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Toward a New Socio-Legal Framework for Faith-Based and Socially Responsible Investments

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INTRODUCTION

The aftermath of the recent global financial meltdown has rekindled the increasing need to positively harness faith-based investment (FBI) initiatives in the global economy. Since the recent crisis, there has been a paradigm shift in investment strategies. One important strategy that has increasingly dominated the global economic scene is socially responsible investments (SRIs), which to a large extent have a number of areas of convergence with faith-based investments.[1] It is important to clarify at the onset that the term "faith-based investments" is used in this paper to refer to those investment models introduced or practiced by faith communities across the world with particular reference to common grounds identified in the finance models of Islam, Christianity, Judaism, Buddhism, and Hinduism, respectively. Even though there are notable differences between faith-based investments and socially responsible investments, which are identified in this study, there is no need to argue about these differences, as rightly suggested by Siddiqi, because all faith-based investments satisfy most of the SRI criteria but not all SRIs are faith-based investment models.[2] But it is useful to recall that SRI itself had its roots in religious institutions.[3] According to Ciocchetti, "[r]eligiously-motivated investing (RMI) is a rapidly evolving core component of the larger socially responsible investment community."[4] Such "religiously-motivated investing" may also be regarded as faith-based investing or faith-consistent investing.

Meanwhile, the events that led to the recent financial downturn in the global economy call for concerted efforts to safeguard the economy from future meltdowns through the implementation of proper paradigms that address the socioeconomic needs of humanity while transcribing the beliefs of faith communities into meaningful financial practices.[5] According to the

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Gallup Report of 2011 on the religiosity index, nine in ten Americans believe in God.[6] The religiosity index in most countries plays an important role in structuring SRI models even though such paradigms are not necessarily faith-based investments.

This has led to many initiatives at the micro level in the faith community, but Islamic finance seems to have distinctively captured global attention in the past few decades. The positive effects of globalization as a neutral notion should usher in a new global economic paradigm where the faith community is allowed to play a more active role based on shared principles of investments that promote the objectives of SRIs. The efforts of the faith-based community have led to many initiatives at the micro level, but Islamic finance seems to have distinctively captured global attention in the past few decades. The positive effects of globalization as a neutral notion should usher in a new global economic paradigm where the faith community is allowed to play a more active role based on shared principles of investments that promote the objectives of SRIs. At the micro level, the efforts of the faith-based community economic development (CED) seem to have recorded tremendous successes in the United States.[7] Against the foregoing backdrop, this paper examines the common ground among the faith communities. While this study seeks to give some preliminary remarks on the issues enumerated above, most of the questions require further deliberation and consensus by experts and policymakers to forge ahead with the proposal.

THE GLOBAL ECONOMY AND FAITH-BASED INVESTMENTS

The global faith community consists of a number of religious traditions. A number of them share common origins, such as the Abrahamic faiths and Dharmic religions.[8] However, it may not be possible to examine every religious tradition in the process of identifying shared ethical values that can be incorporated into the global economy. A focus on a few religious traditions may provide a general outlook on what others represent. Hence, this discussion paper focuses on four major religious traditions: Judaism, Hinduism, Christianity, and Islam.

A cardinal question this study seeks to address is the relevance of faith-based investments to the global economy. The phenomenal rise in faith-based investments in the last decade has reinvigorated SRI initiatives despite the differences between the two concepts. The propensity of faith-consistent investors to only invest in stocks that are compliant with their religious beliefs is now well known and well researched.[9]

Many of the teachings of religion are truisms that remain principles that are important for the success of any business. The meaning of some religious terms and principles, of course, may be subject to disagreement on their application at times. For example, Islamic finance is a type of faith-based investment. It overlaps with ethical investment. The basic idea is that profit maximization is not the only criterion, because certain ethical or moral goals or limitations are incorporated into investment decisions. There are various forms of faith-based investing depending on the faith and the ethical precepts employed to guide or restrict investment decisions. Most religions teach moral norms that are almost universally accepted. Unless a person wishes to lead an unethical life, there would be at least some principles that the person would have to follow. Religion offers a set of principles that are easily identifiable. Additionally, ethical business would in the long run increase the profits of a business when conscientious investors recognize it as a green business.

