

Institutional Setup in Market Economy & Islamic Property Rights

Noor Fatima*

Muhammad Zubair†

Zubair Sarfaraz‡

Abstract

This paper argues that there is an ever-growing demand to correlate between Islam and Economics. Property-right and ownership is the basic concept of the modern economic structure of a liberal economic system. A property right is well explained in Islam and that also an essential element for the market economy, this paper discusses the Islamic perspective of property rights and how far it is complementary with the market economy. Since property rights of Islam are central to the structure of the economic system, Islam also emphasizes on economically good life depends on free trade. Free trade demands a recognized system of property rights, as a market base system demands a healthy competition of commodities, which ultimately needs private property rights for the protection of capital of producers and owners. The distribution of wealth is the main argument of the Islamic Economic System, which helps states in the fair distribution of resources.

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Property-Rights, Market-Economy, Institutional-Setup, Islam and Economics, Economic-Freedom

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Introduction

A human being is partially material beings; therefore to physically survive they have right to live and to sustain their lives with their own means, material substances and not trespassing on the rights of other fellow human beings. The correlation between prosperity and property rights is inseparable. The property Rights, therefore, provide an opportunity to the individuals to the rise and expand resource through own energy and input. It can employ all that it takes for the full benefit of capital development. The owner is interested in marginal benefit over marginal cost, which economists call an efficient outcome of a resource. The enforcement of property rights requires laws and institutional arrangement which are governed by the government to ensure the property can only be executed by the institutional setup of property rights. This enables the society for a generation of economic activity. Everything from land rights, to business, inheritances laws comes under property rights.

The rights of private property are significant for the economic development of state and society but also they are important for individual itself because the societies can

*Assistant Professor, Department of International Relations and Political Science, International Islamic University Islamabad, Pakistan. Email: dr.noorfatima@iiu.edu.pk

†Associate Professor, Department of Law, Abdul Wali Khan University Mardan, Mardan, KP, Pakistan.

‡Legal Consultant, Islamabad, Pakistan.

flourish when rights and duties of private property are sound and imposed in a state, because of the relationship between market and institution for economic performance in a state. The discourse on the market and its institutional setup primarily focus on two main functions; how can the cost of the transaction be lowered and secondly how to enhance competition in a performing economic system.

Though the economist agreed upon four levels of institutional setup for economic enactment, this paper discusses the second level of institutional setup. The neo-classical economics has much been concerned with the economic development vis-à-vis role of international regimes after the failed decades of 1980 particularly through the lenses of Washington Consensus, where the role of private property has been recognized as a savior for non-performing economies. The developing countries were given conditionality aids and loans where privatization remained the main component of agreement with the developing countries and it is considered as the key to economic development. Economic freedom of individual and society remained the cornerstone of the market economy. However, economic freedom is particularly concerned of the Muslim society.

Islam has focused much on individual rights than the society, group or a private party. The ownership of a property is an instinctive nature of a human being as it is directly linked with self-preservation and of course its survival. A market economy is predominant in the prevailing economic system of capitalist societies around the world. Therefore, private property is central to the market economy.

The Rationale to Private Property-Rights Institutions

In the economic development literature, property rights have been taken as the presumption that underlay the work of classical economist like Adam Smith. He emphasized on comparative advantages and ability to do compete as the absence of private property was unthinkable. Therefore, did not as such disregard property rights in his legal work. Nations prosper when private property rights are well defined and enforced. Now lives on an average income about equal to average incomes in the United States in 1945, diet and living standards matter as seven-year-old South Korean boys are 8 inches taller than North Korean boys (Meltzer, 2003).

Alfred Marshall's through his writing in Principle of Economics reflection of the stronger believe that private property is the quality of the human nature and it can help in the rapid progress of the society (Alfred Marshall, 1961). Many institutional and neo-classical approaches are now focusing on the area of inquiry for social macroeconomic and property has become a very substantial element of the economic structure of incentives. However, like other social institutions, the institution of property Rights, defines the privilege attached with the right to the individuals to a certain resource which the individual owns (Libecap, 1990). The institutions describe how to exclude non-owners from access to that property, how to get economic rent and profit from that property, and selling and transferring that property. The chance of individual maximization of value of the economic rights is more useful for the individual benefit but also it is more useful for the economic benefit of the society. A capitalist economy requires a fundamental system of property rights. Property rights are considered as human rights like other rights. The institution to protect the property rights of an individual in a state is also an important element of that system. North (1990) has somehow abandoned the evolution of the institutions of private

property and its correlation with economic growth. He has discussed the property rights and its association transaction cost for economic analysis.

