

Guiding Principles for Islamic Labor Code and Business Ethics

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ABSTRACT

This paper proposes a Guiding Principle for Islamic Labour Code and Business Ethics for business entities such as multinational corporations (MNCs) operating in Muslim countries. This code is proposed to ensure the manners in which they conduct with their business operations, in particular the way they manage their employees in accordance with the Islamic principles. In developing such guiding principle, the authors will take into consideration the elements of human rights and corporate responsibilities as well as the notion of *maqasid shari'a*. In other words, it means achieving and protecting the benefits and good (*masalih*) for the sake of human beings. This will cover the issues such as the rights and duties of employees in Islam, discrimination against employees, labour associations, child and forced labours and fair distribution of income and wages. This paper is a conceptual paper thus it uses the library-based research method by analysing relevant materials such as the Holy Quran, the Hadith, the traditional Islamic books and literatures, journals, academic textual materials as well as internet sources. The outcome of this paper emphasised that, by incorporating Islamic labour code and business ethics based on the principle of *maqasid shari'a*, business does not only serve as a purely profit-oriented entity but will also be a more socially-responsible entity that will make profit in a responsible and ethical manner by respecting its employees and people within its sphere of influence.

Keywords: Business in Islam, Labour, Corporate Responsibility, Maqasid Shari'a, Islamic law, business ethics.

RESEARCH METHODOLOGY

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INTRODUCTION

Many factors stand behind the needs for business players such as the Multinational Corporations (MNCs) to consider the various aspects of Islamic legal system particularly in the field of corporate social responsibility. One of such factors lies in the fact that Muslims represent a large proportion of the world's population thus making some Muslim countries among the most wealthy business market contributors in the world. Muslim countries, in particular the Middle East area are attractive markets full with many active investment opportunities (Elsaman, R. S., 2011). The distinctive geographical position that the Middle East enjoys, the accessibility to natural resources, the competitively priced labour and the large Muslim population are among the important factors that raise the demand for multinational producers, manufacturers and investors in general to consider doing business in the Muslim countries (Donboli & Kashefi, 2005).

Considering that the above factors may trigger a remarkable move of foreign investment to the Muslim region business market, there is a strong reason for the investors and the MNCs to incorporate and consider Islamic law within their business operation to avoid losing reliability within their target market. This is because in Islam, business is not merely a profit-making activity, rather it is a process that aims at promoting social welfare for the benefit of society. In Islam, business activities, the subject matters involved and the nature of business dealings and transactions being used should always be *halal* or *Shari'a*-compliance. In other words, elements which are against the *Shari'a* such as *riba* (usury) transaction, the imposition of interest on loans, unfair determination of prices and operating business involving non-*halal* materials and products which may have negative impacts on the body such as liquors and drugs are all prohibited (William & Zinkin, 2009).

It is therefore importance in Islam to ensure business operations are undertaken according to the *Shari'a* rules. For such a purpose, business in Islam is based on a number of ethics that is governed with the general frameworks shaping the *Shari'a* rules. These frameworks mainly include the doctrines of *Ibadah*, *Tawhid*, *Maslaha* and *'Adalah*. Without a doubt, a successful business depends not only on skilful management but also the determination and strength of its labours and workers. Islam therefore holds labour in high regards for its roles in enhancing productivity for the benefit of humanity. Also, work is not only connected to faith in Islam but also, if done in pure intention and in conformity with *Shari'a*, will

be deem as an act of worship that will be rewarded by Allah in both life and Hereafter without any distinction between males and females.

Acknowledging the importance of integrating Islamic values within business operations, this article thus aims to discuss the general Islamic business ethics principles with a particular focus in labour issues. Its ultimate outcome is to come out with a Guiding Principle for Islamic Labour Code and Business Ethics to help MNCs operating in Muslim countries to integrate Islamic principles within their business operations. At the onset, this article will discuss the overview of Islamic law or *Shari'a* followed by the concept of business ethics in Islam. Accordingly, this article will discuss the dignity of work in Islam and labour as part of corporate social responsibility (CSR). Building upon the concept of labour and business in Islam, the next part of the article explores the rights and duties of workers in Islam which include the issues such as discrimination against employees, labour associations and trade unions, employer and employee relationship, force and child labours and fair wages – all of which will be presented in a form of guiding principle based on *Shari'a*.