One cannot agree more with Finn, who argued, "Faith-consistent investors . . . have a window of opportunity, through the leverage afforded by their vast and varied financial holdings, to press for changes in regulations and corporate practice that would foster a more sustainable, ethical, and equitable global economy."[10] This invariably makes a case for the relevance of faith communities in the global economy.[11] Merging faith and finance is a step in the right direction, though necessary safeguards must be put in place

Table 1: Major Differences/Similarities between Islamic Finance Investments and SRIs[14]

	Islamic Finance Investments	SRIs
Origin (D)	Islamic ethical principles of commercial transactions. Qur'an and *sunna* are extrapolated to emerging issues through legal interpretation	No unanimously agreed-upon origin. Different origins include Christianity, common practices of the Quakers and Methodists, Jewish law, etc.
Faith-Based Rules (D)	Faith-based rules are derived from the primary sources of shari'a	Not faith-based but based on certain ethical principles that are self-delineated
Definition of Limits (D)	Clear definition provided in the primary sources of Islamic law	There is no universally acceptable definition of the action limits of SRIs
Supervisory Committee (D)	Shari'a supervisory boards are set up to ensure shari'a compliance	Usually not applicable, but in some cases ethical committees are set up
Restrictions on Investment Management (D)	There are restrictions on the use of some financial instruments and investment activities such as derivatives that involve speculations	Generally, there are no restrictions on investment management
Shareholder Advocacy as Management Strategy (S)	Shareholders are allowed	Shareholders are also allowed, particularly in North America
Screens Based on Environmental Filters (S)	Available in theory but gradually gaining ground in practice	Available as a matter of practice

* D = Differences S = Similarities

to avert future economic crisis. Building bridges across major faith traditions on business and investments would provide such ethical safeguards.[12]

Even though faith-based investments may be likened to SRIs, there are some notable differences. For instance, "[o]ne main difference between a faith-based fund and a typical socially responsible fund is that many faith-based funds avoid business involved with abortion, whereas most socially responsible funds do not include abortion as part of the screening factors."[13] This modern trend does not blot out the historical links of SRIs to faith-based investments. Figure 1 singles out Islamic finance as a faith-based model for comparison with SRIs. The first five areas compared represent the differences while the last two issues highlight some areas of convergence between Islamic finance investments and SRIs.

PARALLELS: FAITH-BASED INVESTMENTS AND SRIs

Though there are many parallels among the faith communities, this study focuses on five key issues that represent common ground among all the faith-based investment strategies similar to the SRIs. These are: community development, shareholders' activism, global development, ethics, and environment. Focusing on these key issues, particularly during an economic downturn, will push for a new global paradigm for economic development. However, it is important to focus more on how RMIs and SRIs can be harmonized to forestall future economic crisis.

COMMUNITY DEVELOPMENT

Most religions tend to focus on human development within a society, which is expected to positively impact the society. Religious practices and rites are mostly performed in a communal way to emphasize and reinforce the bond between the people and the society within which they live. On the other hand, it is also known that one of the main pillars of SRIs is community development or investing where investments are structured in a socially responsible manner that would contribute to the development of the society. When one considers the history of SRIs, it would not be out of place to conclude that the objectives of community investing in both the SRIs and faith-based models are analogous. In a typical model of community investment, the financial needs of the low-income earners are met through properly managed programs. The much-needed capital is often provided for micro-enterprises and affordable housing. Wilkinson defines faith-based community economic development thus:

> Faith-based community economic development may be defined as the involvement of faith-based institutions in projects designed

> to revitalize their communities, establish sustainable economic development initiatives, attract investments, build wealth, and encourage entrepreneurship. In order to launch their projects, faith-based institutions often form a separate nonprofit community development corporation (CDC) or partner with an existing CDC, foundation, local government, or other faith-based institution.[15]

There are a number of faith-based initiatives that are directly targeted at community development. For instance, a number of faith-based community economic development initiatives have been documented by researchers commissioned by the Public and Community Affairs Department of the Federal Reserve Bank of Boston.[16] In this report, three successful examples of faith-based community economic development initiatives—the REACH program of Greater Christ Temple (Meridian, MS); the Revolving Loan Fund of First AME Church (Los Angeles, CA); and NOI Security Agency, Inc., of the Nation of Islam (Washington, DC)—were analyzed.[17] The findings of the report reveal three significant common traits despite the differences between the three models. First, they all address and solve an existing problem or need. Second, they all participate in growing markets through micro-enterprise initiatives. Third, they do not require skilled labor or employees with extensive formal training.[18] Focusing on such emerging markets would reduce the harsh effect of the downturn on the low-income earners and provide them with sustainable alternatives in the long run.

The faith-based initiatives explained above show quite a good congruence with the SRI initiatives. In essence, SRIs focus on investments that yield social good, such as poverty alleviation and financial inclusion of under-served communities. Green or sustainable businesses have a positive impact on the global environment, community, and the economy as they seek to meet the "triple bottom line": people, planet, and profit.[19] When these principles are transposed into the global financial setting with the synergy from faith-based initiatives, the world may be moving toward a new global paradigm. The "triple bottom line" concept is "an inspiring metaphor that challenges contemporary corporations to meet economic, environmental, and social goals simultaneously."[20] Therefore, while strongly interrelated, the contextual bases of SRIs and faith-based initiatives are fundamentally different. But the convergence of the initiatives in terms of green businesses for community development is a good starting point for global economic initiatives.