The literature assumes that the least transaction cost associated with the property rights can generate better allocation of resources and economic organization. "The fundamental idea of transaction costs is that they consist of the cost of arranging a contract ex-ante and monitoring and enforcing it ex -post, as opposed to production costs, which are the costs of executing a contract"(Matthews, 1986).

Property Rights and Religious Liberty

The institution of the right of private property is the most critical element for a society to grow through personal freedom. That's why the Karl Marx has put a condition of abolishing the private property for the communist state because they all need to be equal, whereas the private property rights give rights individually to grow and flourish including trade and investment.

The religion has given importance to the human being, individual, and right of the private property as it is closer to human nature. Since many centuries now Capitalism has been the dominant economic order which has gone through the different stages of evaluation (Ahmed, 2008). Over time, capitalism takes an economic order that is grounded on fundamentally on the principles of free market economy and private property rights (Shaikh, 2009). The element of profit plays a significant role in the accumulation of capital in this system. It has a greater influence on the distribution of resource of allocation i.e. what, how, why and whom. Private property rights nevertheless remain the cornerstone of the capitalist system.

The capitalist economic system with its main characteristics of the private property pronounces the freedom where property's basic purpose in a free market system is to have the power of exchange (Waqas, Ashfaq, & Shakir, 2016).

In a system when people have the right of private property, profit becomes the motives and not the welfare, as within the legal system an individual has the complete freedom on his property to get involved in the business irrespective of the fact that it has moral or virtuous risks (Chapra, 1995). The Capitalism remains one of the major economic ideologies during last three centuries fundamental remains on the western premise that religion and morality of capitalism is not the solution of the economic problems, and economics should run by the market forces and behavior and not according to any moral conduct. Therefore the religion and ethics got concerned with capitalism and private property (Ahmad, 2001). Since Renaissance has brought the resurgence of new ideas between the middle ages and the Enlightenment, therefore, the latter contributed a lot in killing the idea of God as omniscient, omnipresent Creator. This was a time when the earth became the man's domain in the words of Goudzwaard "a licensing of an unlimited and autonomous horizontal development" (Goudzwaard & Zylstra, 1979).

The emergence of industrial capitalism factors such as the deterioration of feudalism with rising renaissance movement, and particularly political and religious contest in the 16th century led to reformation and enlightenment movement, combined with the latest technology played the major role.

On one side the capitalism has a wide-ranging emphasis on a system of the free market system, and on the other, socialism gives complete power of possession to the state only. Therefore the individual is derived from economic freedom of holding property or making

a profit. Therefore, it creates a vacuum of the system which can answer the question raised above.

At the heart of the religion, no single sector of life can be separated from other portion of human experience. Therefore, the religion of Islam has the potential to encompass all in one code of life, as in the deepest sense the religion is not just a subject in many subjects but Islam is understanding of life, the way we approach life and of course the economic system in a state. "Islam enunciates equal distribution of goods and services, as Islam does not make people materialistic. It teaches about how to care other's interest as well. Islamic economic system has the strength to overcome the weaknesses of both socialism and capitalism" (Chapra, 1995).

Islam and Private Property Right Institution

Economic rights are multi-dimensional phenomena. Similarly, the religion is many-faceted; it has its history, its practices, its doctrines, its rituals, its structures, and so on. However, the vision of the cosmos and understand the nature remains at the core of every religion. If a society develops its world view that of given in Islamic principles it signifies on the sharia laws which refer to the use of the resources as per limited need as needs have to be seen in the context of the needs of others. "The Islamic view would suggest that the Almighty would not leave humans without sufficient resources to perform the duties expected of them (Askari, 2013). Indeed, the Quran makes it clear that Allah has created sufficient resources to meet the needs of all humans at any time and He has done so dynamically, meaning that this sufficiency holds regardless of timeframe and population [49: 54; 8: 13; 3: 65; 21: 15]". The Islamic view of scarcity is thus in contrast to conventional economics, where there is never enough to go around (Zaman, 2001).

So in Islam use of private property and resources come with the social responsibility which makes it infinite for the human need and scarce. Robert Solow in his investigation of exhaustible resources found that "the finite pool of resources should be used up optimally according to the general rules that govern the optimal use of reproducible assets. In particular, earlier generations are entitled to draw down the pool (optimally, of course!) so long as they add (optimally, of course!) to the stock of reproducible capital." However, the traditional principle of economics tells us that resources are limited and needs are unlimited and it is very much concerned about monetarist economics by giving a role of the state to control economic system by increasing or decreasing the money supply, in a distributive manner.

