

RELIGION AND LABOR: PERSPECTIVE IN ISLAM

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This paper, a noncomparative study which without trying to prove that Islam is the best system to follow, argues that in order to understand Islamic provisions on labor rights, one needs to look at original sources, i.e., Quran and Sunnah. The current article explores the possibility of using Islam as the basic source in creation and adoption of labor codes in Muslim world. This article also identifies the role of government in employment relationship through Hisbah institution. By comparing Islamic teachings on labor relations with the current situation in the most Islamic state in the world, we find out that it is not religion which is oppressing the individual and collective rights in the Muslim world, rather, these are the rulers which interpret religion in such a way to legitimize their un-Islamic rules.

Introduction

Islam is derived from the Arabic root “Salema,” which means peace, purity, submission, and obedience (Cowan 1993). In the religious sense, Islam means submission to the will of God and obedience to His law. In accordance with the above definition, a Muslim is the person who surrenders his will to the will of God.

Islam originated in the Middle East around 1,400 years ago and currently the Muslim population is around 1.65 billion, or one-fourth of total world population (Kettani 2010). Islam is currently based not only in the Middle East but also in many Asian and African countries where 69.4 percent and 27 percent of the total Muslim population lives, respectively. Europe and Americas have only 3 percent of the world’s Muslim population. There are 57 majority-Muslim states in the world now where more than one billion Muslims reside.

In view of the importance of Islam in every Muslim’s daily life, Islamic teachings might have appeared prominently in labor and employment laws in these countries. Indeed, most Islamic countries’ constitutions feature Islam as the state religion and a fundamental source for law making, and require that no law repugnant to the injunctions of Islam could be enacted (Constitution of Pakistan 1973; Pakistan and Raja 2010).¹ However, Islamic provisions regarding labor and employment relations rarely emerge in the labor codes of Muslim countries.

The absence of Islamic principles in labor codes stems from the fact that most of the current Muslim countries were colonized at some point in the past century, and post-independence labor codes were usually just transplanted from the colonizing European nations without linking them to Islam. Thus, while the

new nations' constitutions contain many references to Islamic teachings, Muslim labor codes still are, mostly devoid of any references to Islamic teachings.

This article explores the possibility that Islam, as a religion, can play a significant role in creation and adoption of labor codes in Muslim countries that comport with international labor standards and that meet the needs of modern economies. The religious nature of such a labor code will provide it with three essential characteristics: sustainability, adaptability, and stability. The religious basis of this labor code will make it more authentic, resonating better with the Muslim population (especially Islamic jurists and thinkers) and giving workers, employers, and citizens a sense of ownership and involvement in the labor law system. (Zulfiqar 2007). Authenticity, ownership and involvement will also make possible more effective implementation of an Islamic labor code.

The current article is structured as follows. Section 2 discusses the limitations of this study and certain caveats before we discuss in detail an Islamic system of labor relations. Section 3 identifies sources of lawmaking in Islam as well as the role of government in employment relations and the important institution of "Hisbah," or oversight of compliance with Islamic teachings. Section 4 discusses rights and responsibilities at work and provides extensive citations from Quran and Hadith relating to labor issues. The final section offers a country case study comparing Islamic employment provisions with the situation in Saudi Arabia, followed by a conclusion. This section examines whether Saudi Arabia, the birthplace of Islam, has been able to espouse and live up to the labor principles enshrined in the religion.

Limitations of This Study and Some Explanations

For those who wish to get clear of difficulties, it is advantageous to discuss the difficulties well; for the subsequent free play of thought implies the solution of the previous difficulties, and it is not possible to untie a knot of which one does not know.

Aristotle in "Metaphysics"

This study is different from other studies done on the Islamic labor relations system in many ways. It is a non-comparative study; it does not compare Islamic labor provisions with other systems in the world and try to prove that Islam is the best system to follow. As explained by Bayat (1992), most of literature on the subject is "an undeclared argument against Marxism" and sometimes also against capitalism. This article presents the Islamic system of labor law as it is, without trying to Islamicize current and modern workers' rights provisions. This study also does not claim that the Quran and Sunnah, the primary sources of Islamic lawmaking, have explicated every workplace problem. These are not (and never were) labor codes; rather these are believed to be the codes of life. Various matters have been discussed in these sources in general terms, and most of the time rules have been derived from these general provisions.

Our starting point is the world of work at the time of the emergence of Islam and the occupations prevalent then in Arabia. As shown by Bayat (1992), Arabs were mainly involved in “agriculture, trade, navigation and craftsmanship which included carpentry and blacksmithery.” We find references to these in various Quranic verses and sayings of the Prophet Muhammad. However, the most important and widely practiced occupations were trade and agriculture. People of Makkah (the birthplace of Prophet Muhammad) were mostly involved in trade, while the people of Medina were involved in agriculture. The institution of slavery was quite established at the time.² We find many verses in the Quran on the treatment of slaves. Keeping this in view, most of the time the Quran (and Ahadith, reports of the sayings and deeds of the Prophet) refers to the master–slave and sometimes to the master–servant relationship. Moreover, because the economy at the time revolved around wars and battles and most of the hiring was for military purposes, we see some provisions purely relating to the military. Nonetheless, many Quranic verses and Ahadith are relevant to the modern employer–employee relationship.

Another problem that we find in the early Islamic history (and which persists even now at some places around the world) is that of asceticism and Sufism, which led to voluntary unemployment among people. However, historians maintain that attitudes of neglecting and avoiding work came from a negative image of manual labor, which was looked down upon in the Arab culture. Bayat (1992) has shown how the Arabic word for profession and occupation (*Al-Mihna*) has connotation of humiliation and degradation. However, this view was not universal. The abandonment of work by Sufis was highly criticized by both the Sufis like Muhasibi (d. 857 A.D.), al-Talib al Makki and scholars like Shaibani, a famous Hanafi jurist (d. 804 A.D.).³ We also find work on the importance of labor and earning by others like Hanbalites (Ibn Taimiyyah and Abu Bakar al Khallal) who showed through hadith collections that “economic activity, both commerce and manual labor” was a duty imposed upon every individual. We find that a positive attitude toward labor was shown not only by intellectuals like Al-Isfahani⁴ but also by Ikhwan Alsafa (who were theologians)⁵ and the redoubtable Ibn Khaldun (d. 1406 A.D.).⁶ Sufi arguments for work avoidance could also be refuted on the precept that Islam never asks its followers for ascetism. Rather, the Quran directs people to search for livelihood just after attending the Friday congregational prayers (62: 10), so it neither requires nor expects people to spend their whole time in the mosque.

As we will see in the following discussion, most of the injunctions in the Quran and Sunnah relating to harmonious employer–employee relationships are forms of moral suasion. They can be analogized to International Labour Organization (ILO) labor standards which are often criticized as lacking “teeth”—a simplistic view that underestimates the moral force of authoritative, universally acknowledged norms. However, it is important to note that, first, Islam encourages the state to play a role in regulating the labor market, and

second, these moral persuasions act as forceful legal injunctions with regard to fundamental Muslim belief of the hereafter (*al-akhirah*). In this context, an individual is successful only if he is successful in the afterlife, and this success depends on whether one observed the moral standards encouraged by Islam.⁷ Islam is, like other Semitic religions, an other worldly religion where efforts and actions in this world will be fully rewarded or punished in the hereafter. This solicitude for the other world makes these moral persuasions stronger than just legal injunctions. Islam does not deny the importance of legal provisions (rather it encourages role of the state); however, it takes the view that legal provisions without moral or ethical support have less significance. (Shafi 1988).

Sources of Islamic Law

Labor relations or labor and employment law can be seen as part of Islamic economic law which has evolved through the development of Islamic law that is, *Shari'a*. The Arabic word *Shari'a* is literally defined as a "watering place, a flowing stream, where both animals and humans come to drink water." More specifically, as described by Sonbol (2003), "water quenches the thirst and purifies, and *Shari'a* is running water; it is also the road leading to watering place." In Islamic jurisprudence *Shari'a* is considered to make rules for every aspect of life whether economic, social, or religious. The basic sources of *Shari'a* are Quran, Sunnah, Ijma, and Qiyas.

As argued by El-ashker and Wilson (2006), the Prophet's life divides the sources of Islamic law into two main categories: first are the resources established by the Prophet during his lifetime that is., the Quran and Sunnah, while the others are sources that were identified and used by Muslims after the Prophet's death.

The Quran

The Quran, the holy text of Muslims, is believed to be the word of God and is considered the primary source of Islamic law. The Quran was revealed in the Arabic language over a period of approximately 23 years in fragmented texts addressing the needs of the time as well as providing solutions to different problems that arose at the time. Quranic texts were always written during revelation by a team nominated by the Prophet for this purpose. During the Prophet's time, the Quran was in a written form. However, it was not compiled in one copy, which was done during the period of Abu-Bakr (the first of the four celebrated rightly guided caliphs). During the time of Uthman (third caliph), copies were made of the master copy and were distributed throughout the Islamic world. Muslims all over the world believe that the Quranic text under their use today is exactly the same that was distributed 1,400 years ago in the seventh century by Uthman (Hamidullah 1981).

Sunnah

Sunnah is also considered primary source of Islamic law. The Sunnah contains three elements; sayings, deeds (collectively called Ahadith) and approval of others' acts by the Prophet. There is a difference in Islam between the Quran and Hadith in that the Quran is the word of God while the Prophet's sayings are not. However, in Islamic jurisprudence, the significance of Sunnah is equal in importance to Quranic injunctions as the Prophet was inspired by God in whatever he said and did (a theme supported in the Quran 53: 3–4).