From the Islamic perspective, the Islamic microfinance model can be harmonized with the conventional microfinance initiatives when the model is structured in a way that reflects the religious beliefs of the target group. While the former is a faith-based investment initiative, the latter is an SRI program, both targeted at the low-income earners who are financially excluded from traditional financial services including credit facilities.[21] Harmonizing best practices in microfinancing will present a golden opportunity for community development models that are most suited to a particular category of people. There are conventional microfinance projects in countries like Afghanistan, Bangladesh, and Yemen. In Afghanistan, there is the Microfinance Investment Support Facility for Afghanistan (MISFA), which had 230,195 active borrowers as of October 31, 2011.[22] Even though MISFA is a conventional model of microfinance targeted at community investing through microcredit facilities, there are initiatives to harmonize its current models with the demands of the people to reflect common values in community investing. A path toward sustainability in community investing represents the development initiative that would consider the moral and ethical values of the people. Considering the conservative disposition of most people in rural societies, values-guided initiatives that agree with the people's ethos and values should form the bulk of community development initiatives. As part of the research and development initiatives of MISFA, actionable research on product development is being carried out to support the microfinance institutions operating in Afghanistan. Based on client demand, MSFA has developed some financial services such as shari'a-compliant agriculture/livestock loan products.[23] This is a good example of harmonization of best practices from faith-based microfinancing and SRI.

In a similar vein, other faith communities have explored ways to develop their immediate community through socio-religious initiatives. For instance, the Liberty Trust of the Liberty Church in New Zealand has been promoting community economic development through interest-free initiatives, which nearly cost it its charitable status under the extant laws of New Zealand.[24] Since 1989, when Liberty Trust was established, it has given out interest-free mortgages to over 290 households and churches.[25] In order to emphasize the role of religion in finance and the economy at large, Liberty Church chronicled what it refers to as "Bible Study on Finance" on its website. This website contains a long list of issues ranging from debt to mortgage, environmental stewardship, and community investing. With particular reference to community investing, Liberty Trust targets students, singles, corporate bodies, and those in financial difficulties in society generally. The funds of the Trust are mainly derived from donations and they are used in building an interest-free storehouse to assist other people.

Furthermore, the initiative of the Jewish Funds for Justice (JFSJ) reiterates the thin line between faith-based investing and SRIs. Though originally created in 1984, it was transformed to its current form in 2006 when it merged with the Shefa Fund. Though JFSJ is grounded in religious principles, it claims to be an SRI program specifically targeted at modest investors.[26] Based on the concept of *tzedakah*, community investing is considered a support for economic justice. Such focused investments are considered both philanthropy and justice in Judaism.[27] In addition, JFSJ encourages its investors to consider lower interest rates and if possible a zero percent interest rate to conform to the Hebrew tradition of free loan. It appears this Jewish approach to transform the community is not in any way different from the Islamic or Christian initiatives in terms of their respective objectives.[28] The activities of the Bhumi Project of the Oxford Centre for Hindu Studies is aimed at service to the community that also reenacts the community development initiatives in other faith-based models.

GLOBAL DEVELOPMENT

As a shared objective of religiously motivated investing and SRIs, global development involves targeted investing in companies that undertake international operations. While SRI is a global phenomenon, faith-based initiatives also try to foster global development through cross-border initiatives. The distinctive values and attitudes concerning global development are translated across faith communities, especially with the increasing nature of social and commercial intercourse among people of diverse backgrounds. For instance, the Bhumi Project of the Oxford Centre for Hindu Studies is developing "a set of standards based on the principle of *ahimsa* (non-violence) that will assist the community in ethical buying in line with its ethos and values."[29] This concept does not only apply to human beings, but also to animals. So, going by the Hindu traditions, meat from a slaughtered animal is not to be consumed by man since such an animal was hurt in the process. While this seems like a community initiative, it has global implications for ethical buying within the Hindu community and probably for vegetarians who do not eat meat or other animal products for religious, health, or ethical reasons.[30] Similarly, there are a number of overlapping values in Islamic investing and buying where ethical practices are encouraged. The *halal* labeling is assuming a global dimension where Muslims, particularly those who live in Western countries, prefer *halal* products. This brings to mind the significance of ethical investment in trans-boundary movement of food products.[31] This, remarkably, triggered the "exportation" of Islamic finance products and investments from the Arab world and Southeast Asia to elsewhere. These practices are not different from the ethical business initiatives introduced about three centuries ago that heralded modern SRIs. In the modern globalized world, rather than focusing on individual ways of promoting social and ethical investing among faith communities, a step further should be taken to maximize the positive synergies across faith communities. For instance, when the Charity Trust in New Zealand collaborates with other faith-based initiatives such as that of the Federation of Islamic Associations of New Zealand (FIANZ), one should expect a robust model that would transform the economy of the country. This has the potential of ushering in a new global paradigm for ethical investing acceptable to all despite the existence of some theological differences. Global development may be another important way to promote "global ethics containing a set of minimums on common values, standards, and basic attitudes by a fundamental consensus of representatives of the world's religions."[32]