Overview of Islamic law or *Shari'a*

Literally, *Shari'a* is an Arabic word often translated to “Islamic law,” and can be defined as the legal and moral code of Islam (Doniger, W., 2006). It is generally explained as a compilation of various sources of religious principles which are in turn interpreted to provide guidance on religion, politics, economics, banking, business, law, and other aspects of Muslim life. It is the body of rules driven from the main sources of Islamic law (Baderin, 2003). These sources are divided into two main categories: primary sources and secondary sources. While the primary sources include both the rules incorporated in the *Qur'an* and the *Sunna* (Abdal-Haqq, 2002), the secondary or supplementary sources include most importantly the *Ijma'* and the *Qiyas* (Zulfiqar, A. A., 2007).

The *Shari'a* must be distinct from *Fiqh* i.e. the “Islamic jurisprudence” which means the technical process of applying the rules of the *Shari'a*, driven from its different sources, on real or hypothetical situations. Like other legal codes, the interpretation of *shari'a* has been a subject of scholarly debate. As is the case in any legal system, religious or secular, the recognized sources of law likely do not address every problem that may arise. Therefore, various schools of interpretation have developed to fill in the gaps over time and individuals may choose to associate themselves and their communities with one or more of these schools of thought (Brougher, C., 2011).

The Concept Business Ethics in Islam

Islamic ethic may be argued to refer to the general Islamic principles, *akhlaq* and moralities. It is a set of Islamic moral values which have been prescribed fundamentally in the *Quran* and implemented by prophet Muhammad during his life (Wan Hamat et al, 2013). Besides, ethics also can be derived from a good custom or what has been practiced by Muslims which are not contrary to Islamic teaching. This is based on a maxim “*custom is the basis of judgement*”. So, whatever is good according to Muslims, it is also good according to Islam as long as it is not contrary to Islamic teaching and principles. The Holy Prophet (PBUH) said: “*What the Muslims*

see good is good in Allah's presence. Whatever the majority see as bad, it is to Allah bad" (Malik, No: 241)

In terms of business, *Shari'a* addresses business ethics in different ways. On one hand, the rules of the *Shari'a* organize the different aspects of Muslims' behavior including their business relationship. Examples may include the prohibition of interest on loans, the necessity of fair determination of prices, and the prohibition of trade in certain products that may have negative effect on the body such as liquors, drugs (Williams & Zinkin, 2005). In addition, business in Islam is not merely a profit-making activity, rather it can be considered as form worship (*ibadah*) to promote the social welfare of the whole society. This explains why Islam prohibits certain types of businesses such as *Riba* (usury), trade in tobacco, trade in alcohol, trade in armaments, gambling and other non-halal goods and materials. According to Williams and Zinkin (2009), the prohibition of such kinds of businesses aims to protect life and health by avoiding the harmful effects of these types of business on the society. This is in accordance with the need to achieve the five foundational goals of *shari'a* i.e. the *maqasid al-shari'a*.

Finally, business ethics in Islam are governed with the general frameworks shaping the *Shari'a* rules. These general frameworks include, the most importance, the doctrines of *Ibadah* (worship), *Tawhid* (the Unitarian concept in Islam that Allah is but One, *Maslaha* (public interest) and *'Adalah* (justice and fairness). Allah commands us to perform justice in all activities including business matters. Allah also associates justice with *taqwa* which is the highest level of faith. Allah says in the Quran, *"O believers! Be dutiful to Allah, bearing witness to the truth in all equity. Do not allow your hatred for other men lead you to sin deviating from justice. Deal justly (with all people), for justice is closest to God – Consciousness. And remain conscious of Allah, for truly Allah is Ever aware of all that you do."* (Al-Maidah, 5:8)

