (*ʿadl)*, good deeds (*iḥsan*) and preventing injustice (*ẓulm)* among all life's stakeholders, including other individuals, the state, society, and the environment. This maxim suggests that growth in the economy, society and at the individual level is desirable, if it embraces social and moral obligations while avoiding harm to stakeholders in a Pareto optimal manner. Through *tazkiyyah* Muslims secure social and economic development and promotion of happiness in this life and the Hereafter (Asutay, 2007). *Zakah* purifies one's wealth. It cleanses the heart from excessive love of wealth because it forces Muslims to relinquish a proportion of their wealth to the poor.

The *infaq* sector reflects *tazkiyyah.* It encourages a person to offer charity to the poor in order to recompense for spiritual shortcomings. For instance, *sadaqhah al-fitr* compensates for omissions during fasting; or *kaffarah* when failing to uphold an oath. These *infaq*-based instruments reflect the philosophy of *tazkiyyah*. *Infaq*-based spending attempts to mitigate *zulm* (injustice), encourage *ihsan* (beautification) and facilitate establishment of an equilibrium via '*adl* (justice).

Khalifah

Khalifah literally means vicegerent but in a technical sense, it refers to a twofold Islamic moral economy concept that firstly recognises God's ownership of all wealth and natural resources on earth, and, secondly, human trusteeship over such wealth. Trustee status requires humans not to waste economic resources; to establish justice on earth, and not to undermine social harmony and ecological balance. This implies that individuals are God's vicegerents (*khulafa*) on earth entrusted with the duty to live their lives responsibly and as a trustee act with care and loyalty. The *khulafa* are tasked to apply resources for the benefit of humanity without discrimination (Choudhury, 2016). Through piety and righteousness, the world's resources should be harnessed to serve all the living beings that God has created on earth (Al-Sheha *et al*., 2001).

Maqasid al-Shari'ah

Maqasid al-Shari'ah refers to the higher objectives of shari'ah. Imam al-Ghazali (d.505/ 1111) initially defined it as "to promote the well-being of the people, which lies in safeguarding their faith (*din)*, their self (*nafs*), their intellect (*ʿaql)*, their posterity (*naṣl)* and their wealth (*mal*)" (Chapra, 2008). In addition to these five objectives of *maqasid al-Shari'ah,* shari'ah scholars added an additional one of *hifz al-'ird*, meaning to improve the quality of life and motivate people to achieve optimal well-being. Collectively, they provide a framework for social and economic activity, and act as guidelines consistent with Islamic teachings. Such objectives of shari'ah, constitute the basis for social reform and socio-economic development towards a better future for individuals and for society at large (Mergaliyev *et al.*, 2019). By eliminating harmful and sinful practice from all aspects of life, it becomes possible to ensure welfare and justice for all. The five objectives of shari'ah can be described as the essence of the Islamic faith and together constitute the basis for social stability. Failure to observe these objectives would mean that one would sustain suffering in life and face an uncertain destiny in the Hereafter (Chapra, 2008). This, *maqasid* approach provides the methodological base through which the objectives of economic and social activities are achieved (Zailani et al., 2022).

THE INFAQ THEORY

The institution of *infaq* is a fundamental mechanism devised within Islamic moral economy to effectuate the delivery of the ethical maxims that underlie an Islamic pension. Literally, *infaq* is the Arabic word for spending. In the technical sense, it refers to any giving meant for the betterment of society and its members, including the giver and their family. *Infaq*-based transactions are often described as spending/giving 'for the sake of God (*'fī Sabi lil Allah')* which implies giving for charitable purposes. Spending may be either for the purpose of exchange against goods and services or for any charitable contribution with no expectation of a material exchange.[xx]

The *infaq* sector can be described as a powerful tool to realise a financial-economic balance in Islamic communities (Haq, 1996). While everyone is not expected to be rich, social imbalance will exist because not all economic agents are successful. However, those who are successful have a duty of care vis-à-vis the underprivileged. When this responsibility is not discharged then economic injustice prevails. The *infaq* is an important lubricant for a just economic engine. In the UK alone, the Muslim community officially contributed more than one billion pounds during 2018 to sustain the poor. Muslims spend the most in the UK on charitable giving donating an average of £361 per head, followed by Jews contributing £270 per head (Mustafa, 2017). Islamic teachings divide the *infaq* into four categories (Mohammed, 2011):