After the failure of the Capitalism and centrally controlled economic system to provide and assure the wellbeing of the individuals of this world particularly the poor countries Islamic Economic System remains the answer (Shiekh, 2009). Islam provides a system of ethics check-in the persuasion of the material and capital gain through the right of the private property.

Further development of 19th and 20th-century capitalism and neoliberalism has taken this basic concept of rules of behavior too far from the Islamic concept of private property and distribution of wealth where interest rates, profiteering and consumerism is the core of the free market. So the spirit of capitalism manifested as the glory of the creation of capital driven by the movement of capital whereas the spirit of the religion is to purify faith.

In this case, the values under the religion of Islam should be reflected in the state institutions and ultimately it becomes the values of the whole society and determines its

productive capacity in economic growth. Islam values the private property rights of an individual as human rights and to have to exchange them against the goods and services. Because any limitation on private property rights will ultimately shift the balance of power and individual of society which can be chaotic. That is the reason why Islam fundamentally favored a system of private property rights and vis-à-vis individual liberty. Islamic principles of the economy encourage the market-based system and state is responsible for the enabling environment through a distributive system of subsidies, Zakat and Usher also encourage interest-free economy and efficient use of resources on a sustainable basis. Islam encourages, maximum aggregate production along with distribution of the resource, which is vital for a just to work. Waqas et al (2016) have discussed that Islamic economic framework has been built on the following three fundamentals: Possession, Disposition of affluence and Distribution of affluence.

The notion of possession and nature of affluence in Islam is different than capitalism and socialism in terms of moral values. The economic freedom in Islam is much associated with the principle of equality when answering questions of the wellbeing of the individual vis-à-vis contemporary economic system. As per the economic theory, affluence and production are correlated with the Private property and incentive an essential element of economic performance. In perfect private ownership, owners capture the full benefits of their decision and bear the corresponding costs by excluding anyone else from using the resource, so they face a strong incentive for optimal asset use, maintenance and investment (Demsetz, 1967). Furthermore, along with the rights of private property, the right of private investment is always exhilarated by Islam. The institution of Zakat is available to ensure that there should not be any hoarding of wealth. The zakat rate is kept so affordable for businessmen to pay so that the economic production in a society is not discouraged. As typically an Economic theory advises lower tax rate will encourage entrepreneurship to produce and higher tax will decrease the incentive to produce (Richard & Posner, 2002).

Islam has considered property as sacred for the individual to possess, inheritance, use or transfer and this is also a core for the market economy. Islam gives sanctity to private ownership and considers it a sacred right. The Prophet Muhammad (PBUH) in his famous farewell address at his last pilgrimage, declared: “O, people I surely your blood,

Your property and your honor are as sacred and inviolable as the sacred inviolability of this day of yours, this month of yours and this very town of you. Surely you will soon meet your Lord and you will be held answerable for your actions” (Muhammad Sharif Chaudhry, 1999).

In Islam, the concept of private property rights initiates from the concept of *Khalifa*, and therefore, the individual becomes the custodian, this concept has a certain implication on the use of the property for the wellbeing as compared to other contemporary economic system and modern market economy. Islam specifies the use, privileges and disposal of the private property. The Qur’ān and the Sunna have plainly stated that “God is the sole owner of wealth and that people, as vicegerents of God, are merely trustees or custodians. Qur’ān” (20:6). In practice, however, the owner of private rights is not prevented to acquire a legitimate property. Ownership is part of our responsibility as trustees of Allah on earth. Sharia endorses economic freedom with an opportunity for the market forces to operate. Trade and business are considered a very much commended sources of access of the private property. Sunnah has much appreciated the trade as a way of earning provided the extra money than need is spent for the cause of Islam and also for charity. The private property

ownership in Islam is much associated with the social responsibility and charity. The Qur'ān (22:41) states that “they are those who, if we establish them in the land, established regularly pray and give regular charity, enjoin right and forbid wrong...” (Abdel-Hameed M. Bashir, 2002).

