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# PEGASUS

A NEWSLETTER FOR THE CAUX ROUND TABLE FOR MORAL CAPITALISM NETWORK LOOKING AT BUSINESS ABOVE THE CLUTTER AND CONFETTI



# *Pegasus*

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# Introduction

Dear Friends and Colleagues:

I would like to introduce you to David Kansas, the new Editor-at-Large of Pegasus. David has worked for the Wall Street Journal and Minnesota Public Radio for many years. He resides in St. Paul, Minnesota and kindly agreed to serve on the board of directors of the Caux Round Table.

David has written the following introduction to this March 2024 issue:

This month's Pegasus provides a wide range of views related to moral capitalism. We dive deep into the ethical and moral foundations that drove the original concepts of capitalism. We also enjoy a small journey with Warren Buffett, providing excerpts from his annual investment letter. As ever, he sprinkles his investment wisdom with clever stories and a bit of history. Lastly, we provide an essay about the prospects of stronger, more positive relations between Islamic and non-Islamic societies, an issue of rising importance around the world.

In our opening essay, Michael Hartoonian, associate editor, makes a powerful case that successful capitalistic systems require a firm grounding in morals and ethics. It is sometimes forgotten that Adam Smith, the father of capitalistic philosophy, emphasized the absolute need for ethics in making capitalism successful. As Michael writes, "If the market is to remain free, it must be incased in ethics, where economic actors understand they are engaged in a moral enterprise. Once the moral bonds are severed, the market becomes expensive, sluggish and corrupt."

The New Testament book of Matthew starkly reminds us, "What will it profit a person, to gain the whole world, and forfeit their soul?" And, as Michael adds: "The temple of prosperity can only be entered through the gate of morality and the courtyard of merit." It is a powerful reminder that capitalism must be moored by deeper, ethical principles in order to flourish.

Perhaps nobody embodies this notion better than Warren Buffett, the Oracle of Omaha. As we have done several times, we include excerpts from the Berkshire Hathaway shareholder letter. Mr. Buffett has a joyful way of describing his adoration of capitalism and the power of the U.S. economy – especially over time. And he has been gifted significant time to prove his thesis true. He bought his first stock in March 1942, when the Dow Jones Industrial Average flirted with the 800 level. It is nearly at 40,000 today.

Buffett, intriguingly, also echoes key themes from Michael's piece. He writes about an 1863 warning from a government official that investors and business people should be wary of "scoundrels." Buffett admits that identifying such scoundrels is frequently difficult, which is one reason he always looks at the numbers – investment performance,

use of capital, etc., – to confirm his judgment of people. And, he admits, that in the end, he is betting on good people much of the time. While he grabs headlines for large investments in American Express and Coca-Cola, he very much enjoys buying well-run enterprises that are run by good people. Clayton Homes and Geico Insurance are two such examples.

In advocating for his recent investment in Occidental Petroleum, he lauds its leader, Vicki Hollub. Under her leadership, he says, “Occidental is doing the right things for both its country and its owners.”

While Buffett rightly extols the virtues of U.S. capitalism, he’s recently been making large bets in Japan. In recent weeks, Japanese stocks have reached new highs, underscoring Buffett’s investing acumen. And, emphasizing his belief in moral capitalism, he wryly notes that Japanese executive compensation is rather far more modest than it is in the U.S.

Lastly, we bring you an important article by Recep Senturk on “Islamic Law and the Children of Adam.” Recep is a Caux Round Table fellow. He was the founding president of Ibn Haldun University in Istanbul, Turkey and is now dean of the College of Islamic Studies, Hamad Bin Khalifa University, Doha, Qatar.

The Caux Round Table has sought consistently to deepen our knowledge and understanding of Islam over the past several years. Daily headlines often distort and confuse the rich history of Islamic jurisprudence and the complex historic relationships between Islamic ruling polities that include non-Muslims. Thus, Steve Young, our global executive director, has shared Recep’s article with Cardinal Pietro Parolin, the secretary of state at the Vatican and with Archbishop Paul Gallagher, secretary for relations with states at the Vatican.