Multinational companies must enhance their corporate social responsibility role to promote global development. The approach of Father Finn in promoting faith-based SRIs is a good match between the two concepts of faith-based investments and SRIs. The global financial crisis affects virtually the whole world; hence, the solution to the crisis should also be global through concerted efforts among stakeholders. The faith communities, being one of the main stakeholders in the global economy with faith-consistent investments worth billions of dollars, "have a window of opportunity, through the leverage afforded by their vast and varied financial holdings, to press for changes in regulations and corporate practice that would foster a more sustainable, ethical, and equitable global economy."[33] The necessary prerequisites to sustainable global development involve social investing with prudential supervision based on principles of faith-consistent investing. There is no doubt that "we need wise prudential supervision in the West and in the East, because the financial crises that our children face will be global and will require a global solution."[34] Such a global solution is not the exclusive prerogative of economists and financial experts. The faith communities must lend their voices and make their much-needed contributions to the ongoing efforts to engender sustainable social investing or green business that would not only cater to the present generation but also take into consideration the interest of future generations.

ENVIRONMENT

Sustainable investments and green business also critically take into consideration the environmental impact of certain business activities. As part of the key pillars of SRIs, corporate governance policies are directed toward promoting environmental stewardship.[35] This is a practical necessity in a world that seeks to promote sustainable development. Economic growth must be sustained through environmentally sound policies.[36] After all, without a sound and healthy environment, business activities cannot thrive and economic growth would be stunted. Viewing the economy from the environmental prism unravels the need to promote conservation of the environment to boost business transactions. Dam and Heijdra aptly capture the modern notion of investing with special reference to SRIs:

> The notion nowadays is that many investors do not only care about cash flows, but also about how these cash flows are generated. An investor might, for example, abstain from investing in firms that use child labor or adopt heavily polluting technologies. The

> modern investor thus distinguishes between "sin stocks" and clean investment opportunities.[37]

This increasing awareness among investors has rekindled the importance of green business or social investing. To this end, terms like "green shares" and "green investing" have been couched to reflect the need to promote SRIs in an increasingly troubled global economy.[38] A good example of the interrelationship between business and the environment and the increasing awareness among the people of the need to promote green business was the reason for the cancellation of Dow Chemical's sponsorship contract of the 2012 London Olympic Games. The reason for such repeated calls from the Indian government and the India Olympic Association against Dow was due to a company owned by it, the US-based Union Carbide Corporation, which was responsible for the 1984 Bhopal gas tragedy in India.[39]

Similarly, there are instances of outright boycott of certain products as a result of their perceived linkages to environmental degradation. In recent years, such successful boycotts include dropping kangaroo meat from major UK stockists in 2009, ending Book Trust's sponsorship deal with Nestlé in 2008, ending Wildlife Photographer of the Year Award's sponsorship deal with Shell in 2008, and the withdrawal of the sale of bluefin tuna by Auchan, Carrefour, Co-op, and ICA supermarkets in 2008.[40] These boycotts do not have religious undertones but are purely environmental concerns that are required to be taken into consideration in the business plans of such companies. These SRI environmental concerns are shared values among the faith communities.

The imperatives of conservation of environment are rooted in Islamic principles, which are jurisprudentially extended to business transactions.[41] Cardinal concepts of sustainable development as recognized in Islam include ecological balance (*mizan*), vicegerence (*khilafah*), prevention of harm (*mafsadah*), sustaining beneficial practices (*maslahah*), and social security and mutual assistance (*takaful*).[42] There are ample regulations on the conservation of environmental resources in Islam.[43] These include clear-cut rules about water usage, prevention of air pollution, protection of vegetation and conservation of forests, care for animals, and proper waste management.[44] "Though development is necessary for human progress, the impact of such development on the environment must be given due consideration. This is where the sustainability principles in Islam come to play to adequately balance the need for development and the conservation of the environment."[45]

The traditional Christian perspective on the environment vis-à-vis ethical investing is similar to the Islamic perspective. In Christendom, it is believed that God has blessed the world with the environment and whatever it contains. So, it is the responsibility of mankind to protect the earth's resources through prudent financial decisions. Christians are encouraged to invest in companies that endeavor to protect the environment. This is the core of ethical investing. In fact, this takes us back to the history of SRIs, where churches came up with policies that encouraged their members to shun businesses involved in gambling, alcohol, tobacco, pornography, weapons, and illicit drugs. Making money in ethical ways is compatible with the religious teachings of Christianity.[46] For instance, Christian Super, a not-for-profit industry fund in Australia, has been at the forefront of introducing a biblical ethical framework for investing. The negative screen of Christian Super includes the production of goods and services "with addictive, violent, or harmful effects on people," and activities that have harmful effects on the environment, including nuclear energy and its sources.[47]

