

Chapter 11

DIVINE JUSTICE AND THE HUMAN ORDER

An Islamic Perspective

Azizah Y. al-Hibri



The Qur'anic worldview is a seamless web of ideas that begins with *tawhīd* (the belief in a single God) and permeates various aspects of Qur'anic teaching from creation and the nature of the universe to ethics, social relations, and commercial and constitutional matters.¹ By ignoring the systematic worldview of the Qur'an, we risk impoverishing, even distorting, the various concepts that govern the Qur'anic approach to specific areas of human existence. Yet many of us, including some Muslims, believe that we can understand the Qur'an by discussing it one verse or passage at a time. This essay will argue that there is a unified worldview that permeates the Qur'an, and that makes it a seamless web of ideas, so that each verse cannot be properly understood without reference to others. In one sense, this is not a new argument, because ancient jurists have already stated that passages in the Qur'an explain each other.²

1. In this article, I use the famous translation of Yusuf Ali, entitled *The Holy Qur'an: Text, Translation, and Commentary* (Brentwood, Md.: Amana Press, 1992). I have revised it in some cases to modernize archaic language (such as to use "you" instead of "thee"). More importantly, I have replaced the word "Allah" with the word "God," since "God" is the proper English translation of the word "Allah." The God of Islam is the same God of the other Abrahamic faiths. Using the Arabic word for "God" clouds that fact. Finally, in a couple of places I changed a word in order to make the translation more accurate. For example, "al-nas" includes men and women, as 'Ā'isha, the wife of the Prophet, pointed out. So "people" is a better translation of this word than "mankind."

2. See, e.g., Badr al-Dīn al-Zarkashi, *Al-Burhān fī 'Ulum al-Qur'ān* (Beirut: Dār al-Jīl, 1988), 2:175.

I will argue that *tawhīd*, whose object is an All-Merciful and All-Compassionate Abrahamic God, leads to a particular Qur'anic philosophy that is reflected throughout the universe, including both spheres of the world, inanimate and animate. But the operation of this philosophy is not the same in the two spheres. In the first sphere, its operation is determined through the laws of nature. In the second, it is not, because God has endowed humans with free will. That difference has often led most jurists to discuss the basic principles of each sphere separately, as if they were totally independent from each other. I shall argue that such an approach leads to a fragmented understanding of the world that goes counter to Qur'anic philosophy. Further, it leads at times to error in understanding such important Qur'anic concepts, as *al-mīzān* and *al-'adl*. These concepts represent overarching principles that flow between and within the two spheres, and cannot be understood in their fullness without the recognition of their overarching character. Misunderstanding or misconstruing these principles diminishes our ability to pursue the Islamic ideal in the various areas of human life.

For example, principles such as those governing gender relations in the family and constitutional rights in the state have often been treated in isolation from the overall Islamic worldview. As a result, they became subject to political and personal whims, and in the process created confusion among the Muslim masses. Tying these principles to the Islamic worldview and positioning them securely within it will eliminate problems of error, distortion, and confusion.

The Role of *Tawhīd*

Central to the Islamic worldview is the concept of a single supreme being, namely God. This concept is the lynchpin of all Islamic beliefs and reverberates throughout the Islamic worldview. The Qur'an clearly states that the God of Islam is the same God as that of Christianity and Judaism, calling followers of these two religions "People of the Book" (Qur'an 3:64). But the Qur'anic revelation, while accepting Jesus as a major prophet of Islam, rejects the concept of the Trinity, a position I refer to as "deep monotheism." *Surat al-Ikhlās* (chapter 112) of the Qur'an is dedicated in its entirety to articulating this position. It states:

Say: He is God, The One and Only
 God the Eternal, Absolute,
 He begetteth not, Nor is He begotten
 And there is none Like unto Him.³

This deep monotheism, called *tawhīd*, has significant consequences for the Human Order on earth. Because God is the Supreme Being, it follows that there is no will superior to God's. To deny this by word or action is to fall into *shirk*, that is, associating partners with God. Iblīs (Satan) attempted to do just that and suffered dire results. According to the Qur'an, after God created Adam and taught him the names, God ordered the angels and Iblīs to bow to Adam. The angels obeyed God's order although they had misgivings about the violent nature of human beings (2:30–34). Iblīs, on the other hand simply refused to obey God's order. When questioned by God about his disobedience, Iblīs answered that he could not possibly bow to Adam for "I am better than he is" (7:12). God then cursed Iblīs, describing him as arrogant (7:13; 15:33–35; 38:74–78). Arrogance, therefore, appears very early on in Islamic thought as a major sin. It is, after all, arrogance that led Iblīs to disobey God, an act that posited Iblīs's will as superior to that of God. By doing so, Iblīs fell into *shirk*, the only sin God tells us in the Qur'an God would not forgive (4:48, 116).