(1) *Infaq* as a religious absolute personal obligation
(2) *Infaq* as a religious circumstantial personal obligation
(3) *Infaq* as a religious community obligation
(4) *Infaq* as a religious voluntary contribution

Infaq as a Religious Absolute Personal Obligation

Infaq as an absolute personal religious obligation indicates the kind of spending required from each Muslim, regardless of social or community requirements for the money. Two immediate examples of this type of spending are *zakah* levied on property (*zakah al-mal*) and *zakah* levied on people (*zakah al-fitr*) (Akhsan & Ryandono, 2022). The former is a religious tax obligation on all Muslims who own property, cash or other sources of wealth.[xxi] The latter is a religious tax obligation on every Muslim, male and female, adult and minor to be paid at the end of the month of fasting, *Ramadan*. Payment for breaching one's oath also known as *Nuthur* (singular: *Nathr*) is another form of spending as a personal religious tax obligation.

Infaq as a Religious Circumstantial Personal Obligation

Infaq can be a circumstantial obligation on a person as a result of certain circumstances and/or relations. For example, the rich may be required to spend on the livelihood of their deprived relatives. Islamic law makes it obligatory for a man to spend on his wife and young children (Qur'an, 2:233). This is a marital obligation applying also to blood relationships; it includes dependents' living expenses, along with their Islamic and worldly education. Additionally, spending on needy relatives, especially parents is obligatory in Islamic law on their nearest kin, provided s/he is financially able. *Infaq* on one's guests in the form of hospitality and on needy neighbours is obligatory too. Other forms of circumstantially obligatory spending include compensation for religious mistakes or shortfalls known in Arabic as *kaffarah* (plural: *kaffarat*) and spending on libel, tort and civil liability. It is incumbent according to shari'ah for the protection of '*irḍ* (Qur'an, 17:70), thereby, securing the dignity of the neglectful and their family.

Infaq as a Religious Community Obligation

Infaq can also be a community obligation, *i.e*., a personal obligation placed on every Muslim individual until someone fulfils it. Once fulfilled, other Muslims are relieved of a personal responsibility to respond. This type of obligation covers all community need, such as, spending to build civil and religious infrastructure, including roads, public utilities, mosques, cemeteries, and so forth. It also covers all social welfare requirements, such as, supporting the poor and needy, and where the proceeds from *zakah* are inadequate, to sustain economic development of underdeveloped areas, scientific research and exploration. This community obligation also covers *infaq* on the safety and security of a Muslim society, people and land. However, the obligation to maintain *infaq* is subject to financial ability. As some academics pointed out, within an Islamic fiscal system, a community obligation to spend is the foundation of taxation, as well as tax progression (Abu, 2005).

Infaq as a Religious Voluntary Contribution

Religiously-based voluntary spending is repeatedly encouraged in the Qur'an and sunnah. Islamic scholarship distinguishes between two kinds of voluntary spending: running-stream spending and one-shot spending. Regular or one-shot spending is allotted to beneficial causes (Cizakca, 20007). Assisting the poor and needy, feeding the hungry, and clothing the naked are virtuous practices held in high regard within Islam. The best expression of obedience to God is to help His creatures, especially the children of Adam. Helping God's creation covers animals, plants and the environment. Running stream *infaq* involves spending on establishing *awqaf* (trusts/endowments) whose revenues and/or services benefit the targets of *infaq*. Via *awqaf* Islamic civilization has traditionally financed education, health care, social services, public utilities, scientific research, and to a large extent, external defence, *'tabarru.*'

The *infaq* institution has capacity to justify an Islamic pension. Pensions often involve pensioners who plan the spending of their pension money. Future spending on oneself is a key element of the *infaq* institution in Islamic economics. As a religious circumstantial personal *infaq* obligation, a Muslim employee takes a future consideration for self-sustenance and signs up to a pension scheme for retirement spending. The pension pot under such a pension scheme is invested till the point of retirement when pension repayments are made.