During the time of the Prophet, companions wrote his sayings, which they also conveyed to others.⁸ However, greater efforts to collect and edit Ahadith started in the mid-eighth century (around 100 years after the Prophet's death). To maintain the authenticity and accuracy of Ahadith, a unique referencing method (called *isnad*) was developed by the researchers, which meant that every hadith was to be supported by a chain of informants where the first person would be the one who heard or saw the Prophet saying, doing, or approving something. Various compilations of hadith were made afterwards; six of them are considered to be the most authentic (*Sibah al-Sittah*).⁹

Ijma (Consensus of Opinion)

Ijma is defined as an agreement among the Muslim jurists in a particular age on a question of law. *Ijma* and the other sources of law are to be used only when there is no clear guideline or explicit rule in Quran and Sunnah on the matter under consideration. The core of all the sources is Quran and Sunnah. *Ijma* is acceptable only when there is a general agreement among Muslim jurists/scholars (not the common Muslims), and this agreement is applicable only to the secular matters. An *Ijma* among the jurists cannot change fundamental rituals and rules of worship.

Qiyas (Analogical Deduction)

Qiyas is the fourth source of Shari'a, and it is used only when a matter has never been discussed under the above mentioned three sources. It is actually a process of deducing a rule from the earlier sources and is the extension of a Shariah ruling from an original case to a new case, because the new case has the same effective cause as the original case. *Qiyas* (a form of *Ijtihad*) is also validated by the Quran and Hadith.¹⁰ There are also other sources like *Istihsan* (juristic preference), *Istislah* (public interest), and *Urf* (custom and usage), which are used in deriving the laws from Quran and Sunnah. It is important to note that the other sources of Islamic law are weak in comparison to the primary sources that is, Quran and Sunnah. However, these sources are quite relevant to the derivation of rules for socio-economic issues, including labor relations, because the Quran and Sunnah do not discuss modern labor and employment issues which were nonexistent at the advent of the religion (1,400 years ago). Rather, these

provided general guidelines on labor and employment issues. The rules have been derived subsequently by the jurists (including the companions of the Prophet) through Ijma, Qiyas, Ijtihad, and Istislah, and sometimes Urf.

State Role in the Fixation of Wages and Provision of Other Benefits

Hisbah (ombudsman/market inspector) in Islamic law is the state institution which is established for enforcing what is ordained by Islam (*ma'aruf*) and forbidding or preventing what is unlawful or improper (*munkar*). The Quran considers it the obligation of every Muslim to play his or her role in hisbah, and it requires that some section of the society must remain engaged in that practice.¹¹ We find in ahadith that it was the practice of the Prophet to visit markets and check the conditions and quality of products. Later, he appointed two different market inspector/supervisors in the cities of Makkah and Medina. We also find reports of Umar appointing market inspectors and especially a woman as an inspector of market in Medina. However, the specialized agencies for market inspection were first established during the time of Umayyad caliph, Hisham ibn Abd al Malik (d. 743 A.D.).

The first writing on the institution of Hisbah was by Al-Mawardi (d. 1058 A.D.) in his famous book "Al-Ahkam al-Sultaniyyah" (The Ordinances of Government) as a full chapter. Another scholar (Abu Ya'ala, d. 1066 A.D.) at the same time discussed the issue of hisbah institution in an Islamic state in his book with a similar title. However, the first full work on the market inspection was done by Ibn Taimiyyah (d. 1328 A.D.) who discussed not only price controls but also concept of fair wages for workers and state responsibility in the provision of collective/public goods—a prototypical labor standards, inspection, and enforcement system.

According to Al Mawardi (1996), the market supervisor must ensure that workers are not exploited by employers by overburdening them with work or giving less than due wages. At the same time, he also has to protect the employer from workers' demands for higher than usual pay. If any of the two parties lodges a complaint with the inspector, it is his duty to provide justice to both of them. The market inspector also has to take action against the voluntary and involuntary unemployment. The Government can start public works programs and compel people to work. We find this approach in the following sayings of Umar. On the first occasion while directing one of his deputies, he said, "God has deputized us on his servants to protect them from hunger, to clothe them and facilitate finding occupations for them,"¹² while on the second occasion talking to his deputy, he talks about widespread unemployment and civil unrest in the following words, "God has created hands to work, if they can't find work in obedience, they will find plenty in disobedience, so keep them busy in compliance before they get you busy in defiance."¹³

Islam usually does not allow market intervention by the Government in price or wage fixation.¹⁴

However, if market imperfections are causing erosion of workers' wages and equilibrium in the market is set at a very low level, the state can require employers to provide *Ujra mithl* (intrinsic wage or wage accepted by others for similar work) to the workers—a form of what is now often called “prevailing wage.” Ibn Taimiyyah (d. 1328, 1983) argues that there are certain industries like farming, building, weaving, and other public utilities that are not supported by the market forces (due to market distortions), and individuals also don't invest in these activities. However, if the public needs these industries, they become a collective obligation (*fard kifaya*) where some individuals have to do these works. He is of the view that individuals should voluntarily take those occupations, since these are necessary for a society, but the office of market inspection can force people to adopt these occupations after setting a minimum wage for them so that workers are not exploited at the hands of employers. He considers that in such a case involving the provision of public utilities, Government has an obligation to fix a fair rate of remuneration for workers. In addition to the case of collective/public goods, minimum wage fixation is also supported in the other sectors of economy.

The Origins of Work in Quran and Hadith

There are five different words (used in Islamic sources) relevant to the concept of work that is, *amal*, *sa'y*, *fi'l*, *Kasab* (all these roughly meaning work), and the fifth word is the *Ajr*, which is the compensation for work. The word *amal* has four different meanings: (1) work or labor, (2) act or deed, (3) production or manufacturing, and (4) province or some part of a country (Baalabakki 1995). To most religious and Islamic economic scholars, *al-amal* in the Quran and Hadith refers to a broad and general sense of work which also includes spiritual and religious work. There are more than 500 verses in the Quran that refer to the *amal* in its broader meaning. However, what is important to note is that after the death of the Prophet and in the work of exegetes, *amal* came to denote not the act of manufacturing or labor but only the theological meditation and worship (Shatzmiller 1994). Not all but some of the verses still refer to the act of manufacturing or labor specifically, even in the interpretations of these exegetes.

Regarding *amal*, it is also noteworthy that Islam does not differentiate or discriminate between kinds of work, that is, manual and intellectual. Its principles apply to all parties whether they are employers, employees or self-employed, and in this regard there is no differentiation between a teacher and mechanic, government employee and private sector employee, or a ruler and the commoners. Quran refers to manual labor of Prophet Noah while talking about the construction of the boat (18: 77), to Prophet David referring to the production and manufacture of suits of armor (34: 10–11), tending of sheep by the Prophet Moses (28: 26–27), construction of a wall by the companion of Prophet Moses (18: 77) and by Zulqarnain (18: 86). It also mentions the intellectual labor of Prophet Joseph who was appointed treasurer and custodian (or finance minister) by the King of Egypt (12: 55).

Before getting into the details of worker rights in the Quran and Sunnah, there are certain terms that need further explanation. In Islamic jurisprudence, the word *Ijarah* is used to refer to the renting or hiring the assets or properties as well as the hiring of a person's services. More specifically, it means to employ the services of a person in consideration of wages paid to him/her for the hired services. The employer is called *Musta'jir*, while the employee is called *ajir*. And the wages paid are called *ujrah* or *Ja'ala* (Ibn Naqib Al-Misri 1991). These terms should be borne in mind as the article proceeds.

Work Ethic

Work ethic is a combination of ideas and assumption about the necessity of work (why it should be done), people's beliefs about this necessity of work, and lastly how they are persuaded to do some work (Bayat 1992). Work ethic is linked to job satisfaction and organizational commitment. It also shows the individual's attitude toward work; that is, preference for activity and involvement, attitudes toward monetary and nonmonetary rewards, and the desire for upward career mobility (Yousef 2001), all of which are highly relevant to modern analysis of the employment relationship in a market economy.

Islamic work ethic or ideology comes from the Quran, Sunnah (sayings and deeds of the Prophet), as well as saying and deeds of the companions of the Prophet (Sahabah). The Quran expresses its work ethic in the following words: "And there is nothing for a person except what he strives for" (53: 39).¹⁵ In another verse, the Quran treats work as a source of honor (Say: Work and Allah will see your work [09: 106]).