Judaism also has a rich tradition of human interaction with the environment.[48] There are beneficial ideas in the Jewish tradition that may contribute to the discourse on environmental ethics with particular reference to social investing.[49] Since humans share the same origin with nature, it is the responsibility of the former to protect and preserve the latter in all ramifications.[50] A number of Jewish concepts point toward a sustainable environment. These concepts include: alienation from the natural world; the command to humanity to subdue the earth; rituals and commandments regarding environmental regulations; the treatment of animals; and *bal tashchit* (do not destroy).[51] To this end, Arthur proposes a new theology for the Jewish Reform movement that takes into account social and environmental concerns. This is specifically proposed for Jewish business leaders to promote eco-friendly investing.[52]

The Hindu perspective on green business and sustainable development, with particular reference to the environment, is based on *Atharva veda*, the sacred text of Hinduism. Hindus believe the sacred text is "the first of its kind of scripture in any spiritual tradition where the concept of respect to the earth has been propounded."[53] A clear conception of environmental ethics includes respect for the earth's resources, the interdependence of humanity and nature, and proper sanitation.[54] Environmental conservation is practiced as a way of life (*dharma*), which is ingrained in people's daily lives and social institutions to ensure sustainable development.[55]

ETHICS

While discussing ethics, focus is directed at examining specifically the business ethics and moral values that would assist in sharpening and enhancing global practices in the financial industry.[56] We need to consider major ties that bind the faith communities in order to unravel distinctive overlapping values that could form the basis of further discussion of a new global paradigm that merges faith-based initiatives with SRI initiatives.[57] Quddus, Bailey, and White give perspectives on business ethics from three

Abrahamic faiths—Judaism, Christianity and Islam.[58] In the research, they examine the provisions of the legal codes of the three religious traditions on a number of ethical issues in business transactions such as bribery, corruption, fraud, cheating, discrimination, and rights of employees, customers, and stakeholders.[59] One of the important areas identified for future research directions is the relevance of the moral values in religious codes to the global economy. Ethical values represent a general theme that runs across financial communities, which initially spurred the introduction of SRIs.

From the Jewish tradition, the ethical values for economic activities are based on the age-old ethical system of laws and customs in Judaism.[60] Jewish business ethics[61] include provisions for private property, competition with compassion, and social welfare, and prohibition of theft and fraud.[62] The prohibition of usury is contained in the Judeo-Christian traditions. Interest on loans is prohibited: "If you lend money to any of my people with you who is poor, you shall not be to him a creditor, and you shall not extract interest from him."[63] These laws were put in place to avoid economic hardship on the part of the less privileged or unjust enrichment from someone else's misery. Other underlying principles in Jewish business ethics include mercy toward debtors, protecting the less privileged against theft and fraud in society, and making charity an obligation.[64]

Similarly, the principles of economic justice and mutual assistance are core biblical concepts that permeate modern church-related business ventures. From the Catholic tradition, moral economy has been the core issue in its social thought. The social encyclicals of successive popes since the 1870s raise issues about "just wages and the morality of capitalism."[65] In fact, this is considered the first stage of "ethics in business" in the history of business ethics in the United States.[66] There is a clear reminder in the encyclical of the importance of ethical business in the world economy. It provides: "Efforts are needed—and it is essential to say this—not only to create 'ethical' sectors or segments of the economy or the world of finance, but to ensure that the whole economy—the whole of finance—is ethical, not merely by virtue of an external label, but by its respect for requirements intrinsic to its very nature."[67] The encyclical has given the way forward in forestalling future global economic crisis: the global economy should embrace ethical values in all ramifications. This sums up the Christian perspective on ethical business shared by most other faith-based communities, which also replicates the ethical values advanced in SRIs.

Further, the Islamic perspective of business ethics may not be so different from the Judeo-Christian traditions. The Islamic concept of economics is built on ethical business practices that promote social justice, equality, circulation, and just distribution of resources.[68] According to Islamic economic principles, resources are not meant to be dormant or concentrated in the hands of a few individuals. This establishes a workable nexus between resources and development; hence, the concept of sustainable development in Islam is enriched by ethical rules from the moral values of Islamic religion. So, business ethics cannot be discussed in Islam without referring to economic development.[69] Clear and direct stipulations abound in the Qur'an on business ethics. These include the prohibition of exploitation in business transactions, which informs the proscription of *riba* (interest) in Islamic commercial law. In addition, fraud, cheating, excessive speculations, gambling, and discrimination are expressly proscribed in Islamic law. As an alternative that would promote economic activities resulting in mutual benefits, commercial transactions are permitted through partnerships and entrepreneurship. These principles form the bedrock of the modern practice of Islamic finance.