As it promotes the dignity of Muslim communities, *infaq* has gradually institutionalised in Islamic economics (Haq, 1996). The *infaq* sector now provides the operational field for the implementation of the ethical maxims of the Islamic moral economy. In other words, in Islamic economics, any economic activity is linked either directly or indirectly with *infaq*. For example, *rububiyyah* and *tazkiyyah* motivate believers to act for the good and to prevent evil with regard to their social and economic activity. Considering *rububiyyah* and *tazkiyyah,* Muslims spend in order to have a spiritual rapprochement to God. In an Islamic pension and *takaful*, for instance, members contribute monthly payments to a common risk pool for '*tabarru'*. They do so for mutual help and cooperation, not for securing profit in a competitive fashion. Such collective endeavour for reciprocal help is endorsed in the primary sources of Islam (Qur'an, 5:2). Thus, *Infaq* in Islam purifies men spiritually and enhances the development and growth of socially responsible societies.

The *infaq* analysis of pensions saves the existing pension practice from the lengthy and expensive process of Islamic pension innovation by adaptation of the current conventional pensions and to develop shari'ah compliant pensions. As the Qur'an emphasises, old age is an inevitable process of the human life cycle. One should protect human dignity at all times including old age under the *hifz al-'ird* of *maqasid al-shari'ah*.

CONTRACTUAL FRAMEWORK OF AN ISLAMIC PENSION

Islam does not recognise a general principle of freedom of contract. Instead, it endorses an adapted contractual freedom[xxii] in which commercial contracts must comply with requirements of Islamic law of contracts as demonstrated in the *fiqh al-muʿamalat*. Throughout the centuries, Islamic jurists and scholars have produced a list of contracts that are sharia'h compliant. Referred to as nominate contracts[xxiii], they meet many Muslim business needs. The list is not exclusive/exhaustive due to the ever-changing nature of the world that calls for innovation within new contracts to meet emerging Muslim need. Innovative contracts can be accommodated through *ijtihad* using the principle of permissibility[xxiv] only where they do not violate Islamic prohibitions. Pensions neither existed at the time of the introduction of Islam nor indigenously innovated thereafter in Islamic business and finance practice. It is therefore not odd to see it omitted in the nominate contracts' list. The existing pension schemes in Islamic countries are often impermissible. They are simply modern imports from western economies that violate the prohibitions of Islamic law. Inevitably, an Islamic pension will be engineered or innovated taking into consideration the parameters of Islamic moral economy and the requirements of the Islamic law of contracts (Asutay, 2010). Islamic finance has long been working to replace or adapt many existing non-Islamic financial and business transactions/products to ensure conformity with the parameters of Islamic law and ethics (Walker, 2009: 6; Usmani, 2002). This focused on Islamic banking and insurance. Yet, there is a vast untapped extent where Muslim societies can benefit from Islamic models beyond banking and insurance (El-Gamal, 2006; Warde, 2000). Development of an Islamic pension that is capable of adhering to the Islamic parameters of law and ethics and can promote full social involvement would become an essential task (Pollack & Olson, 2012). Hence, to engineer an Islamic pension, the following standards are to be observed:

Prohibition of Riba

Any Islamic pension scheme must be interest-free. In conventional pension models, pension funds are often put in interest-bearing investments. Such pensions are *haram* and prohibited in Islam and the income from such investment will be impermissible accordingly. Interest-based transactions (*riba*) are clearly disallowed by *shari'ah* law. According to Islamic doctrine any transaction of *riba* is disallowed because it produces injustice and unfairness with greater harm than benefit. It compromises social welfare to secure individual welfare (Chapra, 2000). As money does not produce by itself, any income derived from keeping, saving or lending money would be illegitimate. A legitimate income is a product of human labour not financial transactions via credit systems. Gains should therefore be related to effort and risk.[xxv] This links to the alternative income generation method promoted in Islamic business law that emphasises business partnerships with the sharing of potential profit and loss between business partners. The principle of profit-and-loss-sharing (PLS) is essential for any real economic activity (Ayub, 2007) and all such activities should focus on tangible assets (Iqbal & Molyneux, 2005). It also follows that the contract parties and the stakeholders (i.e. financial institution, capital provider, labour contributor, and the wider society) should work in harmony to secure the common economic welfare of everyone concerned paving the way for a more democratic governance of economic resources (Cizakca, 2007). An Islamic pension scheme therefore shifts from any risk transfer arrangement to a risk sharing arrangement which conforms to the Islamic law of contracts. Any attempt to set fixed profits without taking a share of the potential loss of an investment in a pension scheme is considered *riba*. In an Islamic pension, application of the no *riba* ruling and the PLS principles serves economic justice as the risk of loss will be shared by the contributor and pension provider (Siddiqi, 1987).