Islam has respected the priority rights as long as it is in conformity with moral laws and it has taken care of use of Private property and investment in a way that it should hurt the other personal rights, as el-Mogaddedi has elaborated that “Each investment comes with certain risks, but highly speculative risks are not desired.” Islam, puts a limitation on property waste, destruction, and opulent use, however, it does not diminish the role of the market (Al-Hakimi, 1989). Islam has also condemned wastefulness, discrimination, exploitation of poor and Islamic state have to prevent this through the effective institution of property rights. Islam has also encouraged wealthy people to share the burden of state and social responsibilities

The Quran has acknowledged the significance of the market through contracts of exchange and trade. The property rights contracts are applicable through legitimate institutions protected by the state. In the state of Madina, Prophet (PBUH) forbade the obligation of taxes on trades of the individual merchants. He incentivized the non-Muslim merchants from outside Madina also to encourage the trade and access of goods and services from one to another market. It was intended with the lowest barriers for entry into the new market.

The Qur'ān (2:275) states that trade is permitted and usury is forbidden. Therefore, Islam favors an economic activity in search of products for the market, to earn and possess private property without unlawful gains through unfair contracts or through hiding information. In this connection, Saleh (1989) has described that Islam favors the contracting parties should have perfect knowledge (to avoid market failure) of the counter values intended to be exchanged as a result of their transaction.

In Islam, the concentration of wealth in few hands is also forbidden as promotes financial exploitation; therefore, Islam prohibits monopoly on property resource and promote the distribution of resources under Islamic economic system, i.e. property rights are ensured by Islam. However, whenever the property is reaching on the limits specified by Islam for the provision of Zakat, which 2.5 percent of the possession of property and wealth in a period of the year, it is obligatory to disburse the Zakat (Jamal Badawai, 2010).

As mentioned above, Islamic does not put any particular restriction on the limit of private and permits individual to possess as much as they can, through legitimate earnings. The Quran Says “..... unto men a fortune from that which they have earned, and unto women a fortune from that which they have earned.....” (4:32). it further says: “...And that man hath only that for which he makes effort. And that his effort will be seen. And afterward, he will be repaid for it with the fullest payment.....” (53: 39-41). Again it says: “O ye who believe! Spend of that wherewith we have provided you.....” (2:252) It further says: “O ye who believe! Spend of the good things which ye have earned...” (2: 267). Yet again it commands, “Take alms of their wealth, wherewith thou must purify them...” (9; 103).

Conclusion

In the light of the history of the development of capitalism an Islamic provision and its economic productivity, we believe that it is fair to conclude that Islam has not been an obstacle in the system of market economy in Muslim states. Only that if it's enforced with the rights institutions which can enforce and property rights, its privileges, and associated social responsibility to maintain that Islam has been an obstacle to the discovery of the right institutions for the economic development of the Muslim world. Institutional setup is a deliberate effort in a Muslim state under Islamic teaching. Islam is complete a system of a society and it cannot be just reduced to praying or rituals or not just a tool of political power. However, its system of institutions of private property can differ from the western institutions of capitalism as Islam does not separate between spirituality and political power and life. For the west, there is a separation between church and state. Political power in Islam can be used for spiritual power and not the opposite. Islam as religion and culture dimension interacts with the formal institutions of the state and in this case the property rights institutions. Eventually, the individual behavior in Islam for material gains as private property guides according to the principle of Islam in a free market economy. Private property rights are sacred in Islam. There is no restriction, except some ethical regulations as mentioned above, of free market economy and property rights in Islam as per the argument of this paper. The interest is forbidden and risk sharing is encouraged in Islam to promote the welfare for another individual.

Based on the discussion and analyses of modern economics we can conclude that market institution defined under capitalism and Islamic system of the free market is not incompatible, Islam has given its own moral path to be tracked by the individual and the institutions with relations to business and private property rights. In capitalist free market, everything is made of a commodity where Islam does have an ethical dimension of the commodity and profiteering is not the spirit of Islamic free society. Though, competitions are encouraged for the private property to produce better always competing is not favored in Islam. The regulations of the free market are posed as a question in an Islamic welfare society. Islam has the intuitional setup for property rights clearly envisages the right, duties, privileges along with the social responsibility of an individual who possesses the private property. Islam does permit economic freedom to the individual; the difference is in the intent and spirit of private property possession, producing wealth and affluence in Islamic private property rights institutions and the western system of the market economy. In Islam, the welfare of human being is more focused than profiteering. The state thus has given the guidelines in Islam to ensure institutions for a market-oriented economy for the sake of economic development. If in present-day Muslim states the absolute property rights thus generating greater income inequality and poverty is indicated, that because of the failure of the governance and the lack of collective responsibility and not the finite of the free market or right economic freedom of individual failure.

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