The Prophet stressed that hardwork in earning the income to support one's family leads to atonement of sins, and that the best earnings are those that are earned by a person through his own hands.¹⁶ In the same tone, Umar (the companion and the second caliph) expressed that "it is quite unbecoming of a Muslim not to make due effort to earn his bread and butter and simply praying that God grant him food."¹⁷

The seeking of *halal* (legitimate) earnings is a compulsory after obligatory prayers and other duties in accordance with a hadith.¹⁸ Although it is not one of the five pillars of Islam, work is a duty of all able-bodied people, and it is a kind of worship (*ibadah*) (Who is better in speech than one who calls [men] to God and works righteousness, 41: 33). Islam has no room for asceticism and complete devotion to worship does not constitute a valid reason for not working. The Prophet once saw a man worshipping in the mosque all the time. He asked who was financially supporting this person and people replied that some of them were helping him. He said that those people helping the worshipper were better than him.¹⁹ Work is also regarded as type of *jihad* (holy war), and a person who works hard in order to make provisions for his children, old parents, or who earns a living for him or herself (if he or she is single) is considered a *mujahid* in the way of God.²⁰

Compared with hardwork, inertia or parasitism is highly frowned upon and disliked in Islamic literature. Islam persuades people to give charity while on the other hand clearly calls for hardwork as mentioned in a hadith that “It is better that a person should take a rope and bring a bundle of wood on his back to sell so that Allah may preserve his honor, than that he should beg from people (regardless of) whether they give him or refuse him.”²¹ In some other hadith, the Prophet said that charity is not legitimate for an able-bodied person.²²

Islam also allows for migration or change of workplace if work is not available locally. In a hadith, the Prophet asserted that people are allowed to migrate to other countries in search of livelihood or family welfare. This is also supported in a verse of Quran (04: 97–100). From this verse, it seems that Allah appreciates migration for one’s betterment (whether it is spiritual or worldly because Islam does not differentiate between theological and secular activities).

The logic behind work in Islam is to achieve self-reliance and self-sufficiency,²³ and as the above mentioned hadith shows, Islam asks people to have pride in their work even when they are receiving little in remuneration. Despite all this emphasis on hardwork, Islam still focuses on the importance of the hereafter. The belief is that the actual reward of efforts will be given only in the hereafter and not necessarily in this world. Moreover, Islam focuses more on intentions and hardwork than on results, as recorded in a tradition of Prophet “actions are recorded according to intention, and man will be rewarded or punished accordingly.” For example, the real punishment for bad treatment of workers would be in the hereafter.²⁴ However, the state is required to make rules in order to provide these protections to workers.

Wages

The Quran refers to hiring the services of Moses by Prophet Jethro (Shuayb) for a wage and also for a specified period of time, eight years (28: 26–27). In another instance, it talks about Zulqarnain when people request him to build a wall for them, and they would be paying him a tribute or wages (18: 94), but he does not accept their offer, rather telling them to provide their labor in the course of building the wall. The Quran also counsels hiring workers for collection and distribution of the *Zakat* (poor tax) and also commands that wages of *Zakat* workers are to be paid from the collected funds (09: 60). During the life of the Prophet, there was a group of people (called *ashab e Suffah*) who lived near the mosque and worked as the Prophet’s clerks and emissaries. They were also the first public servants in the Islamic state (Kahf 1987).

The Quran says that wages are a *right*, not benevolence from the employer, as in the following words, “those who believe and perform honorable deeds (good work) . . . their earnings will never be withheld from them” (95: 06). Anticipating modern notions of express or implied contracts of employment, the Prophet also forbade the hiring of a worker without the prior fixation of wages for the work.²⁵ The above instances from Quran and Hadith show that worker should be explicitly told about the wages that he is going to get after completion

of his work. This specification of wages can either be in spoken or written form. However, if there is some customary fee or pay for some type of work, wage specification may not be necessary.

The second rule about wages is that they must be *sufficient* to provide the basic necessities of life for the workers. In this way, Islam talks not only about a minimum but also a just or “living” wage. There is a verse in Quran which says that a “family head (father) should support women (after divorcing them, through alimony for children) and clothe them properly” (02: 233). The word “*ma’aruf*” (proper) in the verse is interpreted as “in accordance with the norms of time and space.” So, it can be inferred (through Qiyas) from this verse that compensation should meet at least the cost of food and clothing (the basic necessities at the time of revelation of Quran) in accordance with the norms of the time.

Different traditions from the Prophet deal specifically with these subjects. The Prophet said that “an employee (male/female) is entitled to at least moderately good food and clothing and not being burdened except what he/she can bear”²⁶ and “make them satisfied in regard to their basic needs.”²⁷ In another instance, the Prophet said, “Those working under you are like your brothers whom God has made your subordinates. So he who has his brother working under him let him feed what he feeds himself and clothe him what he clothes himself with.”²⁸ We find references in the earlier Islamic history that Umar fixed the wages for military personnel, and during his period, salaries were also revised based on several criteria such as length of service, best performance, and knowledge level (Shibli Numani 1962).

These ahadith show that Islam has referred both to the minimum and ideal/just wage but it specifies the minimum wage so that the basic needs of a worker are met. Corresponding to the Universal Declaration of Human Rights’ call for “just and favorable remuneration,” Islam is of the view that workers’ wages should be set in a way that these satisfy all their and their families’ needs in a humane manner. In another hadith, it is mentioned that “whoever takes a public job and has no house (of his own), should have one” (i.e., government should provide housing). If he is not married, he should get married, and if he does not have something to ride, he should have one (provisioned by the government).²⁹ By combining the provisions in all above ahadith, it appears that Islam requires the employers to provide the workers with housing, medical facilities, job education or training, transportation, and meals. By focusing more on the necessities and minimum level of living conditions (which can be different from time to time and place to place, making it easier to define them), it seems that Islam cares more about the real wages which need to be maintained or increased in comparison with the nominal or monetary wages.³⁰ In conclusion, setting a minimum wage at a “fair,” “just,” or “living wage” level is quite in line with Islamic principles.

The third principle in fixation of wages is that wages should be set keeping in view the *prevailing conditions* such as inflation, regional price differences, and needs. It is related that Umar used to determine wages according to the conditions prevalent in the city and the employees’ personal needs. This is also evident

in a tradition where the Prophet gave double the share in *ghanimah* (war spoils) to the persons with families compared to unmarried persons.

The fourth principle is the *punctual and timely payment of wages*. It is narrated in a hadith that the Prophet said, "Give employee his/her wages before the sweat is dry on him."³¹ In another hadith, it is related, "The rich, despite his riches, cannot delay of payment to the worker, for it is a crime."³² These Ahadith show the general principle that wages need to be paid promptly and an employer cannot unduly withhold the wages of an employee. However, workers and employers can negotiate the payment of wages on daily, weekly, fortnightly, or monthly terms.

The fifth principle regarding wages is their *full payment*. Quran says that "Never will I suffer to be lost the work of any of you, be he male or female" (03: 195), and the Prophet said that "Allah would be enemy of three persons on the day of Resurrection and one of them would be the one who hired somebody for some stipulated wage, took full advantage of his labor and then did not give him his due."³³ The third person is compared in hadith to the one who made a free person a slave and sold him for money. This hadith shows that not only a worker should receive full wages for his/her work, but also it prohibits forced labor. Withholding of somebody's remuneration is considered one of the gravest sins. This hadith also sheds some light on the issue of *wage theft* (Bobo 2008).

The Prophet once said "man has no right in the share in which God has no right. God's share is his command to give everyone his/her due and not to encroach on what belongs to another,"³⁴ and it is narrated about the Prophet that he never gave a worker less than what was due.³⁵

The Quran has different verses that deal with this subject quite lucidly. It says in one place "And O my people! Give just measure and weight, nor withhold from the people the things that are their due: commit not evil in the land with intent to do mischief" (11: 85 and also 26: 182) and in another place, "So establish weight with justice and fall not short in the balance" (55: 07). These verses show that Allah does not like a person to pay another less than what is his or her due, and it is considered wrong that a person should ask for a full measure of work but in return give less than full pay, or the converse of asking for full pay but giving less than full work.

The Quran also deals with the issue of wage theft in the following words "Woe to those that deal in fraud; those who, when they have to receive by measure from men, exact full measure, but when they have to give by measure or weight to men, give less than due" (83: 1-3). The word *tatfif* in this verse refers to an employer who takes full work from an employee (as expressed in above hadith) but when the time of payment comes, the employee is deprived of full wages. In the same vein, we can see the hadith by the Prophet that "to cheat the easy going customer (which can also be interpreted as worker or even employer) constitutes *riba*, or illicit gain."³⁶ It is important to note, however, that this verse also refers to a laborer who receives full wages but does not work or rather shirks his work as agreed upon in the contract.

Lastly, there is also the issue of *equal pay for equal work*. Islam provides for equal pay for equal work (note, however, not for work of equal value). Islam is of the view that every work (whether right or wrong) is rewarded or punished and in paying for the work, it does not differentiate between male and female, white and black, and does not allow any discrimination on racial, religious, origin, and language or ethnicity backgrounds. Allah says that “I never cause loss to the labor of a worker, be that male or female” (03: 195), and in another place, He says that “to them, we shall pay the price of their works and they will not be paid diminishingly” (11: 15). This principle of nondiscrimination is also substantiated by the last sermon of the Prophet, “No Arab has superiority over any non-Arab and no non-Arab has any 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.”³⁷ In some other verses, Quran tells that whoever has done good work and bad work will see it placed before him (99: 07–08, 18: 49). All the above verses show that Islam wants a worker to be paid for his work without any over or under valuation. It does not discriminate on the basis of sex, religion, race, ethnicity, region or origin, etc.

A question related to equal pay is whether Islam allows for difference in wages. Wage differences occur due to variety of reasons, such as the difference in nonmonetary benefits, difference in the cost of training, mobility of workers, as well as the knowledge of the market. It is relevant to mention that Quran recognizes these differences in wages and allows for these when these are based on competence (28: 26). Islam does not require strict pay equality (Mannan 1986). In fact, it approves of earning diversity (04: 32) when it is based on competence, thus justifying incentive pay systems.