The Hindu ethical values regarding business transactions reflect common principles in other faith communities.[70] "Hinduism provides a rich framework within which the dimensions of business and business ethics find their own footing."[71] Such business ethics include benevolence and honesty. There is much emphasis on the deed itself, which should serve social purposes rather than profit maximization. This is based on a Hindu maxim: "Your business is with deed and not with the result."[72] This emphasizes the maxim of "principle before profit." In addition, *ahimsa*, which means there should be no harm or injury in dealings with others, including business transactions, is another Hindu principle that is analogous to other faith communities.[73] These are ethical values that are common to the other faith communities already discussed. What is required is a step toward emphasizing these shared principles and adapting them to the modern economy with a view to creating a just global economy.

SHAREHOLDER ACTIVISM

Shareholders of a company can collectively use their powers to bring positive positive changes in corporate behavior toward social responsibility. "The two basic options are the use of shareholder resolutions (proxy voting at annual general meetings of corporations) or engaging in (usually private) dialogue with the management of companies on various issues."[74] There is a link between shareholder activism and corporate governance, especially when it comes to repositioning the corporation toward its corporate social responsibility. In the Islamic finance industry, shareholder activism is a requirement of Islamic investors. Muslim jurists consider ownership of shares in a business corporation as a transaction of partnership (*shirkah*). So, Islamic investors have the right to participate in the business through shareholder activism and voice their opinions on certain policies or transactions of the corporation.

The above agrees with the SRI and Christian perspectives of shareholder activism. For instance, shareholders in an automotive corporation may file shareholder resolutions to pressurize the company to reduce auto emissions, either through the manufacturing of green cars (electric or hybrid cars) or by recalibrating the emission rate of automotive engines to drastically reduce carbon emissions. It is also possible for SRI and Judeo-Christian funds to deliberately invest in certain companies that undertake “objectionable” business with a view to influencing and turning around the business of the company through shareholder resolutions, thereby embracing green business.[75] Even in the Hindu traditions, shareholders will necessarily move against a company that pollutes the earth. Though one may run the risk of over-generalization, the Judeo-Christian and Islamic principles that prohibit the consumption of pork and the prohibition in Hinduism of the consumption of beef,[76] taken together, may form the basis for prohibiting pork in its entirety in the business of a company. Though the possibility or limits of combining exclusive and inclusive screens may pose a challenge to such initiatives, it is left for the promoters of such corporations to agree on common values. Apart from very few instances, most faith communities agree on the objectives of green business. So, the shareholders can collectively unite and pass a shareholder resolution to influence the corporation to change its course from the current trajectory to more socially responsible and religiously acceptable business.

PROPOSAL FOR A SOCIO-LEGAL FRAMEWORK FOR GREEN BUSINESS

There is no doubt that a good socio-legal regulatory framework for green business championed by FBIs and SRIs would go a long way toward promoting impact investments in the society. To this end, the first step is to establish a regulatory framework for building bridges across financial communities in order to foster economic development. Though some believe that such a proposal appears too ambitious, as each of the financial communities has its unique traditions, one may still argue that there are a number of shared values that could be identified and streamlined to suit common needs. It is possible for the FBIs and SRIs to maintain their individual traditions. Even within the FBI community, there are diverse practices based on various religious traditions. However, the imperativeness of impact investing, value-driven initiatives, and role of law will tremendously change the outlook of things when the individual traditions are viewed through a global prism.

BUILDING BRIDGES ACROSS FAITH-BASED INVESTMENT MODELS

There have been several individual and institutional initiatives to build bridges across the faith communities, especially on the subject of religiously motivated investments, which are meant to promote key aspects of SRIs. The CED report mentioned earlier is a good example of ongoing efforts toward identifying the distinctive values and ethics of business that can be translated across faith communities. One thing the faith communities promote is the responsibility of corporations to the society within which they operate. This provides the impetus for "making business more socially responsible"[77] through corporate social responsibility (CSR).[78]

Though many faith-based investment models, including Islamic finance, are not averse to profit maximization, there is emphasis on the need to optimize social, environmental, and ethical requirements in business. These are SRI requirements, which are overlapping principles in the faith-based models. From the faith communities, there are many overlaps in the screening criteria of Islamic and Christian funds.[79] In fact, "[a] new faith-based index introduced in 2008 is the Dow Jones Dharma Index, which targets members of Dharmic religions. The key concepts that it follows are non-violence, environmental stewardship, caring, purity, and self-control."[80] Perhaps the Dow Jones Islamic Index could have been harmonized with the defunct Dharma Index in areas where the faith communities agree to produce a new global index of ethical stocks. But, unfortunately, the Dharma index failed despite the determined efforts of Dow Jones. This would have enhanced the acceptability of the Dow Jones Islamic Index on the one hand and the Dharma Index on the other. What should be discussed as the way forward is summarized in the encyclical on faith-consistent investment models, which provides that

> [S]pace also needs to be created within the market for economic activity carried out by subjects who freely choose to act according to principles other than those of pure profit, without sacrificing the production of economic value in the process. The many economic entities that draw their origin from religious and lay initiatives demonstrate that this is concretely possible.[81]

Creating the necessary synergies across faith communities is important for a new global economic regime. Investors from different faith communities are united on a number of ethical issues. Identifying the common elements shared by faith communities provides the basis for further discussions on how to effectively build and solidify bridges to promote best practices in the global economy.