After his fall, Iblīs asked God for respite until Judgment Day. He wanted to prove to God that the children of Adam were no better than him. In other words, Iblīs still "did not get it." He continued his old arrogant ways of thinking in terms of competitive hierarchies. God gave Iblīs the respite, but warned, "O children of Adam! Do not let Satan seduce you" (7:27).

The medieval scholar al-Ghazali found the story of Iblīs to be quite significant, arguing that it should be understood within the context of our society. He noted that a rich man who believes that he is better than a poor man, or a white man who thinks he is better than a red or black man, succumbs to Iblīsī logic. All actions that reflect a commitment to

3. While linguistically the Qur'an uses the masculine gender to denote God, as is the Arabic language convention, it makes clear at the same time that God is neither male nor female because "there is nothing like unto Him" (Qur'an 42:11).

a hierarchy of humans based on various worldly factors reflect the same kind of logic used by Iblīs. This is why humility becomes such an important virtue in Islam (31:18). It recognizes the fundamental equality of all humans, and eschews vain hierarchies. It is this humility that permitted renowned medieval Muslim jurists to shy away from claiming the truth of their conclusions. Instead, they always concluded their arguments with the phrase *wa-Allāhu a'lam* (God knows best) and developed an etiquette of difference among them that resulted in a free and active market of ideas, where scholarly critiques could be quite incisive, yet respectful and humble.

Thus, the story of Iblīs points to two ways of being in the world: (1) a vain way based on worldly hierarchies rooted in differences such as those of wealth, race, ethnicity, or gender, and (2) a humble way based on the recognition that we are all God's creatures. The Qur'an recognizes differences and the problems they create among humans when it states:

It is He Who has made you (His) agents, inheritors of the earth: He has raised you in ranks, some above others: that He may try you in the gifts He has given you. (6:165)

In other words, those among us who feel superior to others because of our worldly goods succumb to Iblīsī logic and fail the test of God. So, Adam's original predicament of having to choose between what is desirable and what is right continues to be replayed on earth in the life of Adam's descendants until the Day of Judgment. As we shall see later, this is partly due to Adam's choice to have a free will.

The second way of being is emphasized in the Qur'an when it tells us repeatedly that we were all created from the same *nafs* (soul) (4:1; 7:189; 31:28; 39:6). A repetitive thought in the Qur'an usually indicates a basic principle, and this principle of original equality is quite basic to the Islamic worldview. I will refer to it henceforth as the Equality Principle.

Other passages in the Qur'an explain the sameness of origin of all humans in greater detail, pointing to the pious path for understanding difference. The most famous one is the following:

O People! We created you from a single (pair) of a male and female, and made you into nations and tribes, that you may know each other. Verily, the most honored of you in the sight of God is (the one who is) the most righteous of you. (49:13)

This verse reveals difference in the world as an occasion for friendly communication, not conflict and domination. It then accepts a hierarchy in terms of closeness to God, making the standard one of righteousness, something any one of us can strive for and achieve. The Qur'an also articulates the nature of the one and only God. He is the Abrahamic God who is All-Powerful, All-Good, and All-Knowing (2:165; 18:39; 59:23; 2:54; 3:26; 2:163; 32:6; 49:16; 87:7; 40:19).

If God wills something into being, it materializes instantaneously (3:47). Since God's attributes are inseparable one from the other, God's creation of humans puzzles the angels. Knowing that God is All-Good, they question God's creation of Adam: "Will you place therein one who will make mischief therein and shed blood?" and God answers: "I know what you do not know" (2:30). Thus, the apparent problem of evil in the world is part of the design of an All-Good God who knows more than we or the angels know.

The most salient attribute of this God in Islam is His compassion, for God is the All-Merciful, the All-Compassionate. We know that this is the most salient of God's attributes because every chapter in the Qur'an starts with this description. Further, every prayer by Muslims must start with the statement, "In the name of God the All-Merciful, the All-Compassionate," a statement that is repeated many times during prayer. It is also a statement that Muslims utter when they begin an important (or even unimportant) activity. So, while every Muslim knows that his or her God is All-Powerful, All-Knowing, and All-Good, the focus of the Qur'an is specifically on God's compassion and mercy, not God's power or knowledge.