Hours and Conditions of Work

Islam is of the view that worker should not be overburdened with work. If the worker is asked to work for more hours or work beyond his or her capacity, the employer must provide necessary help. We find the basis for these both in the Quran and Hadith. The Quran says that “God only assigns a soul something that it can cope with” (02: 286), and while telling the story of Moses and Shu’ayb, the employer (Shu’ayb) tells Moses that “I don’t want to be hard on you (by placing more burden of labor on you) and you will find me an honorable man, if Allah so wishes” (28: 27). Looking at the above two verses, it is clear that the rule is not to overburden an employee, pursuing the logic that because Allah, who has absolute authority over human beings (being their Creator), does not overburden people in following His commandments, then fellow beings, to gain righteousness and honor, must treat their subordinates or employees with compassion.

We find a similar approach in the following hadith: “Your servants are your brothers whom Allah has placed under your authority. Whosoever has one under him, should feed him of what he eats, clothe him of what he clothes himself, and

must not burden him beyond his capacity/ability. But if you do burden them beyond their capacity, then help them.”³⁸

Manazir Ahsan Gilani, a leading Islamic scholar, is of the view that the phrase, “and must not burden him beyond his capacity/ability” should be used in determining the duration and nature of work (Said 1972). It is clear from the above hadith that an employee cannot be assigned work which takes a longer than normal period of time or what is beyond his or her capacity. If the work demands overtime, then the employee needs to be compensated for overtime (and in this way, he or she would be helped). However, excessive overtime and overburdening a worker may be hazardous for a worker’s health, and anything that is counterproductive cannot be supported beyond normal lines.³⁹ According to another hadith, giving light work to subordinates will be rewarded on the Day of Judgment.⁴⁰

We also find reference of safe working conditions (hygienic, without any hazards) both in the Quran and Hadith. The Quran says “yet don’t expose yourselves to ruin through your own hands. Do good; God loves those who act kindly” (02: 195). This verse refers to the provision of safe conditions in a workplace by the administration. There is also a hadith reported by Ibn Hazm that the Prophet said, “It is the duty of the employers to take only such work from their employees which they can easily do. They should not be made to labor so that their health is told upon.”⁴¹ Another tradition has it that “don’t burden your worker with the work that he or she cannot endure.”⁴²

The Quran also provides general guidelines on rest and leisure and considers it a basic right (28: 73, 33: 53). We find reference in Ahadith that the Prophet said, “Man owes something (of his labor and energies) to himself, something to his body, something to his wife (family), something to his eye (psychic or aesthetic satisfaction).”⁴³ From the above references, it is clear that Islam regards leisure and rest as one of the core rights of workers, and there is no religious injunction against lawful recreation and enjoyment, as is evident in this hadith (Allah loves to see the sign of His bounties on his creatures⁴⁴), which encourages people to spend money and enjoy their lives. As far as the practical application of this principle is concerned, paid leave of absence was given at least once or twice a year to the troops stationed at far-off places. Umar had issued standing orders that no soldier should be compelled to stay away from his home/family for more than four months. (Shibli Numani 1962)

Justice

Before discussing employment contracts, we need to discuss the concept of social justice and equity in Islam. Justice means fair dealing of all (whether Muslim or non-Muslim, male or female). The Quran is of the view that all the human beings are equal as they were created from the same male and female, namely Adam and Eve (49: 13). The Quran uses two words for justice, “*Adl* and *Qist*.” *Adl* is to follow the balanced way while *Qist* means to recognize that

everyone has some rights and giving that person his or her rights is justice. Conversely, depriving people of their rights is injustice and against the call of God.

The Quran is of the view that one should stand firmly for justice even if it is against oneself, one's family. It commands not to distort justice and do injustice (04: 135). In another passage, it says that God loves those who act justly and do justice with others (05: 42) and has ordered people to do justice (16: 90). To this regard, Ibn Taimiyyah, a thirteenth century Islamic scholar, said "God upholds the just state even if it is unbelieving but does not uphold the unjust even if it is Muslim (believing)." And in a tradition of the Prophet, it is quoted that "no sin is more swiftly punished than injustice (and oppression) and the breaking of family ties."⁴⁵

Contract of Service

To save all parties from any type of injustice, Islam requires contracts. Contracts can be written or oral but most of the time, it supports written contracts. The Quran directs people to keep their promises after they make them (02: 177, 23: 08, 70: 32). At another place, Quran directs people to fulfill their obligations (05: 01) because the question will be asked on the Day of Reckoning whether one fulfilled one's obligations or not (17: 34). Quran also requires that a person, if he has entered into a contract, must fulfill the obligation, and that Allah dislikes a person who says or contracts to do something but does not do the same (61: 2-3).

In a contract, there can be terms regarding compensation, benefits, pensions, leaves, and promotions on the part of employer and also on the part of employees to meet the contractual obligations in terms of work quantity and quality. We also find similar provisions in hadith where Prophet called a person a hypocrite⁴⁶ who does not meet contractual obligations (after making a promise), and when he is trusted with something, he breaks the trust.⁴⁷ We find yet another hadith which says that people should abide by their agreements unless there are conditions in the agreements which are unlawful and not in accordance with the code of Islam,⁴⁸ and in another tradition, it is said that "Islam does not permit any agreement which is to the detriment of any party."

In view of above, we can find some principles that are necessary to follow before contractual obligations start.

There should be *no coercion* in the making of the contract and all the parties should come willingly to engage in work. If any of the parties thinks that the contract was imposed without its free consent, and fears that the other party is exploiting it due to unfair terms of the contract, that party has the option of terminating the contract, as allowed in the Quran (08: 58). The Quran also tells that one who abides by the terms of agreements is like Prophet (19: 45), and those who do not keep agreements are like Satan (14: 22).

Both the parties should know the *rights and obligations* very clearly. The contract should, among other things, clearly specify the amount of compensa-

tion, time of work, interval of compensation, and as well as the quality and quantity of work. We find this in the story of Moses where Moses (as a worker) contracts with Shu'ayb (an employer and another Prophet) to tend the employer's flock of sheep for a period of eight years, and at the end of this period, the employer would wed one of his daughters to Moses. Shu'ayb also asks Moses that if he can work for 10 years, it would be rather good but he cannot force him. In return, Moses tells the employer that he accepts the agreement; however, he may complete eight or 10 years—it depends on his choice, not on that of the employer (28: 27–28). This story also shows that Islam supports fixed term contracts, not contracts of indefinite duration or lifetime employment, where contracts are to be renewed based on performance.

Parties should *write down the contract* so that if any dispute occurs between the parties, they are able to settle the dispute in an amicable manner. The Quran says “do not try to get out of writing the contract down whether it is small or large, along with its due date and contract terms. Such procedure is more equitable as far as God is concerned and it makes more valid testimony, as well as reducing the chances of doubt” (02: 282).

At the end, there is also provision of inserting a boilerplate *no injury clause* in the contract as said in the Quran: “Do not wrong others and you will not be wronged (02: 279)” and hadith that says “suffer no loss to yourselves nor make others suffer.”⁴⁹ There should be no provision in the contract that provides undue benefit to some party at the expense of others.⁵⁰

As for keeping the contract in effect or canceling the contract, Islam in general calls for continued effect unless or until the agreement makes the employer or employee do something unlawful. However, it not only allows the employer to fire an employee without any severance payment in case of severe negligence or gross misconduct (47: 09). It also lets the employee have the option of breaking the contract, with the employer's agreement, and change his or her job if another option is available.⁵¹ A tradition of the Prophet says “If you pledge an oath for something and a better alternative comes your way, break the oath and atone for it and do what is better.”⁵² It is important, however, that rules governing the breaking of contracts and other terms of the contract will guide whether a contract can be broken at the will of one party or not, and whether canceling the contract is allowed by agreement or unilaterally.

Unions and Collective Bargaining

The question of union legitimacy in Islamic discourse is quite important in that we do not find much reference to the concept of unions in Islamic jurisprudence. However, as explained by Belal (2005), most Islamic scholars working on development of Islamic jurisprudence were from the middle or lower middle class, so they were quite alienated from the problems of the working class. While interpreting the Quran and Hadith, they concluded that there are no references in these to labor unions and that they are incompatible with Islam.

Nonetheless, we suggest that Islam not only allows but also supports unionism. We need to see whether the Primary sources of lawmaking in Islam, the Quran and Sunnah, allow for unionization and collective bargaining.⁵³ The Quran mentions a union leader (*naqib*) when it talks about the Jews and appointing of twelve leaders among them (05: 12). Islam promotes collective action as we see that it requires its believers to get together and pray in congregation.⁵⁴ Islam gives people the right to freedom of association and collective bargaining, however subject to certain general rules. It is of the view that this right should be used for the propagation of virtue and righteousness and forbidding people from evil or bad (while also not spreading the evil) (09: 71).

The Quran also requires its believers to help each other in doing good while calling for noncooperation in something bad (05: 02). The Quran not only asks believers to cooperate with each other but also makes it a distinguishing feature of a believing community, that is, commanding what is proper and forbidding what is improper (03: 110). In a related hadith, the Prophet said, "if any one of you comes across an evil, he should try to stop it with his hand (using force), if he is not in a position to stop it with his hand then he should try to stop it by means of his tongue (meaning he should speak against it). If he is not even able to use his tongue then he should at least condemn it in his heart. This is the weakest degree of faith."⁵⁵ Looking through the perspective of the workplace, a union is the only institution that can have the power to speak against the whims of employer and which can protect workers' rights through commanding the proper and forbidding the improper.