Sharia'h Compliant Transactions

An Islamic pension arrangement consists of a pension fund which is only invested in shari'ah compliant transactions. These contractual moods can range from long established nominate contracts to any innovative investment contract that meet the permissibility requirements of the Islamic law of contracts. In fact, these modes of financial transactions historically were practised in the Muslim world (Iqbal & Molyneux, 2005). They meet Islamic constraints over economic activities by disallowing Muslim engagement in *haram* transactions.[xxvi] The law of *shari'ah* prohibits any transaction that involve forbidden goods[xxvii], *gharar, maysir* and *riba* (Iqbal & Llewellyn, 2002). In addition, any such investment project should ensure the sustainability of Muslim societies in terms of the social and environmental impact. In other words, Muslims should not invest their savings in projects that provide goods and services that are religiously taboo or undesirable, such as tobacco, alcohol, gambling, and so forth. As vicegerents, Muslims should not misuse economic resources in a wasteful manner, undermining social harmony and ecological balance. They should apply resources for the benefit of humanity (Choudhury, 2016).

Infaq Based Arrangements

It is the central thesis of the authors that *Infaq*-based arrangements have the capacity to comply with both the ethical and legal constraints of Islamic law. As such, they can be utilised to innovate an Islamic pension. The most suitable *infaq*-based arrangements pertinent to developing an Islamic pension are *waqf, hiba, sadaqhah and wa'ad*. These arrangements serve a twofold purpose. First, as they are arrangements of '*tabarru'*', they can accommodate *gharar* which is a major Islamic concern for any contractual arrangement that involves future promises. Second, they contribute to drawing a clear route to social well-being and enable individuals to achieve *falaḥ* (salvation) in this world and the Hereafter. *Falaḥ* directly relates to consequences of actions or good deeds. Unfortunately, this is often ignored by the existing practice of Islamic finance and contemporary Islamic scholarship - with a focus solely on intentions.

Waqf (plural: *awqaf*) also referred to as *Habs* literally means to hold still and to freeze but in a technical sense it refers to a voluntary act of charity and ongoing *sadaqhah*[xxviii] that involves permanent retention of a specific property and allocation of its benefits (*manfa'ah*) by the owner.[xxix] The first *waqf* created by the Prophet was a *Masjid* (Mosque) in Madinah. Early *awqaf* were created for the benefit of the public.[xxx] *Waqf* scope gradually extended to other fields, such as public utilities, education, research and health care. It can be created to serve any purpose that falls within the concept of *birr* (*Hassanah*). *Waqf* benefits are assigned to the named beneficiaries. *Waqf* allocations can serve and benefit a specified group of people connected to the donor (*e.g.* members of donor's family), a charitable / humanitarian objective in relation to the public (e.g. Covid-19 research), or a specified group of the public (*e.g* pensioners). It is similar to the common law institution of trust except the testator in *waqf* will surrender their ownership over *waqf* property forever. The *waqf* constitution (*waqf* deed) determines the objectives of the *waqf*, the way(s) in which *manfa'ah* (revenues) is to be spent, the beneficiaries - individuals, a particular group or the general public, and the manager (*mutawally*) who will be in charge of the management process and procedures. The corpus of the *waqf* endowment must be kept intact whilst it can be invested in some safe fixed-income asset and the return from such investment is used to make philanthropic payments to the beneficiaries (Nor et al., 2022).

Sadaqhah as an act of charity refers to "voluntary giving '*fi sabillilah*' (for the cause of Allah) in Islam[xxxi]. Described in the Holy Qur'an as 'a beautiful loan', giving *sadaqhah* is considered a sign of sincere faith. Both *sadaqhah* and *zakat* are forms of charity in Islam, but they are not interchangeable. While *zakat* is an obligatory charity and is given from one's surplus wealth, *sadaqhah* is a voluntary charity. It involves any charitable act given out of compassion, love, friendship, and generosity. *Sadaqhah* can be given to anyone because it has no limits or guidelines. One can provide *sadaqhah* at any time as there are no set days or restrictions. Muslims often give *sadaqhah* to mark or bring blessings to special occasions such as weddings, births, and other important milestones.

Hibah (gift) is a non-commutative nominate contract of a benevolent nature involving one party to the contract transferring ownership of an asset to a counterparty without any consideration.[xxxii] It is often given with charitable purpose or intention. Islamic scholars from the Shafi, Hanbali, Maliki and Shi'i schools hold the view that *hibah* may be revoked at any time if the subject of the gift has not been handed over to the donee. Once the donee has taken possession of the subject of the gift, the *hibah* may not be revoked by the donor.