LAW AND THE SIGNIFICANCE OF GREEN BUSINESS IN ISLAMIC FINANCE AND SRIs

Of late there has been a gradual but powerful paradigm shift in Islamic finance investments. Perhaps such investments have been largely influenced by the increasing importance of green business in the 21st century. But a major challenge that cropped up along the way is the need to strike a fair balance between the values-driven and profit-driven motives in fiduciary relationships in FBIs and SRIs. There is no doubt that a central ethical imperative in the modern world in business investments is the need to build a new global economic paradigm that is not only economically viable but also socially and environmentally sustainable. In doing this, law plays a cardinal role.[82]

There is a growing interest in what is known as "green *sukuk*," which is the term used to refer to Islamic investment certificates that seek to promote social responsibility or impact investing. According to the Climate Bonds Initiative, the Clean Energy Business Council of the Middle East and North, green *sukuk* are "shari'a-compliant investment securities that finance projects meeting eligibility criteria developed by the International Climate Bond Standards scheme."[83] While the new green *sukuk* initiatives meet the requirements of SRIs, the additional layer in its approval is undoubtedly the shari'a compliance element. A good model of the combination of SRIs, FBIs, and impact investing initiatives is the green *sukuk* targeted at investing in projects relating to renewable energy. These clean energy investments initiatives are gradually gaining momentum in the Middle East and North African (MENA) region. The Climate Bonds Initiative, the Clean Energy Business Council of the MENA region, and the Gulf Bond and Sukuk Association launched a Green Sukuk Working Group on March 5, 2012.[84]

A number of green *sukuk* have been proposed recently. According to a recent survey, "[n]ew innovative financial products are emerging, such as green *sukuk* (environmentally friendly Islamic bonds), which is supported by the World Bank and the Islamic Financial Services Board."[85] This over $15 billion sector of the Islamic finance industry would enhance the drive toward a greener and sustainable Gulf.[86] While there are ongoing efforts to issue green *sukuk*, the First Energy Bank (FEB) has been established in Bahrain; the FEB's areas of investment include renewable energy. FEB is licensed under the Central Bank of Bahrain and it has a standing shari'a board comprising three leading scholars in the global Islamic finance industry.

As shown in Table 2, there are ongoing initiatives to develop clean energy through some shari'a-compliant financing initiatives. "With Saudi Arabia planning investment of at least USD 100 billion into clean energy resources over the next decade, and the UAE and many other MENA countries following suit, there are substantial and viable projects in the region that are ideally suited to *sukuk* investors."[87]

Apart from deliberate measures to invest in green *sukuk*, the existing retail and commercial Islamic banks should adopt simple green policy in their transactions. This includes the requirement for environmental impact assessment for all major projects involving *istisna'a* (manufacturing contract) and social relevance of commercial transactions ratified by the

Table 2: Clean Energy Initiatives in the MENA Region

Jurisdiction	Proposed Investment (USD)	Project	Originator
Abu Dhabi (UAE)	600 million	100 MW Shams CSP	Abu Dhabi Future Energy Company (Masdar)
Bahrain	2 billion	Diverse investment activities relating to sustainable energy	First Energy Bank
Kuwait	2.5 billion	Electricity from sustainable sources	Government
Morocco	9 billion	Solar-thermal energy	Government
Qatar	1 billion	Polysilicon manufacturing plant	Qatar Solar Technologies
Saudi Arabia	100 billion	5 GW of solar-generated power	Government
Tunisia	2.79 billion	40 solar energy projects	Public-private partnership

shari'a boards. To achieve this, there is a need for an enabling legal backing through statutory enactments or regulations issued by the apex banks to compel Islamic financial institutions to adopt such green policies. For instance, a development activity undertaken by a financial institution that involves the destruction of wetlands and coral reefs or further depletion of the ozone layer through carbon emissions should necessarily be avoided in furtherance of the green policy. This is in compliance with the legal maxim in Islamic jurisprudence: "Harm should be eliminated" (*al-darar yuzal*).[88] This empowers the regulatory body in a country to introduce appropriate legal mechanisms to protect the socioeconomic and environmental fabrics of society.