Under this analysis, the Quran compels formation of a group, if not the whole community, who will invite others to do good, command what is proper, and forbid what is improper (03: 104). Islam not only urges people to fight for their rights, but it also supports collective efforts. There is also a tradition of the Prophet that urges Muslims to help others whether they are oppressors or oppressed. When he was asked how people can help the oppressor and oppressed, he said, "helping the oppressed by helping him against the oppression and helping the oppressor by restraining him for the repression."⁵⁶ The Prophet also said "When people see an oppressor but do not prevent him from doing evil, it is likely that Allah will punish them all."⁵⁷ Islam asks people to be united, not divided, and thus it teaches people the value of group work and unity (03: 103). We find a similar concept in hadith where it is said that "The hand of Allah is with the group,"⁵⁸ and people are encouraged to be part of a group.⁵⁹

Al-Banna (Al-Faruqi and Al-Banna 1984), an Egyptian-born union leader, has written extensively on the subject of compatibility of unions in Islam. He argues that the aims of both Islam and trade unions are justice, so not only are they compatible, but Islam encourages unionism, as is shown through the foregoing references to the Quran and Hadith. In his work on trade unions, Al-Banna maintains that Islam gives everyone the right to decent life, as explained in the verses (28: 77, 51: 19 and 70: 24–25), and this right is given without hunger or fear, and it also becomes the reason for adoring and worshipping God (106: 4–5). In view of this verse, he considers that unions' main

struggle is against two material needs: food against hunger and security against fear. He is of the view that Islam stands with the poor and is pro-worker in that it imposes Zakat (poor tax) on the rich in order to take care of the poor and working class (09: 60). In view of the above verses from the Quran, we can see that unions are considered to be protector of two basic rights, and unionization is rather encouraged.

Looking at Muslim history, we find accounts of Guilds (predecessors of modern labor unions) in the medieval ages. We find out that guilds in the Muslim world were present even in the ninth century (Lewis 1937). The travelogues of famous Moroccan traveler Ibn Battuta (1958) tell about the existence of these craft associations (which worked as brotherhoods) in the fourteenth century in Anatolia, Turkey.

Guilds or craft associations were important not only socially but also economically. They were organized around “trade, commerce as well as artisanal activities” (Esposito et al. 2007). The guilds in the medieval Islamic world were divided not only technically (according to trade) but also geographically. The guilds were hierarchically structured with the ranks of apprentice (*mubtadi*), journeyman (*sani*), and master (*mu'allim*). They were headed by a *shaikh*, the head of the craft organization chosen by guild members and then confirmed by local authorities, usually the ombudsman/market supervisor).

The role of guilds in the economic sphere was to “regulate the production of goods, maintain a professional code of ethics, overseeing prices especially during times of crisis, maintaining good relations among members and supplying labor.” Among others, it was also the duty of the shaikh to regulate the conditions of labor, to initiate new journeymen and masters (by giving professional licenses), and to be the responsible head of the guild in all dealings with the government. As explained by Esposito et al. (2007), guilds operated and had religious rituals like Sufi orders, while at the same time, they were linked and controlled by the *Muhtasib* (market supervisor). As argued by Al-Banna (Al-Faruqi and Al-Banna 1984), this link of guilds with Sufi orders on the one hand and Muhtasib on the other proves that they were not only in keeping with Islam but also were legitimate and supported by the state.

As for strikes and lockouts, the Quran and Hadith allow people to defend their rights in the face of injustice and consider those who die while fighting against injustice as martyrs in the way of God (quoted in Qutub 2000, p33). There is another hadith that says that anyone who died while defending his rights (himself, his family, belongings, religion) is like a martyr.⁶⁰ The Quran allows Jihad (the holy war) on the precept of injustice, which means that a union or group “of workers can start a strike” when an injustice is done to the rights of workers. It permits the workers or those against whom injustice is done to start strike in the following words, “Permission to fight is given to those who are fighting because they have been wronged, and surely, Allah is able to give them victory.” (22: 39). This verse shows that if some people are asking for their legitimate rights and they are not granted those, they have the option of starting

a strike or concerted activity against that injustice. The Quran characterizes as “self oppressors” those who relinquish or abdicate their basic rights and let other do injustice against them (04: 97). This verse also calls people to take action against injustice or, if they are not capable of taking action—in this case, a strike—they must move to some other place where they can exercise their basic rights.

Islam gives the right to strike, as it is a tool to undo injustice, but it also places certain limits on this right, and it does not favor those who transgress the limits (02: 190). Islam does not like disruption in society (05: 64, 26: 152), such as *if unions create disorder* and law and order problems (the concept of *fasad fil arz*). In view of this, some jurists may call for unions’ disbandment (05: 33). Muslim jurists are of the view that although the prime objectives of Islamic law are “promoting benefit” and “relieving hardship,” the former is more important than the latter, and the larger interest of society takes precedence over individual or some group’s interests (Chapra 1983).⁶¹ Islam also gives the *unions right of protest* in the verse, “Allah does not like that the evil should be uttered in public except by him who has been wronged” (04: 148) if workers are not given their due rights.

As far as the rights of collective bargaining are concerned, we also find relevant passages in the Quran. *Collective bargaining* is relevant to the theory of contract, as explained above. As noted, a contract is valid only if the contracting parties have full freedom in negotiating the terms of contract, if there is equality of bargaining power, if no coercion exists, and if the terms of contract are in accordance with the Islamic values and teachings. Typical employment contracts between an employer and an individual employee are not on equal footing, because the employer has greater bargaining power. A worker in need of employment and earning a living is ready to accept terms that may not be in his or her favor. These contracts of adhesion or “submission contracts” are not legal in the view of Islam (Al-Faruqi and Al-Banna 1984). Islam calls for a guardian to help the weaker party if one of the parties to the contract is in a greater position due to economic, physical, or intellectual advantage (02: 282). This guardian, in the case of workers, is the union that will protect the rights of workers in negotiating a contract with the employer, because the union can face the employer on an equal footing.

A concept related to collective bargaining is *consultation* with workers and their representative unions. The Quran demands consultation in the following words, “consult with them about the matters (03: 159),” “their affairs (business) are conducted through consultation among themselves (42: 38),” and “let each of you accept the advice of the other in a just way” (65: 06). The Quran not only allows consultation, it promotes it, encouraging people to conduct their affairs after consultation with partners. It also does not speak favorably of those persons who “impose their own views on others” (28: 83) without consulting them. Consultation is treated as a policy and not as an option. Regarding consultation with the workers on different workplace issues, Islam favors consulting with representative labor leaders instead of holding a referendum and taking views

from all.⁶² An important outcome of consultation is the increased cooperation between workers and employers.

Viewed in terms of employment relations, these verses and Ahadith require employers to not only consult but also to codetermine workplace issues with unions. However, Islam also places a responsibility on the unions that they must keep the business secrets of employers and should not start blackmailing and giving this information to competitors. The Prophet is quoted as saying, "The person who is consulted is in a position of trust."⁶³

Profit Sharing

The proponents of Islamic economic and finance systems have written extensively on the establishment of profit sharing or stock ownership schemes in firms (Chapra 1983, 253–254). We find that Islam allows joint ventures between two parties where one party provides the capital and the other provides labor or services, and profits are divided as agreed before (called *Mudarabah*, it is a specific form of partnership or *Musharakah*).⁶⁴ This form of business partnership is also referred to as *Commenda*. It can also include labor-only partnerships where the only investment is the skills that laborers have (Udovitch 2003). Chapra (1983) has argued that "profit may be divided into two parts: bonuses and other benefits, where the latter can be used for improving working conditions and providing training to workers, allowance for children's education and food subsidies." These benefits can also include retirement and health benefits, as well as paid vacations, which can positively affect workers' motivation and job satisfaction.

We find clear references in Ahadith of the Prophet in which employers are required and persuaded to share the produce and profits with the workers. In one instance, it is related "If your servant prepares food for you and brings it to you, he has undergone the torment and agony of smoke and heat. You should therefore, ask him to sit and participate in the food. If you have guests, then reserve some of the food for the servant, at least a morsel or two,"⁶⁵ and at another place, the Prophet said: "Pay the workers part of the food grains produced through their efforts; labor as the servant of God cannot be deprived of the produce."⁶⁶ In both of the above cases, we find a simple and straightforward rule that a firm has to share the profits with its employees. The idea of bonus is enshrined in the above quoted ahadith. We also infer another principle from the first hadith that if the employer is not earning much profit, he should still give workers some of share of the profits.

Moreover as argued by Zulfiqar (2007), the concept of profit sharing is also present in the obligatory pillar of Zakat (poor tax). Zakat is a way of sharing the riches with the poor; Quran considers it as a right of the poor (51: 19), and it is deducted as specified by Quran and Sunnah. The more a person contributes to the society through labor or capital, the less he or she gets taxed and less profit is shared among the masses.