As proof of God's mercy, the Qur'an tells us that God forgave Adam after he ate from the forbidden tree of immortality and eternal power (2:35–37; 7:19–24; 20:117–22). But then, Adam's sin was not of the same order as that of Iblīs. Adam's disobedience was not based on arro-

gance but on weakness (20:115). So, Adam was forgiven and given another chance on earth to rectify his behavior. As a result, each person is born without the burden of the Original Sin. Instead, he or she is a *tabula rasa* that is defined by their life choices and actions.

Because God is All-Merciful, All-Compassionate, it stands to reason that God would order the universe in accordance with a principle that reflects this salient attribute. This principle, as articulated in the Qur'an, is described by the concept of *al-mīzān*.

The Universal Ordering Principle and the Concept of *al-Mīzān*

God's creation, the Qur'an tells us, was never haphazard (25:2). Everything God created was created in accordance with *al-mīzān* (due balance). In one verse we are told that the "firmament was raised high and He set up *al-mīzān*, so that you may not transgress *al-mīzān*" (55:7–9). In another passage, the natural laws of *al-mīzān* are described further: neither the sun is permitted to overtake the moon, nor the night may outstrip the day, and each swims along in its own orbit (36:40). Closer to home, the Qur'an tells us that "the earth we have spread out (like a carpet); set thereon mountains firm and immovable; and produced therein all kinds of things in due balance" (15:19).

Thus, the mathematical features that govern the constellations, gravity, and other similar forces of attraction and repulsion that stabilize the heavenly bodies are all part of God's overarching design, for it balances and harmonizes the universe into a beautifully integrated whole. In other words, God's principle of *al-mīzān* permeates the heavens and the earth. This is why the Qur'an repeatedly states that all of God's creations, even fruits, vegetation, and the sea and its contents, are signs for those who ponder (55:11–13, 19–23). It exhorts us to look at nature and admire God's creation, for God's miracles are evident to those who ponder (55:5–25; 16:65–69; 29:43; 23:12–22). This Qur'anic worldview gave rise to the golden age of Islamic science and philosophy in medieval times, and led to the invention of algebra and algorithm, significant advances in medicine, physics, and astronomy,

and ultimately to the development of alchemy, the predecessor of chemistry.⁴

This unity between physics and metaphysics, inanimate and animate, is thus crucial for the Islamic worldview. There is no schism between the spiritual and the material, between science and religion. One leads to the other; all are ways of knowing God. This state of affairs is a direct consequence of *tawhīd*, since the unicity of the universal ordering principle reflects the unicity of God Himself. This argument is suggested in the Qur'an itself when we are told that had there been more than one god, each god would have set his creation apart from those of the others, and some gods would have acted superior to other gods (23:91). The result would be a universe radically different from ours, one which is at best fragmented, and at worst in continuous conflict or chaos.

On the other hand, the Qur'anic worldview anchored in *tawhīd* gives us a single standard — *al-mīzān*, the overarching divine ordering principle that provides our universe with balance and harmony. It is clear from the various Qur'anic verses that *al-mīzān* according to which the heavens and earth were created is the same *al-mīzān* that is supposed to govern human relationships. The very verse quoted above about the firmament being raised high moves directly from talking about *al-mīzān* in the context of nature to talking about it in human context. It enjoins us humans not to “transgress *al-mīzān*.” Indeed, the word *al-mīzān* was repeated twice in that short passage, once for each context for emphasis. Clearly then, according to the Qur'an, a single concept of balance and harmony orders the whole universe of creation from the grandest to the most humble.

As an ordering principle, *al-mīzān* manifests itself differently in different contexts. For example, in nature, it manifests itself as laws of nature; but in the human context, where people are endowed with free will, it becomes an ethical ideal to be achieved through a free will that is subject to temptation. Commitment to this ideal becomes the measure of the person in the second and final test of humanity after the fall. On the Day of Judgment, our deeds will be measured by *al-mīzān*. We are told

4. For more on this, see Seyyed Hossein Nasr, *Science and Civilization in Islam* (New York: Barnes & Noble, 1992), esp. 21–29; 92–285.

that the one who has light weights (for lack of adequate good deeds) will be among the losers (7:9).

According to the Qur'an, this test of human free will was not imposed on us, but was rather the direct result of our own choice. It informs us that at the time of creation, "We did indeed offer the Trust to the Heavens and Earth, and the Mountains, but they refused to carry it and were fearful of accepting it, but the Human Being carried it . . ." (33:72). The trust referred to in this verse is the trust of a free will, one that would have the responsibility of fostering *al-mīzān* in its own surroundings. This is a heavy trust, especially in light of the Iblīs challenge (7:16; 15:39; 38:82). But humans were willing to accept it. The Qur'an refers to the human being as both foolish for accepting such a heavy trust, and as God's vicegerent on earth (33:72; 2:30).