THE ROLE OF LAW IN ENSURING "IMPACT INVESTING"

There is a gradual paradigm shift from SRIs toward impact investing and this has called for an enabling law to promote such investments. This is related to social entrepreneurship, which is another term for impact investing.[89] It has been suggested that there should be socially responsible investment law or social impact investing law to complement the fundamental objectives of SRIs. In his review of Richardson's *Socially Responsible Investment Law: Regulating the Unseen Polluters*, Williamson aptly observes:

> SRI can be made more widespread when governance mechanisms interact with and are supported by formal regulation. In practice, this means that self-regulatory mechanisms (e.g., voluntary codes, performance measurements using market indexes, pressure from activists) can be made more effective when they are supported by and interact with regulatory enforced mechanisms (e.g., reporting standards, tax incentives, additional fiduciary obligations on investment institutions).[90]

Proposals for impact investing have appeared threatening to mainstream investors. They argue that they need not pay attention to the social impact of their investment activities, as these are the duties of charities and the government.[91] Undoubtedly, a series of violations of ethical rules through the unethical environmental practices occasioned in some investments necessitates such an enforceable regulatory mechanism for impact investing, which seeks to serve two major objectives. First, it impresses upon the investors (and of course the corporations) of "mainstream investment in generating sustainable and equitable economic growth."[92]

It appears the transformative power of impact investing is inherent in FBIs, with particular reference to Islamic finance. However, it is often downgraded in the decision-making process, while more attention is given to shari'a compliance. It is therefore argued that the original value proposition of Islamic finance emphasizes social entrepreneurship or impact investing. But in practical reality, the case is different. A case that readily comes to mind is the labor camps involved in the construction of Burj Khalifa in Dubai.[93] In the overcrowded and disease-ridden labor camps, "it is common to find dozens of workers sandwiched in cramped, dirty living spaces. One activist says he recently visited a camp where he counted 39 in one room."[94] Incidentally, the construction of this tallest building in the world is being driven by an Islamic finance mechanism of *sukuk* (Islamic investment certificates), but it is believed that the project partly failed to uphold the Islamic ethical standards regarding proper treatment of employees. The wider social and ethical concerns in huge investments of this kind include questions related to the environment and labor rights. The Islamic finance industry must be interested in these issues in furtherance of the comprehensive principle of *maslaha*, which encompasses ethical and social values with an overarching emphasis on impact investing. This is apparently the original objective of Islamic jurisprudence. Hence, there is an extricable nexus between social responsibility, impact investing, and the law itself. Therefore, apart from investing in socially responsible investments, Islamic funds should go beyond negative screening by adding positive screening to its portfolios in furtherance of its original value proposition of social and ethical investments.

Hence, the law has a significant role to play in ensuring impact investment through mandatory provisions. There should be standard mechanisms for benchmarking impact investments. The performance metrics of each investor/corporation must be easily determined through such mechanisms. The Global Impact Investing Rating System (GIIRS) may be relevant in this regard. Complementing this with the imperativeness of law in ensuring impact investing would further establish common grounds between SRIs and FBIs in an increasingly competitive world. Having emphasized the imperativeness of law in enhancing SRI and FBI initiatives, there is a pertinent need for proper regulatory supervision to ensure compliance.

CONCLUSION

This study is meant to provoke further thoughts in order to come up with reasonable recommendations on how to move forward and identify a new course for the global economy with particular reference to ethical investing. At least for once, the global economy should be reexamined through the religious prism. This paper has examined how Islamic finance (and other faith-based paradigms) overlap with or complement socially responsible investment. It also brought to the fore the five key issues that are common to all faith-based investment strategies: community development, shareholders' activism, global development, ethics, and environment. Some modicums of ethico-legal and moral principles in the faith communities have been discussed to show the inherent nature of some of these principles in the faith traditions. Such best practices and synergies across faith communities can be translated into faith-based principles, which can be structured into viable commercial practices that will foster economic development and prevent future global financial crises. However, it is pertinent to observe that though there is a significant overlap between SRIs and FBIs, the two do not necessarily need to be brought together in a "forced marriage" to be effective. However, areas of convergence could be emphasized for a healthy dialogue. The shared goals and the two paradigms should be emphasized with a joint focus on their potential to reach members of the community through impact investing. Providing the necessary legal backing for these initiatives is essential to their successful orchestration in different jurisdictions across the world. From the Islamic finance perspective, social and ethical considerations are inherent in the original proposition of Islamic jurisprudence, which should reflect in the decisions of the shari'a boards.

A discussion that revolves around these questions should focus on the collaborative efforts among the faith communities to reposition the global economy. Identifying common ground is a step toward building bridges across the faith communities. It is not enough for the faith communities to continue to decry the unethical practices that led to the global financial crisis. They must provide a sustainable solution to rescue the global economy from a terminal crisis in future.

Endnotes

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