The dignity of work in Islam and labour as part of corporate social responsibility (CSR)

Islam connected work with faith to the extent that more than fifty verses in the *Quran* mentioned about its importance and dignity (Beekun & Badawi, 2005). For example, Allah says in the Qur'an: *"Whoever works righteousness, man or woman, and has Faith, verily, to him will We give a life. That is good and pure, and We will bestow on such their reward according to the best of their actions* (Al-Nahl, 16:97). Indeed, work is not only connected to faith in Islam, but also, it is considered to be, "if done with pure intention and in conformity with the *Shari'a*," as acts of worship that will be rewarded by Allah in both life and the Hereafter without any distinction between males and females (Beekun & Badawi, 2005).

In essence, most of Muslim countries ensure the dignity of work as recognised by *Shari'a* in their constitutions. Some countries go further to consider work not only a right of every one but also a duty. Simple word like "citizens have the right to work," "work is a duty," and "work is dignity" are found in a number of legal frameworks such as in article 55 (1) of the Algerian Constitution, article 13 (a) of the Bahraini Constitution, article 23 of the Jordanian Constitution, article 41 of the Kuwaiti Constitution and articles (29) and (36) of the Syrian Constitution (Elsaman, R.S., 2011). Let us now consider the most important ethical Islamic rules and principles governing the different aspects of labour as an application to corporate social responsibility and business ethics.

Guiding Principles for Islamic Labour Code and Business Ethics

In the pursuit to help the MNCs and business entities operating in Muslim countries integrate Islamic law elements within their business operations, this paper proposed Guiding Principles which are divided into two parts, namely on Islamic labour code and business ethics. Both will be discussed in turn.

5.1 Guiding Principles for Islamic Labour Code

a. Clear and Proper Agreements

Business should ensure that all agreements, whether oral or written, must be clear and transparent. The agreements must be just and lawful. Employees should know their duties and responsibilities and they should be told their rights in terms of vacations, leaves, compensations, etc. Allah says in the Qur'an: *"O you who believe, fulfill your contracts."* (Al-Ma'idah 5:1). The Prophet (PBUH) said, *"Muslims must abide by their agreements, unless there is an agreement that makes halal what is haram or makes haram what is halal."* (At-Tirmidhi). This means that illegal terms and conditions are not valid under Islamic law. It is therefore the duty of both the employers and the employees to fulfil their agreements to the best of their capacities (Siddiq, 2014).

b. Labour Association

It is understood that the concept of the rights of collective bargaining and freedom of association – which allows the establishment of labour associations - might differ according to different values and cultures. In this regards, Islam highly considers participating in public meetings and peaceful groups to express and discuss opinions. In this regard, the Qur'an provides: *"You are the best of Peoples, evolved for mankind. Enjoining what is right, forbidding what is wrong, and believing in Allah. If only the people of the Book had faith, it was best for them: among them are some who have faith, but most of them are perverted transgressors."* (Ali-Imran, 3:110). The Qur'an also provides: *"Help ye one another in righteousness and piety, but help ye not one another in sin and rancor: Fear Allah: for Allah is strict in punishment."* (Al-Maidah, 5:2).

A good example to labour associations and collective bargaining is to be found in the Abbasid era where some labour structures, not having the name of labour unions, existed with the same features of labour unions. For instance, the members of these structures were the employees of the same profession living in the same neighbourhood. These groups of employees used to have certain type of insurance against any unexpected difficulties and used to support each other in their financial and social needs (Elsaman, R.S., 2011).

c. Dignity, Fair Treatment and Non-Discrimination of Workers

Business should ensure their workers are treated properly, fairly and with dignity and honor. Islam, as shown by its meaning, only promote peace and love among the Muslims even to respect non-Muslim as well. The Holy Prophet said: *"None of you [truly] believes until he loves for his brother what he loves for himself."* (Bukhari, No:13). In addition, Islam teaches that

workers should be treated with kindness. Allah says: *“Serve Allah, and make not any partners with Him in His divinity. Do good to parents, kinsfolk, orphans, those in need, neighbors who are near, neighbors who are strangers, the companion by your side, the way-farer (you meet) and those whom your right hands possess: for Allah loves not the arrogant, the vainglorious. (Nor) those who are stingy, or enjoin stinginess on others, or hide the bounties which Allah has bestowed on them”* (An-Nisaa' 4:36-37).