Wa'ad [xxxiii] is commonly used in the Islamic law of obligations to mean a unilateral promise made by one party to extend a future benefit to another party who receives it without an obligation to return a consideration.[xxxiv] It remains a controversial concept in Islamic jurisprudence. While many Islamic jurists have opined that any promise would fall within the general ambit of the permissibility of promises recognised in the Qur'an[xxxv], others support arguments for the impermissibility of any short of contract promise. Following this line of argument, to maintain consistency general respect in the Qur'an for such a promise to be retained, is construed in the light of other Qur'anic verses, especially the prohibition of *gharar*, denoting a contractual promise. Accordingly, a promise is valid/permissible only where it does not involve *gharar*[xxxvi] although a unilateral promise always involves *gharar*. Despite such intellectual controversy, *wa'ad* is widely applied in many Muslim countries.

Returning to the discussion surrounding Islamic pensions, to engineer an Islamic pension, one would need either to substantially modify a conventional pension model or to innovate to produce an indigenous Islamic pension. Two modes exist to engineer a new financial instrument, adaptation, and innovation (Iqbal, 1999). The first method also known as reverse or replicating engineering tends to Islamise products taken from the conventional system by adapting such products. This is generally considered easier to exercise and integrate into the targeted economic system or financial market, though it can be associated with *shari'ah* non-compliancy risk, contamination with haram elements, or legal stratagem (*heyal*) (Ahmed, 2006). The latter looks at the existing Islamic nominate contracts in the hope of identifying unexplored aspects to re-design or combine such contracts to produce a new instrument. It will open new horizons for expansion of Islamic financial products and instruments with lower risk of *shari'ah* non-compliancy (Alamad, 2017).

To engineer an Islamic pension, it is worth noting that a single arrangement cannot solely underlie and create this product. It is essential to combine more than one arrangement. By combining two or more *infaq*-based contractual arrangements, an Islamic pension conforming to both the ethical and legal constraints of Islamic rulings can be innovated. For instance, regular contributions to a pool of money in a pension may take the form of initial voluntary charity payments of *hibah* or *sadaqhah*, whereas future payments made to eligible retiring employees may enter the *wa'ad* category. *Waqf*, *sadaqhah*, *hibah* and *wa'ad* are arrangements of '*tabarru'*'[xxxvii], which tolerate *gharar*.[xxxviii] They are non-commutative, therefore, the donor/promissor transfers ownership of an asset to a counterparty without any consideration. This follows that they can associate with future uncertainties while meeting the Islamic legal and ethical requirements for a permissible pension. This can function as a source of funding for Islamic pensions that arranges and authorises retirement payments to elderly Muslims. Recipients of such payments would not be required to return the finance. Such arrangements uplift adverse financial outcomes for the elderly by authorising *infaq*-based halal payments to low-income employees who are often the dispossessed, disadvantaged, and vulnerable.