The angels were concerned because the human being would spill blood on earth (2:30). But the "pious will" delivers the Trust by fostering a world order that reflects God's design of harmony and balance on earth. This is why God responded to the angels' concern with the simple answer: "I know what you do not know." This answer gives humanity hope that, in God's vast knowledge, in the end we will do what is right. We will opt for a human world order that fosters balance and harmony, rather than bloodshed and conflict. This world order, according to the Qur'an, is one of *al-'adl* (balance, justice). We now turn to the study of this concept.

In one passage, the Qur'an addresses Prophet David specifically, stating: "O David! We did indeed make you a vicegerent on earth, so judge thou among people in truth and justice, and do not follow your desires, for they will mislead you from God's path" (38:26). In another, it addresses the believers generally, saying:

"O you who believe! Stand out firmly for God, as witnesses to fair dealing, and let not the hatred of others towards you make you swerve away from justice. Be just! That is next to piety: and fear God for God is well-acquainted with all that you do." (5:8)

The contrast in these verses is between one's inclinations and desires on the one hand, and God's path of truth and justice. This path is a difficult one, but if the human being is to shoulder his divine trust, then he must

rise above his inclinations to follow the path of *al-'adl*. The Qur'anic concept of *al-mīzān* is so intertwined with this concept that many commentators and translators use them interchangeably.⁵ Nevertheless, there is a subtle difference between the two concepts. The first concept, namely *al-mīzān*, refers to God's ordering principle in God's creation. But the second concept, namely *al-'adl*, when applied to human contexts, refers to the choice of the pious free will of a human being to realize the state of *al-mīzān* in the arena of free human action.

Thus, in the domain of free will, *al-mīzān* becomes an ideal choice achievable through the pursuit of *al-'adl*. But the Islamic concept of *al-'adl* is not one of basic retributive justice; otherwise it would not foster balance and harmony. Rather, it is a full-bodied concept that includes, in the final analysis, forgiveness and restorative justice, elements that can in fact result in a balanced and harmonious world. *Al-'adl* in the human context becomes the means by which *al-mīzān* is fostered. It extends this principle to society, the state, family, and self. It reaches down even into our daily transactions and governs them with rules of ethics, so that we may not "transgress the balance."

According to the Qur'an, God transmitted these rules of ethics to us repeatedly through past messengers who came with the Book and *al-mīzān*, so that people may stand forth in justice (57:25). Ignoring these messages and upsetting *al-mīzān* creates chaos, imbalance, injustice, and oppression. This is why the Qur'an is very succinct in its directive: "God orders you to be just" (5:8). Furthermore, "if you judge among people, then judge justly" (4:58), even if one of the parties involved is a relative of yours (6:152). Upsetting the balance creates catastrophes in the natural world, and oppression and tyranny in society. Thus, we must strive for the proper balance in each case, to avoid wreaking havoc on our lives and those of others.

In the rest of this essay, I will articulate the concept of *al-'adl* as it affects various aspects of the human condition.

5. See, e.g., Ibn Manthūr, *Lisān al-'Arab* (Reprint; Beirut: Dār Ihyā' al-Turāth al-'Arabī, 1992), vol. 15, 290–91; see also, Fakhr al-Dīn al-Rāzī, *Al-Tafsīr al-Kabīr* (Reprint; Beirut: Dār al-Kutub al-Ilmiyyah, 2000), vol. 15, 80–81.

The Concept of *al-'Adl* in Society, the State, and the Family

Society. From the above discussion, we can distinguish several meanings of the concept *al-'adl*. One important general meaning is that of balance and proportionality. This meaning is most salient when we discuss the concept of *al-mizān* in its universal manifestation. For example, this is the meaning implicit in the saying: “With *al-'adl* were the Heavens and Earth erected.”⁶ A more specific meaning is that of justice as fairness, or giving each his due.⁷ This meaning arises uniquely within the human context because humans have free will and could choose to be unjust. In other words, *al-'adl* in its specific meaning does not articulate a binding law of nature. Rather, it offers an ideal for a free human will that may fall short of this ideal.

In society, *al-'adl* is manifested in large part through the Equality Principle. This was the lesson of the story of Iblīs. Iblīsī logic dictates behavior that would create hierarchy, oppression, and conflict, and hence chaos in the world, by positing false hierarchies among humans. Qur'anic logic, however, is best expressed by the above-quoted verse, which states that all people were created from the same *nafs*, and ranks people in terms of their righteousness, not outward worldly difference (49:13).