Also, in Islam, it is the religious and moral responsibility of the employer to take care of the overall welfare and betterment of his employees. Fair wages, good working conditions, suitable work and excellent brotherly treatment should be provided to the workers. (Azmi, 2005). The Messenger of Allah described these matters: *“Those are your brothers [workers under you] who are around you, Allah has placed them you. So, if anyone of you has someone under him, he should feed him out of what himself eats, clothe him like what he himself puts on, and let him not put so much burden on him that he is not able to bear, [and if that be the case], then lend your help to him.”* (Bukhari, No: 2359)

d. Force and Child Labours

Slavery and exploitation of workers such as by asking them to do hazardous work without proper security measures or by forcing them to work extra hours without equivalent pay are vehemently not allowed in Islam. Business should avoid manipulating their workers for the sake of their profit-making agenda. Islam encourages the elimination of slavery in an implied and gradual way through restricting unfairness, inequality and oppression (Elsaman, R.S. 2011). In this sense, Islam confirmed the unity of humanity and equality of people whether in the Qur'an or the Sunnah.

The Qur'an provides: *“O mankind! We created you from a single (pair) of male and female, and made you into nations and tribes that you may know each other Not that ye may despise (Each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (With all things).*(Al-Hujurat, 49:13). Similarly, Prophet Muhammad (PBUH) is reported to have said: *“No Arab has superiority over a white person and no white person has superiority over an Arab; no dark person has superiority over a white person and no white person has any superiority over a dark person. The criterion of honor in the sight of Allah is righteousness and honest living.”*¹

In addition, business should avoid abusing their workers or employing underage workers in their business operations. According to the *Shari'a*, it is the responsibility of parents, relatives and governments to protect children and watch the application of the rights provided for children by the *Shari'a* (Almihtar, Z., 2008). In this regard Prophet Muhammad (PBUH) is reported to have said: *“each one of you is shepherd and each one is responsible for the flock under him.”*(Sahih Bukhari).

e. Wages

Business should ensure when it employs workers, such workers should be paid for their works fairly, timely and in accordance with the terms in the employment's contract. The *Shari'a* rules

¹ Narrated by Ahmed Ebn-Hanbal, 244/51, No. 24204

on prompt payment of wages and fair wages are very precise. Prophet Muhammad (PBUH) is reported to have said that: *"An employee shall be given his wages before his sweat dries."*² The implication of this saying is the restriction on delaying paying an employee's wages. The *Shari'a* took the position that declining employee's fair wages would make an employer an enemy to Allah as Prophet Muhammad (PB) is reported to have said: *"Allah said I will be an opponent to three types of people on the Day of Resurrection:... One who employs a labourer and takes full work from him but does not pay him for his labour."* (Sahih Bukhari).

As far as the fair wages amount average is concerned, wages must be fixed in a reasonable way with respect to both employers and employees (Zulfiqar, A.A., 2007). Thus, Islamic juristic discourses suggest that it should be "at least at a level that would enable employees to fulfill all their and their families' essential needs in a humane manner" (Zulfiqar, A.A., 2007). Local labour laws of Muslim countries pay high attention to wages issues. The Egyptian, Sudanese, Syrian, and Qatari Labour Laws, for example, provide that wages are determined according to employment contract and if not the wage shall not be less than wage of employee in equivalent position (Elshaman, R.S., 2011).