Equality and Nondiscrimination

Islam is of the view that all humans are equal, and it does not allow discrimination on the basis of sex, race, origin, religion, and so on. The Quran says that “O mankind! We created you from the same male and female” (04: 01, 49: 13). It also says the measure of nobility is only taqwa, that is, doing the right deeds and fearing Allah (49: 13). Otherwise, all are equal. We find similar thinking in hadith where it is said that “No Arab has any superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab. Nor does a white man have any superiority over a black man, or the black man any superiority over the white man. You are all the children of Adam, and Adam was created from clay.”⁶⁷

As for gender discrimination, Islam does not restrict women from working and gaining employment. The Quran says that women have the right to work, and they cannot be denied this right: “For men there is reward for what they have earned (and likewise) for women there is reward for what they have earned” (04: 32). We find yet another verse in which the Quran says that “Never will I suffer to be lost the work of any of you, be he male or female” (03: 195). This verse tells that Islam not only treats women equally at the workplace but also commands the employers not to discriminate in wages and employment on the basis of sex. We find similar provisions in Sunnah where the first wife of the Prophet, Khadija, was a trader who hired others to carry out trade activities in other countries on her behalf. She also hired the Prophet, and the Prophet later married her. We also find the example of Shifa Bint Abdullah⁶⁸ who was so skilled in public administration that Umar appointed her as a market inspector/supervisor of the Medina Market. She was also the first woman teacher in the early Islamic era.⁶⁹ Female participation in economic activity was quite high, and women had even monopolized many occupations in the largest and most market-oriented industry, the textile industry. Shatzmiller (1997) has argued that “The evidence of the late medieval period, 11th–15th centuries, indicates women’s participation in the labor market as both considerable and diversified. In fact, their involvement and skills seem to have been more sophisticated and wide ranging than those of medieval European women. The trades and occupations which Muslim women exercised, the professional and unskilled tasks they performed and the commercial activities and deals in which they were involved, reflect a high degree of participation, specialization and division of labor.”

However, one does not find much mention of women workers in the Muslim history. In this regard, we agree with Mitchell (2007) that it seems that there was a deliberate erasure of female public activity from the Islamic sources through which more emphasis was placed on male dominance in the economy.

Social Security

Islam not only talks about equitable distribution of resources in the society, but it also gives the whole population a right to basic standard of living (through basic state pensions). This basic standard of living is ensured through imposition

of the Zakat on the rich with the aim that “this wealth may not become a fortune used by the rich among you” (59: 07). Zakat is to be taken from the affluent and then distributed and spent on the welfare of the poor.⁷⁰ As Zakat is one of the five pillars of Islam, and it is obligatory in nature, we should expect that a minimum standard of living could be ensured if people pay Zakat on their belongings above the minimum (nisab). As quoted earlier, the Prophet required an employer to pay enough so that the basic needs of workers are met.

Zakat not only provides a minimum standard of living for people but, by increasing their purchasing power, it also promotes a sense of solidarity and cohesion within the community by decreasing social inequality. The Islamic system provides a social safety net for the needy through Zakat. The Quran defines the beneficiaries of Zakat as such “Alms (Zakat) are for the poor and the needy, and for those employed to administer the funds; for those whose hearts have been recently reconciled to Truth; for those in bondage and in debt; in the cause of God; and for the wayfarer: thus is it ordained by God, and God is full of knowledge and wisdom.” (09: 60).⁷¹

Islam makes it the collective responsibility of society to provide the deprived with all the basic necessities of life. If society backs away from this obligation, God’s protection is taken away from that society.⁷² The fourth caliph, Ali, said, “Allah has made it obligatory upon the rich to pay out of their wealth whatever is sufficient for the poor. If the poor starve, or go unclad or suffer difficulties, it is because the rich have deprived them. Hence it is proper for God, the Almighty and the Exalted to bring them to account and to punish them.”

It is state’s responsibility to provide everyone a basic state pension through collection of Zakat and imposing other taxes if Zakat funds are not enough for meeting the expenditures. There is a hadith of the Prophet which says that “the head of the state is guardian for him who has no body to support him,”⁷³ and in another hadith, “whoever amongst you dies in debt or leaves behind destitute children, you should call me for help, for I am his guardian. And who amongst you leaves property, his inheritor is entitled to get it, whoever he is.”⁷⁴

It is important to note here that although Zakat is obligatory on Muslims only, it can be spent on the welfare of all the citizens of the state, whether Muslim or non-Muslim.⁷⁵ We find this in the period of the first caliph, Abu Bakr, when the commander of Muslim forces signed an agreement with the non-Muslims of a conquered land and treated them equally in the following words: “And I have granted the right that if an old person becomes incapable of working or is suffering from ill health or is a destitute after being rich, so much so that his co-religionists start giving him alms, then his *jizyah*⁷⁶ will be remitted; he and his family will receive the allowance for maintenance from public treasury as long as he lives in the Islamic State.”⁷⁷ We also find similar practice during the reign of the second caliph where he fixed stipends for non-Muslims when he watched them begging, and they were old and sick, especially unable to earn (Shibli Numani 1962).

According to Islamic jurists, Zakat can be used to provide training to the unemployed and also in job rehabilitation programs. Zakat can also be used as an income support program. This use is consistent with the principles of most

unemployment insurance programs, which require recipients to be available for work and seeking work. Islam does not approve of “voluntary unemployment” (as we have seen Islam’s view on ascetism and Sufism), and it makes it obligatory for everyone to look for legitimate earning. Zakat is not allowed to a person who is able to earn, but still it can be used to supplement the low incomes of workers or as stipends while workers are being retrained or rehabilitated.

Hiring the Best Person for Job

Islam constrains employers to recruit, select, and promote workers based on merit. It decries favoritism and nepotism and any type of discrimination. The Quran has given a very simple and straightforward rule for hiring a worker; “the best of men for you to hire is the strong (competent) and the trustworthy” (28: 26). We find similar thinking in the tradition of the Prophet where he said that “if you give a job to someone who is not knowledgeable, just wait for the destruction,”⁷⁸ and in another hadith, “whoever is appointed to manage the affairs of a Muslim community and then he appoints someone based on nepotism, he will therefore be condemned by Allah.”⁷⁹ Islam considers it the duty of the employer to look for the best available worker. In the words of Umar, “If a person of lesser ability is appointed when a better one is available, then his action would be tantamount to betraying God, Prophet and the people.”⁸⁰

Islam also requires the employer not to discriminate against people whom he dislikes (05: 08) and requires him to treat all employees or applicants equally. Ali, the fourth caliph, in his famous epistle to the governor of Egypt said, “Never select men for responsible posts either out of any regard for personal connections or under any influence, for that might lead to injustice and corruption. Do not underestimate and underpay the good work done. Similarly do not overpay a work simply because it has been done by a very important person and do not let his position and prestige be the cause of overvaluation of the merit of his work. At the same time do not undervalue a great deed if it is done by a very ordinary person or a commoner. Let equity, justice and fair play be your motto.”⁸¹

Keeping in view the Islam’s focus on knowledge and learning,⁸² an employer is required to provide the employee with necessary training in order to succeed at the job. Hadith of the Prophet that “seek knowledge from cradle to grave”⁸³ is a clear indication of lifelong learning, and it can be inferred as a call for continuous training of workers on various workplace issues. As argued by Akdere, Russ-Eft, and Eft (2007), Islam supports the apprenticeship model of learning. The practice of apprenticeship is also obvious in the story of Moses and Khidr (another learned man) with whom Moses lives for some days to learn knowledge (18: 65).⁸⁴

Worker Responsibilities

Islam requires every able-bodied person to look for work and earn money to satisfy his and his family’s needs with his own earnings.⁸⁵ It regards begging from

others as *haram* (unlawful) if one is able to earn.⁸⁶ It also obligates a worker to earn his income through *halal* (lawful) means. Islam not only encourages people to “do good works (103–2)” but also requires them to put their efforts in the work, which is beneficial to mankind.⁸⁷ Work, according to Islam, is a moral affair that requires that a worker may not earn a living through prohibited types of employment like prostitution, taking interest, etc. It also considers income to be *haram* if it is earned by cheating or exploiting someone.

Islam does not want people to be ascetics who do not enjoy worldly provisions. Rather, it asks people not to forgo worldly blessings and working for the betterment of their worldly lives (28: 77). Instead of allowing jealousy toward others who excel, Islam teaches people to specialize in the areas where they can excel (04: 32).

Islam also talks about the idea of accountability and performance appraisal where it tells people they are responsible for their actions (53: 38–9). It suggests that people should be rewarded for their efforts, whether large or small. Workers are also encouraged to work with commitment (*Ihsan*) and a passion for improvement (*Itqan*). *Ihsan* is defined in a hadith where the Prophet said that it is “worshipping Allah as if you see Him, for if you don’t see Him, then truly He sees you.”⁸⁸ Keeping in view this meaning of *Ihsan*, that is, doing something with utmost commitment, it makes workers work at their best without any supervision. As explained by Branine and Pollard (2010), “managers with this thinking promote training, employee involvement in decision making, etc.” *Ihsan* is also defined as doing good deeds, and the Quran questions: “Is there any reward for good—other than good (55: 60)?” This view compels both the employee and employer to maintain positive relations with each other.

Moreover, Islam also advises workers to strive in the process of performing and consistently upgrading their work.⁸⁹ It is narrated that Prophet said, “Allah blesses a person who perfects his craft (and knows how to do his job right)”⁹⁰ and “Allah likes a person to learn precisely how to perform his work and does it right.”⁹¹ The Prophet also appreciated a clan when they said that manliness is comprised of “temperance and professional skill.”⁹² These Ahadith encourage workers to do work in a better way and strive for perfection and competence.⁹³

Another responsibility of the worker is keeping up trust and agreements. The Quran uses the word *Ameen* for a person who fulfills his promises and agreements. As mentioned above, the Quran regards trustworthiness as one of the basic criteria for hiring a worker. The Quran tells people not to betray their trust (8: 27) and in a hadith, the Prophet is quoted as saying, “a person who is not trustworthy has not perfected his faith and a person who does not keep up his promises has not perfected his religion.”⁹⁴ Moreover, the attribute of *amanah* is important in the workplace context, as it not only requires people to fulfill their agreements and meet their targets, but also to use the power vested in their position judiciously and not for their personal benefits. An important question would be whether Islam allows whistleblowing by employees with great insider knowledge and whether it would be against the trust. The straightforward

response in Quran is “Help one another in virtue, righteousness and piety; but do not help one another in sin and transgression” (05: 02).