The logic of this verse dictates a principle of original equality that leaves room for difference, but original equality is subject to human free choice, and hence human relations could be forced to move away from equality through bad choices. For example, Iblīsī logic is based on a radically different principle, namely that of a hierarchy which emphasizes and magnifies difference as adequate justification for inequality. If espoused, Iblīsī logic is a suitable foundation for an authoritarian, racist, classist, or patriarchal society in which conflict is rampant. Our earthly world took the first turn toward that logic when Cain killed Abel, his righteous brother. Cain was the elder, yet God accepted Abel's sacrifice and rejected Cain's. Upset by this situation, Cain “resolved” it by

6. A saying attributed to Imam 'Alī Ibn Ābī Ṭālib; see, al-Imām 'Ālī Ibn Ābī Ṭālib, *Rawa'ī Nahj al-Balāgha* (Reprint; Beirut: Dār al-Shurūq, 1975), 38.

7. See Muṭahharī Murtaḍā, *Al-'Adl al-Ilāhī* (Qum: al-Dār al-Islāmiyya li al-Nashr, n.d.), 66–68.

killing Abel. In other words, he asserted his superiority over Abel by wiping him off the face of the earth. Thus, he became one of the “losers” who espoused Iblīsī logic (5:30). But Cain soon discovered the futility of his victory (5:31). Yet, because of the human condition, we continue to repeat Cain’s mistake either by killing the Other or superceding the Other’s will through the use of economic, military, or other types of oppressive force. Often, we discover the error of our ways after the fact, as Cain did; yet humanity continues to repeat these errors. Over time, the world we live in has become quite troubled and human relations have frayed at the edges. The question becomes, How do we now change a world of defective human relationships into one that satisfies *al-mīzān*? This is a question that the Qur’anic revelation addressed when it was revealed about fifteen hundred years ago.

The Qur’an answers this question not by calling for a revolution, that is, change through the use of force, but by calling for gradual change, or change through persuasion. To help this change along, it provides incentives, rationales, and injunctions. This approach gives humans time to reconsider their views and change their hearts. An imposed change would only lead to frustration, resentment, and ultimately further conflict, a situation contradictory to the ideal of *al-mīzān*.

This Qur’anic approach is best illustrated by its call for change with respect to the treatment of three of the most vulnerable segments of the population: orphans, women, and slaves. The Qur’an encourages Muslims to treat these three groups with special kindness, and provides protections for orphans and women as well as significant incentives for freeing slaves.⁸ Further, it introduces a principle of mutual responsibility according to which everyone is responsible for those less fortunate than him or her. The line of responsibility is described in detail so that those closest to the disadvantaged person will have the strongest responsibility initially, but if they and others down the line fail or are unable to

8. For verses encouraging and praising those who take care of orphans, see, Qur’an 2:83, 177, 215, 220; 4:36; see also Muhammad Abu Zahrah, *Tanzīm al-Islām li al-Mujtama’* (n.p., Dār al-Fikr al-‘Arabī, n.d.), 50–51 [hereinafter, Abu Zahrah, *Tanzīm al-Islām*]; on women, see Qur’an 4:127; and for verses that recommend Muslims to take good care of slaves and give incentives for freeing slaves, see Qur’an 4:92; 5:89; 58:3; 90:13; and see also Abu Zahrah, *Tanzīm al-Islām*, 27, 28.

help, then in the end the state becomes responsible for helping its citizens.⁹ In this system, no person is left behind, and everyone's humanity is recognized.

Additionally, the system of *zakāt* (tithing) provides the underpinning of this arrangement, and is further enhanced by the concept of *ṣadaqa* (or alms). While the Qur'an recognizes private property, and the fact that God gives some of us much more than others, it is very emphatic about the importance of sharing our financial blessings with others (2:177; 51:19; 70:24–25; 93:10).¹⁰ It calls the *ṣadaqa* a loan to God, and asks: "Who is he that will loan God a beautiful loan [that is, one without interest]? For God would increase it many folds to his credit and he will have [also] a liberal reward?" (57:11).

In fact, a major rationale for the prohibition of usury appears to be that of preventing the oppression of the poor, and the exploitation of their need for personal gain. While usury may be financially rewarding, it does foster frustration and enmity within society, as opposed to cooperation, balance, and harmony; that is, a state of *al-'adl*. The Qur'an reminds us that humans tend to be stingy and unwilling to readily part with their money, even for good deeds (4:37; 47:38; 57:24; 59:9; 64:16). It teaches that those who are able to protect against their stingy selves are the successful ones (59:9; 64:16). For these reasons, and in the spirit of fostering equal human dignity, Muslim jurists recommended that a *ṣadaqa* be given secretly, so that neither the giver nor the recipient knows the other's identity. In today's world, such modesty is becoming under our laws increasingly impossible.¹¹

The State. The Islamic state is also founded on the Equality Principle, because it is based on the consent of the people, extensive consultation with the people or their representatives, and constitutionalism that binds the ruler and defines his or her powers in light of a collectively agreed-upon charter.