5.2 Guiding Principles for Islamic Business Ethics

The first global and Islamic ethical principle which business needs to take into consideration is the principle of Unity in life. Contradictions in one's personality, family and social life, professional dealings or international relations are to be avoided. Realization of a unified personality, irrespective of colour, creed and ethnicity, leads to a unified vision of life. It liberates a person from double standards, contradictions and fragmentation in life. Similarly, application of one and the same criterion in one's economic activities results in total quality management of resources, with the highest standards of fairness and transparency in transactions. In the Islamic framework of thought and culture, the term used for unity in life is *tawhid*. In its wider generic connotation, it stands for unity in the cosmos, in society, and in humankind, as well as in the life of the individual. The resultant coherence and order is realized with a clear vision of meaning and purpose of life and without a conflict between the individual interest and the collective good (Mohamed Adil & Ahmad, 2014).

The second vital principle, which provides an axiological basis for human rights in Islam, is the value of equity, *"'adl"* or justice. It begins from the point that a human being must act with justice towards and cause no harm or danger to his/her own self. It also requires the observance of justice towards parents, spouses, children, servants, neighbours, even strangers who may be in need of help and assistance. Observance of *'adl* or justice as the second pillar of the Islamic concept of human rights implies fair and equitable fulfilment of one's duties and obligations and not simply demand of certain rights. *'Adl* in the Qur'an is a positive and substantive value. The purpose of human presence on earth, in the Islamic world view, is to realize *'adl* in individual life, family, society, economy, polity and culture, or observance of human rights. *'Adl* also refers to fair and sincere observance of human rights even for those one may not like (Mohamed Adil & Ahmad, 2014).

² Narrated by *Ibn-Maja*, 186/17, 470.R.

The Qur'an reminds its followers: *"O you who believe, be steadfast witnesses for Allah in equity, and let not hatred of any people deviate you from justice that you deal not justly. Deal justly that is near to your duty (taqwa). Observe your duty to Allah. Lo Allah is informed of what you do..."* (Al-Maidah, 5:8). It elsewhere tells us that absence of 'adl invites Allah's displeasure and punishment on people. To benefit and enjoy justice in society one does not have to be a Muslim. As a universal ethical value it is to be realized at individual and collective level irrespective of colour, denomination, culture, or economic and political status. Social justice, fairness, and equity lead to creation of an unbiased, honest, open, and reasonably global human community.

The third global ethical principle on which human rights in Islam are founded is the value pertaining to protection of life (the rights to life). Perhaps nowhere has the sanctity of human life been so emphatically established as in the Qur'an, which says: *"Whosoever killed a human being for other than manslaughter or corruption into earth, it shall be as if he had killed all mankind, and whoso saves the life of one, it shall be as if he had saved the life of all mankind..."* (Al-Maidah, 5:32). Sanctity of life, in the Qur'anic context, is not particular to any cultural, religious or ethnic group of people. Preservation, protection, and promotion of life is a universal value to be observed at global level.

The fourth primary global ethical foundation of human rights in Islam relates with the dynamic role and value of the intellect ('*aql*) (freedom of expression). '*Aql*, as a faculty, stands for responsible rational conduct confirming the need and transcendence of *wahy* (revealed knowledge) as well as legitimacy of intellect. Many rationalist approaches uphold ultimacy of reason, but, with all their calls for rationalism, some lead to scepticism and agnosticism – denial of knowledge as such. Islam, however, is very clear about the limits of human knowledge. In Islam, it is intellect and reason that discover their own limitations and arrive at the justification for *wahy*. The promotion of the intellectual attitude or exercise of reason in ethical judgments liberates a person from the grip of scepticism, agnosticism and from the finitude of experiences. It promotes an environment of dialogue, understanding, coexistence, cooperation and interaction. Respect for human rights and for difference of opinion creates a friendly and conducive environment for sincere and meaningful realization of justice and human rights.