CONCLUSION

Pensions have been used in western economies over a long period of time to ensure the welfare of aging populations. Pension provision helps employees plan for a sustainable retirement during their old age, thereby, saving public financial expenditure that may otherwise be allocated to benefit payments to the elderly. However, from an Islamic perspective, pension arrangements are a new phenomenon that previously did not exist or evolve within Islamic finance theory and practice. Conventional pension is regarded impermissible and ethically undesirable. As a matter of faith, a Muslim should not hoard money via a pension plan, as money should be kept in circulation for the benefit of society and the economy. Personal wealth is respected where it is spent for legitimate needs or invested in assets or lawful trade. This paper suggested that the institution of *infaq* can provide an ideal foundation for the development of an Islamically ethical pension scheme. *Infaq* is one of the main pillars of the Islamic economic system that relies on Islamic faith. The *infaq* analysis of the Islamic pension satisfies both the Islamic legal and ethical standards and provides a pragmatic solution for sustainable living to aging Muslim populations. The paper argued that *infaq* as the key implementation device of the Islamic moral economy is loaded with the task of effectuating the higher objective of *falah* in Muslim societies. *Infaq*-based transactions are conducted 'for the sake of God ('*fī Sabi lil Allah'),* not for individual egoistic satisfaction. In this proposed Islamic pension model, members contribute monthly payments to a common risk pool for '*tabarru'*. They do so for mutual help and cooperation, not for securing profit in a competitive fashion. *Waqf, hibah, sadaqhah and wa'ad* are the most suitable *infaq*-based arrangements that are pertinent when devising an Islamic pension. They function as a source of funding for Islamic pensions that then authorise future retirement payments to the Muslim elderly. As arrangements of '*tabarru'* which tolerate *gharar* they avoid the impermissibility of future promises. Also satisfied are the Islamic legal prohibitions forbidding *riba,* as the pooled money may only be invested in shari'ah compliant investment opportunities, including, *sukuk*, shares of Islamic corporations, and profit and loss sharing (PLS) investment accounts of Islamic banks. These aside, the *infaq*-based arrangements enable the elderly, the employers and wider Muslim communities to achieve *falaḥ* (salvation), as they constitute good deeds in this world and the Hereafter. The underlying *infaq* analysis of this model follows that Muslims no longer hoard money within pension funds, instead all the investment activities and future payments take the format of charitable spending commended as good deeds via Islamic teachings. Accordingly, Muslims are afforded the opportunity to invest their pension funds in line with the teachings of their faith without compromising religious values. The investments in this fund will be subject to screening by Islamic scholars to ensure they continue to comply with *shari'ah* principles of law and ethics.

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[i] For example, where the pension money is invested in *shari'ah* compliant transactions such as *Mudarabah, Musharakah, Ijarah*, etc.

[ii] *Kenz* is an Arabic word for an act of hoarding wealth strongly reprehended in Quran. "O believers! Indeed, many rabbis and monks consume people's wealth wrongfully and hinder others from the Way of Allah. Give good news of a painful torment to those who hoard gold and silver and do not spend it in Allah's cause." (Quran, 9:34). "The day will come when their treasure will be heated up in the Fire of Hell, and their foreheads, sides, and backs branded with it. It will be said to them, this is the treasure you hoarded for yourselves. Now taste what you hoarded." (Quran, 9:34).

[iii] Paul Gottfried. The Rise and Fall of Christian Democracy in Europe. *Orbis*, fall 2007; Mark Kesselman, Joel Krieger, Christopher S. Allen, Stephen Hellman (2008). *European Politics in Transition*. Houghton Mifflin Company, New York; Sarah Elise Wiliarty (2010). *The CDU and the Politics of Gender in Germany: Bringing Women to the Party*. Cambridge University Press; Martin Seeleib-Kaiser; Silke Van Dyk; Martin Roggenkamp (2008). *Party Politics and Social Welfare: Comparing Christian and Social Democracy in Austria, Germany and the Netherlands*. Edward Elgar.

[iv] Law and Religion: An Overview. *Encyclopedia of Religion*. Retrieved January 24, 2022, from Encyclopedia.com: https://www.encyclopedia.com/environment/encyclopedias-almanacs-transcripts-and-maps/law-and-religion-overview.

[v] The Rt. Hon. Lord Denning, *The Influence of Religion on Law* (Lawyers' Christian Fellowship, 1989).

[vi] Donoghue v Stevenson [1932] A.C. 562.

[vii] The sources of law or *shari'ah* in Islam are divided into two hierarchical categories: revealed (primary) and derived (secondary). The former concerns the Qur'an (the holy book) and the *hadith* or *sunnah* (sayings and doings of the prophet). They rank the highest and are to be followed without questioning. Any question of *shari'ah* is initially resolved by primary sources. The latter comprises of consensus of Muslim scholars on a point of law (*Ijma*) and analogical reasoning (*Qiyas*) which were developed by Muslim jurists after the revelation of the *Qur'an* and the *sunnah.* They rely on *Ijtihad* (intellectual exertion) which is a process of deducing new rulings (*ahkam*) from primary sources. Questions of *shari'ah* are resolved by secondary sources only if the primary source is mute. There is also a category of disputed sources which relies on *ijtihad* and is used where the two primary and secondary sources are silent or vague. These include *Istihsan* (Juristic Preference), *Maslahah-ul-Mursalah* (Consideration of public interest), *Istishab* (Presumption of continuity), *Urf* (Custom), *Qawl al-Sahabi* (Opinions of companions), *Shar'u qablana* (revealed laws of the previous prophets). Altogether, Islamic rulings from the secondary and disputed sources constitute Islamic jurisprudence, also referred to as *fiqh*.