The earliest model of an Islamic state was the one established by the Prophet Muhammad in Madinah. The Qur'an tells us that a delegation

9. See, e.g., Abu Zahrah, *Tanzīm al-Islām*, 140–47.

10. Ibid., 40; 148–58 (explaining at length the system of *Zakāt* in Islam) and 164–66 on the Qur'anic injunction to give charity and share wealth with disadvantaged people.

11. If money ends up in the wrong hands, the donor may become legally liable.

of women gave their *bay'a* (vote, consent) to the Prophet as the leader of their community (60:12). The Prophet accepted this *bay'a* but only after he conversed with the women about the basis of their vote, and hence established the basis of the relationship between the leader and the people.¹² The same discussion took place when the men came (with some other women) to give their *bay'a*.¹³ These events do not only establish the principle that the people choose their own leader in a Muslim state, but it also shows that Muslim women are an integral part of this process.

The head of the Muslim state is also bound by the principle of *shūrā* (consultation). He cannot govern unilaterally against the will of the people, for in Islam the *umma* (singular, meaning "the people") is the highest authority in the political system (*ḥakimiyyat al-umma*).¹⁴ In fact, the Qur'an mentions *shūrā* alongside prayer and *zakāt*, and in one passage orders the Prophet to engage in *shūrā* because it soothes the heart of the people.¹⁵ Further, the head of state is bound by Qur'an and the constitution of the state.¹⁶ He may not violate either.

In the city of Madinah, the Prophet concluded a charter with the people of Madinah, both Muslims and Jews, articulating in it the rights of each group to mutual defense and freedom of belief.¹⁷ It also articulated the obligations of the two groups and called them collectively "one *umma*."¹⁸ As such, the Madinah charter is perhaps the earliest document in history that establishes a constitutionally-based multifaith

12. Zayd Ibn 'Āli al-Wazīr, *Al-Fardiyya: Baḥṭh fī Azmāt al-Fiqh al-Fardī al-Siyāsī 'ind al-Muslimīn* (Virginia: Yemen Heritage and Research Center, 2000), 49.

13. *Ibid.*, 13.

14. See, e.g., Muhammad Diyā' al-Dīn al-Rayyīs, *Al-Nazariyyat al-Siyāsīyya al-Islāmiyya* (6th ed.; Cairo: Dār al-Turāth, 1976), 175–76; 220; 229–35; 239–42; Munīr Ḥāmid al-Bayātī, *Al-Niẓām al-Islāmī al-Siyāsī* (Amman: Dār al-Bashīr, 1994), 332–35.

15. "Those who hearken to their Lord, and establish regular prayer; who (conduct) their affairs by mutual consultation; who spend out of what We bestow on them for sustenance," Qur'an 42:38; "It is part of the Mercy of God that thou dost deal gently with them. Wert thou severe or harsh-hearted, they would have broken away from about thee: so pass over (their faults), and ask for ([God])'s forgiveness for them; and consult them in affairs (of moment)," 3:159. See also 48:10; 48:18.

16. See al-Hibri, "Islamic Constitutionalism and The Concept of Democracy," *Case Western Reserve Journal of International Law*, 24, no. 1 (1992): 21–26; see also A. al-Hibri, "Islamic and American Constitutional Law: Borrowing Possibilities or a History of Borrowing?" *University of Pennsylvania Journal of Constitutional Law* 1, no. 3 (1999): 505–11.

17. Akram Diyā' al-'Umarī, *Al-Sīra al-Nabawiyya al-Ṣaḥīḥa* [the Correct Account of the Life of the Prophet] (al-Madinah al-Munawwarah: Maktabat al-'Ulūm wa al-Ḥikam, 1994) [hereinafter *Al-Sīra*] cls. 25 and 37 (b), at 285.

18. Al-'Umarī, *Al-Sīra*, cls. 2, 25–35, at 282–84.

society, where the various faiths are protected in the exercise of their beliefs. This document contains various other important principles, such as equality before the law and the rejection of guilt by association. Thus, majority does not translate into coercion in an ideal Islamic society, especially in matters of faith. As the Qur'an states it, "there is no coercion in religion" (2:256). If coercion is used, then we will be only repeating Cain's mistake in some other form, for what does it benefit a person if one gains the whole world but loses oneself?