The fifth global ethical value relates to preservation of honour, dignity and lineage of humankind in order to maintain, secure and sustain the identity of the members of a society. Islam insists on the human rights of the child to be identified and known through his biological relationship and genetic lineage. It even refers to the sanctity and human right of the gene. Therefore, it does not permit confusion of a gene except through the ethical and legal bonds of marriage. The first family on earth is recognized and honoured by Islam in the person of Adam and Eve. Finally, the sixth global ethical principle is on the sanctity of ownership and property (*mal*) or the right to property. No human being is, consequently, allowed to deprive a person of property in any way. This right to ownership of the men and women in a society applies equally to the resources of nations. No one is allowed to deprive others of their economic independence by imposing a so-called economic world order (Williams & Zinkin, 2009).

CONCLUSION

In summary, this article provides a general insight on business ethic and labour code from an Islamic perspective. This is importance for MNCs and business entities operating in Muslim countries as most of such countries based their legal systems in the principles of Islamic law or *Shari'a*. Drawing upon the concept of both principles, this articles further examines the dignity of work in Islam and labour as part of corporate social responsibility (CSR). Finally the authors summarised the whole discussion in this article by providing a guiding principle which was divided into two categories, namely on labour codes and business ethics. The guiding principles touch on a number of matters such as clear and proper agreements, labour associations, dignity, fair treatment and non-discrimination of workers, fair wages and the prohibition of child labour. These principles are indeed important in Islam and are also well integrated in the constitutions and legal frameworks of some Muslim countries. Therefore, abiding and considering to such principles are essential for MNCs and business entities to enhance their profitability and business endurance.

REFERENCES

- Abdal-Haqq, I. (2002). Islamic Law An Overview of Its Origin and Elements, 7 J. Islamic L. & Culture 27, 41.
- Almihdar, Z. (2008). Human Rights of Women and Children under the Islamic Law of Personal Status and its Application in Saudi Arabia, 5 Muslim World Journal of Human Rights 1, 8.
- Azmi, S (2005). An Islamic Approach to Business Ethics, online: <http://www.renaissance.com.pk>, islamicstudies.islammesssage.com
- Beekun, R. I. & Badawi, G.A. (2005). Balancing Ethical Responsibility Among Multiple Organizational Stakeholders: The Islamic Perspective, 60 J. Bus. Ethics 131, 133.
- Brouger, C. (2011). Application of Religious Law in US Courts: Selected Legal Issues. Congressional Research Service (CRS)'s Report to Congress. Retrieved on 15 April from: <http://www.fas.org/sgp/crs/misc/R41824.pdf>
- Donboli, J. H. & Kashefi, F. (2005). Doing Business in the Middle East: A Primer for U.S. Companies, 38 Cornell Int'l L.J. 413, 414.
- Doniger, W. (2006). Encyclopedia of World Religions, Encyclopedia Britannica Inc.: US.
- Elsaman, R. S. (2011) Corporate Social Responsibility in Islamic Law: Labour and Employment, Yonsei Law Journal, vol.2, no.1, 64-93

Mohamed Adil, M. A. & Ahmad, N. M. (2014). "Islamic Law and Human Rights in Malaysia". Islam and Civilisational Renewal, Vol. 5 No. 1, January 2014 – ISSN 1394-0937, pp. 43-67.

Muzammil H. Siddiq. (2014). Rights of Workers in Islam. Retrieved 9 October 2014 from: <http://www.onislam.net/english/shariah/shariah-and-humanity/shariah-and-life/456899-rights-of-workers-in-islam.html>

Wan Hamat, WN., Zaharah H., Ahmad Fakhruddin MY. and Ahmad Arifin S. (2013), 'Pengaruh Media Massa terhadap Penampilan Akhlak,' The Online Journal of Islamic Education, January, 1 (1).

Williams, G. & Zinkin, J. (2005). Doing Business with Islam: Can Corporate Social Responsibility be a Bridge between Civilisations?. Available at SSRN: <http://ssrn.com/abstract=905184>

Williams, G. & Zinkin, J. (2009). Islam and CSR: A Study of the Compatibility between the Tenets of Islam and the UN Global Compact, 51 J. Bus. Ethics 520.

Zulfiqar, A. A. (2007). Religious sanctification of labour law: Islamic labour principles and model provisions, U. Pa. Journal of Labour and Employment Law, vol. 9:2.