[viii] Islam comprises faith (*Aqidah*), ethics (*Akhlaq*) and the rules of conduct, whereas *shari'ah* constitutes one element of Islam concerning worship (*Ibadaat*) and socio-economic conduct (*Muamalat*). These are certain immutable codes of divine law for human behaviour ranging from worship to any socio-economic activity.

[ix] Haram describes any action which has been declared by Islamic sources/rulings as forbidden and imposes a legal duty on Muslims to omit such prohibited actions; for example, consuming pork, intoxicating beverages and *riba*.

[x] See Al-Dareer, Siddiq (1997), *Al Gharar in Contracts and Its Effect on Contemporary Transactions*, Islamic Research and Training Institute, Islamic Development Bank, Jeddah [http://www.irtipms.org/PubDetE.asp?pub=56; Al-Saati, Abdul-Rahim (2003), The Permissible Gharar (Risk) in Classical Islamic Jurisprudence, *Journal of King Abdul Aziz University: Islamic Economics*, 16 (2), 3-19. http://islamiccenter.kaau.edu.sa/english/index.htm; Al-Suwailem, S. (2012). Towards an objective measure of gharar in exchange. *Journal of Islamic Business and Management* Vol, 2(1); Al-Zuhayly, W., & Eissa, M. S. (2003). *Financial transactions in Islamic jurisprudence*. Dar Al-Fikr; Usmani, M. T. (2002). *An Introduction to Islamic Finance*. The Hague, New York: Kluwer Law International; Kamali, M. H. (2002). *Islamic Commercial Law: An Analysis of Futures and Options*. Cambridge: The Islamic Texts Society. p. 84.

[xi] Ibid.

[xii] See Husam Hourani Al Tamimi, "The Three Principles of Islamic Finance Explained", (2004) 23 *Int'l Fin*. L. Rev. 46; Pervez (1990), "Islamic Finance", (1990) 5 *Arab L.Q.* 259; Noor Mohammed, "Principles of Islamic Contract Law", (1988), 6 *J. L. & Religion* 115; Muhamad Ayub, "*Understanding Islamic Finance*", (2007 – John Wiley and Sons Ltd., UK); Muhammad Yusuf Saleem, "*Islamic Commercial Law*", (2013 – John Wiley and Sons Ltd., Singapoor); Dau-Schmidt, 'Forward Contracts-Prohibitions on Risk and Speculation Under Islamic Law', 19 *Ind. J. Global Legal Stud*. 533 2012; Dawabah, A.M. (2007). *Studies in Islamic Finance*. Cairo: Darussalam; Obaidullah, M. (2002). Islamic Risk Management: Towards Greater Ethics and Efficiency. *International Journal of Islamic Financial Services*, 3 (4); Al-Saati, note 10; Obaidullah, M. (1998). Financial engineering with Islamic options. *Islamic Economic Studies*, 6, no. 1: 73-103; Vogel, F. E., & Hayes, S. L. (1998). *Islamic Law and Finance: Religion, Risk, and Return*. Kluwer Law International. pp 90-93.

[xiii] Pervez, note 10; Noor Mohammed, note 10.

[xiv] The term *Fiqh* refers to Islamic jurisprudence. It consists of a body of laws and rulings inferred from Islamic primary sources and developed as a result of interpretation by *Shari'ah* scholars and Jurists (*fugaha*). This body of law varies according to interpretation by different schools of thought in Islamic law and jurisprudence.

[xv] Also referred to as *maqasid al-Shari'ah.* See section III.8.

[xvi] Also referred to as *Uluhiyyah.*

[xvii] *Bait-ul-mal:* It is a royal treasury for the caliphs and sultans, managing personal finances and government expenditures. It also administers distributions of zakat revenues for public works.

[xviii] Compulsory obligation of Muslims to pay 2.5% of their annual savings (net income) to those in need subject to *Nisab* criterion. *Nisab* refers to the minimum amount of wealth and possessions that a Muslim must own throughout a lunar year before being obligated to pay zakat. The *Nisab* is either 87.48 grams of gold or 612.36 grams of silver. The proceeds of *zakah* must be distributed within the eight categories of people outlined in the Qur'an (Quran, 2:43; 2:219, 9: 60, 22:40-41).