The Quran also talks about attributes of sincerity and honesty. A hadith of the Prophet considers earning of a laborer to be best if he or she works with sincerity.⁹⁵ It requires workers to be truthful and not to shirk their work. The Quran talks about the shirking of work and it disapproved this practice (83: 01). Islamic jurists have considered that underweighting in this verse refers to the work shirking by a worker who demands full wages for his work but does not work in accordance with the terms of work contract either by using the work time on other activities or contrary to the workplace rules. The Prophet equated religion with sincerity, and said a person is religious only when he is also sincere to the common folk⁹⁶ (which includes employers and coworkers as well).

Islam also requires workers to be transparent in their dealings and prohibits them from misrepresentation of their abilities in order to gain employment. It has been referred to as “transgression and injustice” in the Quran when someone wants to acquire property (in the wider sense of the word which includes all types of wealth) through cheating others. The Prophet is also quoted as saying that “one who cheats us in not one of us.”⁹⁷

The most important principle of workplace relations in Islam is the criterion of intention (*niyyah*), and not the result, to measure the benefits of a work to the workplace and community. The Prophet is quoted as saying, “Deeds are [a result] only of the intentions [of the actor], and an individual is [rewarded] only according to that which he intends.”⁹⁸ Intentions in Islam are so important that the Prophet compared a person working energetically to earn living for him or for his family to one in the cause of Allah, while if he is working only to show off to his superiors, he is working for the sake of the devil. An important workplace implication of this principle is that workers should not be punished for making unintended mistakes and at the same time, it tells the workers to do their work with sincerity.⁹⁹

Saudi Arabia and Islamic Labor Rights Provisions

This last section of the article compares the situation of labor rights in Saudi Arabia with the Islamic labor rights provision explained previously. We focus on issues of freedom of association and collective bargaining, minimum wage, and domestic worker abuses in the country, and show by comparison that although the Saudi state is described as (and it claims to be as well) the most Islamic state, it does not follow Shariah in its true spirit. Rather, the Saudi state accepts only those interpretations of Shariah law which it finds helpful in keeping its hold on the population (through a monarchy which in itself is against the spirit of Islam) and suppressing fundamental human rights.

Saudi Arabia is the only Muslim country in the world which claims that “God’s book and Sunnah of the Prophet are its constitution.”¹⁰⁰ Some view these provisions in the Saudi Basic Law (Article 1) as if “the country is embodiment of Islam,” not that only its system is based on Islamic principles. Saudi Arabia

follows the Hanbali School of Law which is usually considered very strict; however, it is the most liberal in economic and business affairs and allows for a *laissez-faire* economic policy.

Labor rights can be protected through three types of legal instruments. First are human rights instruments like the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights, which protect all human beings equally, without any regard to the nationality and worldly status of individuals. The second type of instruments is ILO conventions that a country has ratified (or, explicitly in the case of Conventions 87 and 98 on freedom of association, organizing, and collective bargaining, and implicitly in the case of conventions related to other ILO “core” labor standards on forced labor, child labor, and discrimination, whether or not it has ratified the convention in question). The third type of instrument is different UN covenants like those against racial discrimination (International Convention on the Elimination of All Forms of Racial Discrimination [CERD]), discrimination against women (International Convention on the Elimination of Discrimination against Women [CEDAW]), and child labor (Convention on the Rights of the Child [CRC]), which protect workers’ rights in their own specific frameworks. Looking at Saudi Arabia, we find that it has not ratified key UN covenants, and for the ILO conventions, we observe that it has ratified fifteen conventions, of which only four are fundamental conventions. They do not include core conventions relating to freedom of association and collective bargaining.

First, we examine the situation of freedom of association in Saudi Arabia. Unions and strikes were banned in the country in 1956 after massive oil workers’ strikes in the early-1950s. The first complete labor code was enacted in the country in 1969, which remained in force till 2005 when a new labor code was promulgated. And even the new code has no provisions permitting union activity in the country. Since 2002, a new law has been enacted which allows for “citizen-only” labor committees that are allowed in premises with one hundred or more employees. Although foreigners may not be on it, the committee is supposed to represent their views. Workers choose the committee members who must be finally approved by the Labor Ministry. The law (without recognizing the fundamental rights of collective bargaining and the strike) effectively allows the employers to fire workers in retaliation against strikes. Most of the time, such workers are foreign construction workers and other exploited groups. Various cases have been reported of workers deported for striking and protesting against inhumane working conditions. Keeping in view the large number of foreign workers in Saudi economy—50 percent of the labor force and 27 percent of the total population—it is impossible for labor conditions to be favorable if they are not even allowed to be part of “state-approved labor committees.”

Saudi Arab’s prohibition of unions and collective action is against the teachings of Islam which not only allow for unions but also support these, and even call for strikes if workers are not being granted their rights. We have explained in detail, in the discussion above, that unions in Muslim countries existed even at the start of ninth century, and these worked together with market supervisors.

Quite related to this is the constant abuse of domestic workers which do not come under jurisdiction of labor law. Around 1.5 million domestic workers work in Saudi Arabia, but the government has no law which can protect them from various types of abuses by their employers. Most of the time, these workers have to work 18 hours a day and without any monetary reward. A country claiming that its constitution is the Quran and Sunnah of the Prophet should at least enact a legislation which protects workers without any regard to their nationality. The Shura council has approved a law in 2009, which after passage from the cabinet will be annexed to the 2005 labor code. The proposed law requires the employers to provide rest breaks and suitable accommodation. Most of the domestic labor problems come from the state's very restrictive sponsorship (*kafala*) system which means that workers' ability to change jobs, leaving the country are not in the hands of worker but the sponsor only.

Finally, we look at the issue of minimum wages. As we have shown in the previous discussion, it is the function of the state to fix minimum wages. However, there is no legally sanctioned minimum wage in Saudi Arabia. The unofficial wage is around US\$400 per month for citizens only, while the wages for foreign workers are negotiated on an individual basis. Contract terms are usually decided before a migrant laborer leaves the country of origin. However, for unskilled labor, most of the time these contracts are changed when the worker arrives in the country, or because contracts are in Arabic, they do not even know the terms and conditions of employment, and what salary they will be getting at the end of month.

Conclusion

We argue in this article that in order to understand Islamic provisions on labor rights, one needs to look at original sources and not at self-aggrandizing Islamic countries like Saudi Arabia. Islamic labor rights provisions are quite compatible with international labor standards. As we have tried to show, it is not the religion that is oppressing the individual and collective rights. Rather, these are the monarchic states which interpret the religion in such a way so as to legitimize their un-Islamic rules. We have tried to prove this point without any effort to Islamicize modern international labor standards. In most cases, our sources are Muslim scholars and writers who lived hundreds of years ago. To see what Islam provides for workers, these early sources are more favorable and more authoritative than even the 1990 Cairo Declaration of Human Rights in Islam adopted by the Organization of the Islamic Conference. Sponsored by Saudi Arabia and theocratic Iran as an Islamic alternative to the Universal Declaration of Human Rights, that instrument does not include freedom of association and the right to organize and collectively bargain. As argued by the ILO (2008), these rights are "enabling rights" which make it possible to promote decent working conditions. Without giving workers these rights, one cannot

expect the “decent work” goals of the ILO. The famous Urdu poet, Muhammad Iqbal, in a couplet, best describes the situation:

Khud badaltay nahin Quran ko badal detay hain

Huwey kis darja faqeehan-e-haram be taufiq

(These people don't change themselves but they change the Qur'an [by their interpretations]. How unfortunate and degraded are these custodians of Islam.)

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Notes

1. Saudi Constitution regards Islamic law (Quran and Sunnah) as the supreme law and considers it as its constitution.
2. However, it is argued by Muslims that Islam provided many ways for emancipation of slaves, for example, spending the Zakat funds for emancipating slaves and the option of Mukatabat (24: 33).
3. For more details, see Shatzmiller (1994, 370–406) and El-Ashker and Wilson (2006, 208–14).
4. Imam Raghīb al-Isfahani (d.1109 A.D.), he also criticized Sufis while quoting an incidence at the time of second caliph where the caliph asked a pious man if he had a profession, and when his answer was negative, Umar (the second caliph) did not approve it much and had a low opinion of him.
5. Known as “Bretheren of Purity.” It was the tenth-and eleventh-century secret brotherhood of philosophers and scientists who wrote *Epistles of the Brethren of Purity* and they gave a “doctrinal view to labor.” *They were of the view that labor is sacred like God . . . because an artisan/laborer “creates new forms from the raw material which has no form, and in doing so, he incorporates and utilizes intelligence and thought.”* Shatzmiller (1994, 380).
6. Famous North African Islamic thinker, believed by many as the father of sociology. He was of the view that “Human labor is necessary for every profit and capital accumulation . . . the capital a person earns and acquires, if resulting from a craft, is the value realized from his/her labor.” For a comparison between the above three scholars, see *The Islamic Philosophy of Labor and Crafts: The View of the Ikhwan al-Safa’, Isfahani, and Ibn Khaldun* by Mohamed, Y.
7. Quran talks about losers in the following words, “Shall I inform you of the greatest losers in their actions? People whose efforts in the life of this world are misguided while they suppose that they are doing good (18: 103–04).”
8. For more on this, see Hamidullah (1981).
9. The six most authoritative collections are those of Al-Bukhari, Muslim, al-Tirmidhi, Abu Daud al-Sijistani, al-Nasai, and al-Qazwini (called Sunan Ibn Majah). The collections of Malik ibn Anas (Muwatta) and Ahmad ibn Hanbal (Musnad) are also important. Oxford Islamic Studies Online John L. Esposito.