Muslim jurists understood this lesson very well. Indeed, when al-Khalifa al-Mansur proposed to make Maliki jurisprudence the official school of thought for his Abbasi Empire, Imam Malik resisted the idea.¹⁹ Malik was concerned about using the arm of the state to propagate his views. Generally, until the later days of the Ottoman Empire, Muslims were free to choose the religious school of thought they wanted to follow without interference from the state, and other religious minorities were subject to their own courts of law.²⁰ With the advent of modernization and the rush to codify laws, this situation changed. Muslim rulers selected official schools of religious thought for their countries.²¹

Other changes in Muslim countries have been even more significant, and took place much earlier. The most significant is the rise of illegitimate authoritarian rule based on economic power and the use of force. This new rule has suppressed the will of the people, and marginalized the *shura* process. It has also led to instability, bloodshed, and chaos. The solution to this corrupt state of affairs is for us Muslims to divorce ourselves from Iblisi logic and return to the logic of the Qur'an. We can rebuild through persuasion, thoughtfulness, and piety a new society in which every person counts, and the principle of *al-mizan* is restored. There are serious hurdles facing this approach, because we live in a world in which Iblisi logic is rampant. So, how can one group decide to live by divine logic and eschew the use of force when the rest of the world does

19. Subhi Mahmasani, *Al-Awqaf al-Tashri'iyya fi al-Duwal al-'Arabiyya* [Legal Systems in the Arab World] (3d ed.; Beirut: Dar al-Ilm li al-Malāyīn, 1965) [hereafter *Al-Awqaf*], 159; see also Azizah al-Hibri, "Islam, Law and Custom: Redefining Muslim Women's Rights," *American University Journal of International Law and Policy*, 12, no. 1 (1997): 8–9.

20. Subhi Mahmassani, *Al-Awqaf*, 171–78.

21. Non-Muslim minorities, however, continue to be governed by their own faith-based courts.

not? That was the dilemma Abel faced, but he answered his aggressing brother:

If thou dost stretch thy hand against me, to slay me, it is not for me to stretch my hand against thee to slay thee; for I do fear God, the Cherisher of the worlds. (5:28)

But Abel was a special person, and he ended up dead, an example that not many of us rush to emulate. Further, a Muslim is charged with the duty of enjoining the good and repelling evil, and is permitted the right to self-defense (3:104; 9:71).²² The problem becomes this: How do we balance all these elements, and choose a course of action that does not fall into the Iblīsī trap? This is the eternal challenge for the children of Adam. But today it has reached a critical stage. A new jurisprudence on the matter, which takes into account the specificity of today's risks and possibilities, as well as understands the heart of the Qur'anic principle of *al-mīzān*, is urgently needed.

The Family. The family relationship, from the Qur'anic point of view, is a prime example of *al-mīzān* on earth. It is a relationship between two independent beings who are created from the same *nafs*. Thus, the Qur'an includes gender in asserting the original equality of human beings. Further, the Qur'an tells us:

And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love, and mercy between your [hearts]; verily in that are Signs for those who reflect. (30:21)

Thus, the Qur'anic view of the spousal relationship is one of love, tranquility, and affection, not domination, patriarchy, and oppression.

The married life, from the Qur'anic point of view, reflects the same safeguards required for establishing the legitimacy of government and its proper operation within the state. For example, no marriage may

22. See also Abu Zahrah, *Tanzīm al-Islām*, 22–24 (stating the importance of the Islamic principle of enjoining the good and repelling evil); and 57 (listing the fundamental right to protect one's own life and defend it).

be validly formed without the free and informed consent of both parties.²³ Also, the spouses are expected to consult each other on family matters.²⁴ When serious differences arise between them, the Qur'an prescribes mediation. Divorce is entertained as a last resort, and is yet one more expression of the Qur'anic aversion to coercion. Harm or abuse, even if it is verbal and not physical, are legitimate reasons for seeking divorce.²⁵ In fact, strong dislike without more suffices for the woman to leave her husband without his consent. This form of divorce is called *khul'* and has only recently been properly recognized in Muslim courts despite its existence since the days of the Prophet.

It is worth noting that when the early Muslim state was going through turbulent times, Imam 'Alī, the last *khalīfa* and cousin of the Prophet, proposed mediation to resolve the conflict. He argued that if God required us to resolve familial conflicts through mediation, then it is even more urgent to use mediation to resolve conflicts within the *umma*.²⁶ This position illustrates Imam 'Alī's consciousness of the fact that a unifying overarching principle permeated all aspects of human life, and that since the state and the family have much in common, Qur'anic solutions from one area can be applied to another.