[xix] An act of charity also referred to as giving '*fi sabillilah'* (for the cause of Allah) and described in the Holy Qur'an as 'a beautiful loan'. Giving *Sadaqhah* is considered a sign of sincere faith (Quran, 2:276, 2:177, 3:92, 9:71, 107:1-7, 2:43, 22:40-41 and 2:219).

[xx] For example, spending for the purpose of the nourishment of elderly people bereft of family support or lacking independent financial means.

[xxi] See note 19.

[xxii] "Oh you who believe, fulfil contracts", (Quran, 5:1); "Oh you who believe, do not consume one another's wealth unjustly but only in lawful business by mutual consent" (Quran, 4:29).

[xxiii] For example, *Bay'a, Ijarah, Wagf, Amanah, Ariah, Qard, Damanh, Kafalah, Wasigah, Juallah, Wakalah, Musharakah, Mudarabah*, etc.

[xxiv] *Aṣalatu Ibaḥah*.

[xxv] *Al-ghurum-bil-ghunm.*

[xxvi] Haram describes any action which has been declared by Islamic sources as forbidden and imposes a legal duty on Muslims to omit such prohibited actions; e. g. consuming pork, intoxicating beverages and *riba*.

[xxvii] The following are forbidden: (1) dead meat (meat of a permissible animal prepared not by slaughter or hunting), (2) blood, (3) swine, (4) food over which a name other than that of Allah (God) has been invoked, and (5) intoxicating beverages. See QR 2:168, QR 2:172-173, QR 5:3, QR 5:90-91, QR 6:145, QR 16:114-115. However, these may be transacted / consumed out of necessity. For example, they can be transacted for medical purposes, scientific experiments or situations of starvation. See Quran 2:173; 5:3; 6:119; 6:145.

[xxviii] Also referred to as *sadaqhah-ul-jariyyah* (running charity). Ibn Majah reported from the narration of Abu Murairah that the Messenger of God (pbuh) said: "When a child of Adam dies, his/her deed comes to an end except for three things: a running *sadaqhah*, knowledge that benefits (others) and a righteous child who prays for him/her." [Ibn al Athir (circa 606 H) Jami al Ùsul, Halwani, Mallah and Bayan Publishers, Damascus 1976, v11, p 180 and Sunan Ibn Majah V1, pp 88-89].

[xxix] "*Tahbis-ul-a'ayn and Tasbil-ul-manfa'ah*".

[xxx] For example, *waqf* of the land of Khaybar by Umar bin Khattab and *waqf* of a well in Madinah by Uthman bin Affwan.

[xxxi] "Allah destroys interest (*riba*) and maximizes wealth for deeds of charities..." [Quran, 2:276]. "…Whatever you give to charity, God is fully aware of" [Quran, 3:92]. "Righteous are those who … give money, cheerfully, to the relatives, the orphans, the needy, the travelers, the beggars, and to free the slaves; and they…give the obligatory charity; and they keep their word whenever they make a promise" [Quran, 2:177]. See also Quran, 9:71, 107:1-7, 2:43, 22:40-41 and 2:219.
[xxxii] "But if they, of their own good pleasure remit any part of the dower to you, take it and enjoy it with right good cheer" (Surah Al-Nisa': 4). "to spend of your substance, out of love for Him, for your kin, for orphans, for the needy, for wayfarers, for those who ask, and for the ransom of slaves" (Surah Al-Baqarah: 177).
[xxxiii] Also referred to as *ahd*.
[xxxiv] Hussein Hassan, The Promissory Theory of Contracts in Islamic Law, *Yearbook of Islamic and Middle Eastern Law Online*, Volume 8 (1): 28 – Jan 1, 2001.
[xxxv] 'men should fulfil their promise' (Quran, 17:34, 61:2, 23:8).
[xxxvi] See Quran, 5:91; 2:219 and 5:93-4.
[xxxvii] Any act of charitable nature or non-commutative contractual arrangements.
[xxxviii] Murat Çizakça, *A history of philanthropic foundations: The Islamic world from the seventh century to the present*, 2000, Boğaziçi University Press; Adebayo, R.I. and Kabir, H.M. (2013), Ethical principles of Islamic financial institutions, *Journal of Economic Cooperation and Development*, Vol. 34 No. 1, pp. 63-90; Seibel, H.D., Mainstreaming Informal Financial Institutions, *Journal of Developmental Entrepreneurship* 6/1, 4/2001.

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