10. Especially from a hadith when Mua'az bin Jabal (a companion) was being sent to Yemen as a judge and the Prophet approved and appreciated the use of reasoning by him in the absence of a clear rule in Quran and Sunnah. Sunan Abu Dawud.
11. Quran; 03: 110, 09: 71.
12. Quoted from El-ashker and Wilson (2006, 107).
13. Quoted from El-ashker and Wilson (2006, 107).
14. This view is based on a hadith where "one person came to the Prophet and requested him to fix prices in the market but he refused. Another man came and made the same request; the Prophet said it is Allah who pushes prices up or down, I do not want to face Him with a burden of injustice." However, according to the views of Ibn Taimiyyah (1983), price control does not mean compelling people to sell, rather it means that sellers don't have to charge more than that if they want to sell their products. He argues that the Medina market was actually a market of imports where most the food products were imported. Therefore, compelling sellers to sell at a specified price would have been quite coercive (51). "Price control has no meaning other than the compulsion to sell at a fair price" (36).
15. This theme is repeated in another verse, "There is guaranteed share for those who seek and endeavour" (41: 10).
16. Al-Bukhari and Muslim.
17. At another occasion, Umar said "to die while striving in my work hoping for the bounty of God is even better to me than being killed in the Holy war for the sake of God" (al-Shaibani) (Quoted from El-ashker and Wilson (2006, 107).
18. Baihiqi.
19. Musnad Ahmad.
20. Quoted from Bayat (1992).
21. Al-Bukhari and Muslim.
22. Al-Tirmidhi.
23. In another hadith, we find out that the Prophet emphasizes the importance of earning and then giving examples that even Prophets earned for themselves "No one has ever eaten any food that is better than eating what his hands have earned. And indeed the Prophet of Allah, Dawud, would eat from the earnings of his hands" (Al-Bukhari), "The prophet Zakariyya was a carpenter (Muslim)." And "Allah did not send any prophet except that he used to be a shepherd of sheep and I used to be a shepherd for the people of Makkah, in return for some qararit (i.e., coins of copper)" (Al-Bukhari).
24. A hadith is quoted as "Those who ill-treat their employees will find the paradise gates shut to their faces" Majma Uz Zawaid.
25. Baihiqi and Abdul Razzaq in al-Musannaf.
26. Muslim, Muwatta.
27. Majma Uz Zawaid.
28. Al-Bukhari.
29. Abu Dawud.
30. Moreover, as argued by Zulficar (2007), in Islam there is a basis of setting the minimum as we find this rule in practice on Zakat (the second pillar of Islam), which is applicable only if a person holds the minimum quantity of gold, silver or currency for full one year, that is, nisab.
31. Ibn Majah.
32. Agreed upon.
33. Al-Bukhari.
34. Quoted from Mannan (1986, 89).
35. Al-Bukhari.
36. Ibn Taimiyyah. It is important to mention here that riba/usury is declared haram in Islam 02: 275.
37. Al-Bukhari and Muslim.
38. Al-Bukhari.

39. Quran has specified a rule that sometimes a seemingly good work may produce negative results, which means that this type of work should not be pursued, because what is important is the end result (06: 108).
40. Kanz ul Ummal, Majma Uz Zawaid.
41. Quoted from Mannan (1986, 89).
42. Al-Muwatta, Muslim.
43. Al-Bukhari.
44. Al-Tirmidhi.
45. Al-Bukhari.
46. A hypocrite is a believer only on surface, and he does not really believe the word of God; so he will be treated as the non-believer on the Day of Judgment.
47. Al-Bukhari.
48. Al-Tirmidhi, Majma uz Zawaid, Abu Da'ud.
49. Majma uz Zawaid.
50. For more on this point, see Nyazee (2005).
51. We must emphasize that the following hadith is not directly related to work contracts, and this rule can be inferred only by using Qiyas, by expanding the logic.
52. Al-Bukhari.
53. There is a tradition of the Prophet, which clearly explains the legitimacy, or illegitimacy of any action in accordance with Islam. It says, "The halal is that which Allah has made lawful in His Book and the haram is that which He has forbidden, and that concerning which He is silent He has permitted as a favor to you." (Al-Tirmidhi and Ibn Majah.). And because, Allah has not made unionization unlawful in Quran, therefore it is allowed.
54. A tradition of the Prophet also says that "praying in congregation is twenty seven times better than praying alone" Muwatta and Al-Bukhari.
55. Muslim.
56. Al-Bukhari and Muslim.
57. Abu Daawood and Al-Tirmidhi.
58. Al-Tirmidhi.
59. On the basis of above Ahadith, it can also be argued that Islam supports and encourages participative management.
60. Abu Dawood, Al-Tirmidhi.
61. We find the similar thinking in a hadith where the Prophet set the standard on which usage of anything has to be judged, "the merit of utilization lies in the benefit it yields, in proportion to its harm" (Al-Tirmidhi).
62. "When the Muslims allowed freeing the captives of Hawazin the Messenger of Allah, may Allah bless him and grant him peace, said, "I do not know who among you has allowed it and who has not allowed it. So go back so that your *overseers* can present your command to us." The people went back and their overseers spoke to them and returned to the Messenger of Allah, may Allah bless him and grant him peace, and informed him that the people had willingly consented and allowed it." Al-Bukhari.
63. Al-Bukhari.
64. For more on this, please see *Partnership and profit sharing in Islamic Law* by Muhammad Nejatullah Siddiqi and *An introduction to Islamic finance* by Muhammad Taqi Usmani.
65. Al-Bukhari.
66. Majma Uz Zawaid.
67. al-Baihiqi and al-Bazzaz.
68. Webb (2000) quoting al-Isaba fi tamyiz al-Sahaba by Imam Ibn Hajar Al-Asqalani (d. 852).
69. She was heading the institution of Al-Hisbah (which we will dwell upon more in the section on "role of the state"). Her duties included "making sure that scales were just and accurate, and that transactions were carried out according to the rulings of Islam."

70. "It should be collected from their rich and distributed among their poor." Al-Bukhari and Muslim.
71. It also says that "Charity for those in need (02: 273)."
72. Mustadrak al-Hakim.
73. Al-Tirmidhi.
74. Muslim.
75. Zakat is the social security institution created by Islam. It requires people to pay 2.5 percent of their savings after a minimum level is reached. It is the responsibility of the state to collect and distribute Zakat. On nonpayment, state can force people to pay it or take action against them.
76. Jizyah was annual poll tax levied on non-Muslims living in the Muslim state for military protection and for exemption from military service. It was imposed on non-Muslim men only. Children, women, and old were exempted. Moreover, it was based on the "ability to pay" principle, that is, higher rate for rich and lower for the poor.
77. Kitab al-kharaj, Abu Yusuf.
78. Al-Bukhari.
79. Al Hakim.
80. Ibn Taimiyyah.
81. Nahj ul-balagha; letter 53.
82. The seeking of knowledge is obligatory upon every Muslim (baihiqi).
83. Al-Bukhari.
84. Hierarchy in the fifteenth century guilds also shows that these followed the apprenticeship model.
85. "Indeed, Allah loves those who are employed. Whosoever strives hard to support his family and dependents will receive a reward which is equal to he who fights for the cause of Allah," narrated by Musnad Ahmad.
86. "He who begs without need is like a person holding a burning coal in his hand." (Bahiqi).
87. In a hadith, honestly earned living is considered as one of avenues of worship. On the other hand, it persuades people to do work which is beneficial for others as well by saying that "the best of the people are those who benefit others."
88. Hadith Jibril.
89. Quran also requires the worker to be fully aware of his responsibilities and (should strive for competence and perfection), and a worker should know how to perform duties competently and efficiently (12: 54-5).
90. Baihiqi.
91. Baihiqi.
92. Quoted from Mohamed (2006).
93. Talking about fulfilling the duties and promoting action, the Prophet said, "If the last hour strikes and finds you holding a nursling, go ahead and plant it." Musnad Ahmad.
94. Musnad Ahmad.
95. Musnad Ahmad.
96. Muslim.
97. The whole hadith is as follows, "The Prophet passed by a heap of grain and put his hand into it and his fingers came upon some dampness. He said, "Owner of this grain, what is this?" He said, "The rain caught it, Messenger of Allah." He said, "Why did you not put it on top of the heap so that the people could see it! Anyone who cheats us is not one of us."
98. Riyad as-Salihin.
99. "A worker is responsible for the property of his employer." This hadith requires the worker not to be negligent of his duties and take due care of all types of property at the workplace.
100. Saudi Basic Law of 1992, Article 1 (<http://www.servat.unibe.ch/icl/sa00000.html>).

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