Historically, the demise of egalitarian relations within the family went hand in hand with the demise of the will of the people in matters of state, and its replacement with authoritarian rule. So, just as Qur'anic logic is overarching and indivisible, so is Iblīsī logic. It starts in one area and then spreads to others. Today, many Muslims have moved away from the Qur'anic ideals of the state and the family and are taking actions that are in direct contradiction to them. In many Muslim countries women are often treated as inferior, their rights are often difficult to obtain even through the court system, and culturally defined duties are assigned to

23. 'Alī M. A. al-Qurra Daghi, *Mabda' al-Ridā fi al-Uqūd* (Beirut: Dār al-Bashā'ir al-Islāmiya, 1985) (henceforth, *Mabda' al-Ridā*), vol. 2, 1016–17; see also 'Abd al-Hamid Maḥmūd al-Ba'li, *Ḍawabit al-Uqūd* (Cairo: Maktabat Wihba, 1989), 19–22.

24. For a discussion of consultation within the family, see 'Abd al-Ḥalīm Abū Shuqqā, *Tahrīr al-Mar'a fi 'Aṣr al-Risāla*, 6 vols. (Kuwait: Dār al-Qalam, 1990), vol. 5, 104–9.

25. In fact, certain Personal Codes in the Muslim world explicitly specify that verbal abuse is grounds for granting the wife judicial divorce. See, for example, Jordanian Code, Personal Status Code, Provisional Law No. 61 (1976), ch. 10, Art. 132, and Kuwaiti Code, Personal Status Code, Pt. 1, Bk. 2, Tit. 3, Art. 126.

26. Ibn Kathīr, *Al-Bidāya wa al-Nihāya* (Beirut: Maktabat al-Ma'ārif, 1974 [14th century]), vol. 7, 281.

them as wives and mothers despite the clear position of the Qur'an to the contrary.

For example, Muslim women are not obligated to nurse their children except as a last resort.²⁷ They are not expected to perform housework, nor may anyone, even their fathers and husbands, touch their property and wealth. Yet, the Muslim woman today is often expected to perform housework, nurse her children, and share her wealth with her husband. In fact, many modern Muslim men have treated their wives' wealth as their own. Upon divorce, some men have tried to take back the marital gift they gave their wives, despite a clear injunction by the Qur'an not to do so (4:21).

Final Observation

This state of affairs, where some Muslim men and governments are ignoring Qur'anic principles in favor of oppressive cultural customs and patriarchal interests, may be attributed to a decline in piety in the Muslim society as a whole. Contemporary Muslim societies have tolerated forms of individual and collective oppression that are unthinkable within the Qur'anic worldview. Yet Muslim societies continue to claim and believe that they are being guided by the light of the Qur'an. One possible explanation for this discrepancy is that they are engaging in self-deception; another is the historical and compounded ignorance of the Qur'an. For centuries, authoritarian Muslim rulers hired jurists to provide distorted interpretations of Qur'anic verses that served their interests. These jurists were referred to as "the Sultans' jurists." They were willing to please the ruler, even at the cost of distorting the word of God. As such, they engaged in *shirk* (associating partners with God), for they allowed the ruler's will to supercede that of God. After all, God has warned us that

Those who conceal the clear (Signs) We have sent down, and the Guidance, after We have made it clear for the people in the Book — on them shall be God's curse, and the curse of those entitled to curse. (2:159)

27. 'Abd al-Karīm Zaydān, *Al-Mar'a Bayn al-Dīn wa al-Mujtama'* (Cairo: n.p., 1977) vol. 9, 475–80, stating that Hanafis, Shafi'is, and Hanbalis, with minor qualifications, do not require the mother to nurse her child. Malikis do, unless the wife is from an upper class.

So, in appeasing the rulers, these jurists succumbed to Iblīsī logic, and, as a result, created a great deal of confusion and pain among the people.

Later, colonialism, a major historical manifestation of Iblīsī logic, separated many Muslims from the language of the Qur'an. Orientalists who came along and wrote about Islam brought their own biases and world-views into their tainted research. These developments compounded the initial problem of ignorance, and led to a generation of Muslims who want to be pious but just do not know how. It also led to global misunderstanding that has generated a great deal of strife, bloodshed, and hatred in the world.

This essay has taken a deep look at the Qur'anic worldview, especially its twin principles of *al-mīzān* and *al-'adl*. It has shown that these principles permeate every aspect of our life. It has also underscored the problems resulting from ignoring them. We continue to live in a world where we are endowed with free will that allows us to define and redefine our existence. We have also been endowed with reason. We have Qur'anic verses and a rich historical record that detail the consequences in the world and the Afterlife of succumbing to Iblīsī logic. Are we ready yet to determine the path we ought to follow?