As Islam continues to grow, relations between Islam and non-Islamic become increasingly important, especially as it relates to moral capitalism. This essay argues that in studying the history of Islamic practices “over a vast geography across centuries, assure us that Muslims – if grounded in their tradition – would carry good tidings to today’s societies. Thus, growing numbers of Muslims represent an opportunity, not a threat, to liberal Western societies.”

Thank you for reading this month’s edition. As always, we welcome your feedback and comments.

*David Kansas*  
*Editor-at-Large*

Sincerely yours,

Steve Young  
Global Executive Director  
Caux Round Table for Moral Capitalism

# The Pillars of Capitalism and Democracy

## *Morality and Merit*

Michael Hartoonian

*What will it profit a person,  
to gain the whole world,  
and forfeits their soul?  
-Matthew 16:26*

### Introduction

With apologies and credit to Aristotle, I would like to suggest why he thought democracy was always at risk of becoming corrupt. Any society claiming free will and reasoned choice will tend to split along different ideas and therefore, want different things (not necessarily need different things). The divide is usually between twenty five percent on each side, with about fifty percent of the people apathetic to civic involvement. The argument goes that the twenty five percent on each side will both work for bigger government, in exchange for their freedoms. They do this in order to have the “state” placate their desires. Arguments for less government, from either side, is, at best, ignorance and at worst, something in which they don’t believe and yet champion – a lie.

In his book, *The Theory of Moral Sentiments*, Adam Smith made a similar argument, suggesting that if the market is to remain free, it must be incased in ethics, where economic actors understand that they are engaged in a moral enterprise. Once the moral bonds are severed, the market becomes expensive, sluggish and corrupt.

The atrophy of moral relationships is the beginning of the end for both democracy and any sense of a free or market economy. Capitalism and democracy are intra-connected at their cellular level and extremely fragile. The ideas must be handled with care and implemented with prudence.

### A Script for Disaster

Over the last several months, the U.S. has been engaged in primary elections, leading to the presidential election in November. Within this context, reporters have been asking people what they think are the most important issues facing the nation. The list of concerns includes things like the economy, immigration and inflation. I did not hear (reported) even one person say that the Constitution was the main issue. In fact, the Constitution was never mentioned. When (a) people care only about the economy, absent virtue, or argue about how they are victims of some system, they are saying what Aristotle knew and we should all know

– wealth and happiness are never given. They must be earned through service to others, a deep respect for the merit of ideas and the free will to **do good** (empathy/duty) as well as **do right** (law) – understanding that these verbs are virtues that must always transcend self. The contemporary debates are all about self and victimhood. Self and victimhood are the scripts of today, written by demigods, tyrants and narrowly focused technocrats. All of this borders on the mystical and is innocently embraced by those who have laid down the melancholy burdens of merit and morality.

## **You Can't "Make it Up" as You Go**

It's breathtaking to read and hear the definitions given to the concept of capitalism. On one fringe, we have the old Chicago school of Milton Friedman, suggesting that capitalism is simply about making a profit for the owners of capital, to those like Karl Marx and post-modernists, who believe capitalism is a cancer that should be destroyed, absent any workable system to take its place. Looking at the historical record, the claim can be made that productivity and a better quality of life, at least for the few, was realized from the 18<sup>th</sup> to the 21<sup>st</sup> centuries. The upward trajectory is real:

- The years between 1946 and 1970 were an anomaly, as in those years, there was a sharing of political and economic power among the people of the U.S. and parts of Europe not seen before or since.

However, I would have to say that in most cases, that productivity was and is still a dependent variable related to wealth sharing, civility quotients within the firm and government and policies favoring shared responsibility and patient capital. With these variables in place, the economy is open and innovation and productivity increases. Without this configuration, the system becomes extractive and closed.

There is nothing more frightening than being ignorant of the pure reason needed to form policies about cause and effect regarding wealth and happiness. Many of life's deeper questions seem paradoxical and contradictory. And in some ways, moral capitalism seems such to many.

Capitalism is not about profits or equity or even asset allocation. It is defined by the attributes ascribed to the tension between its ideal and practice. Capitalism is an open system tied to the rightful behaviors of human beings. Not the human animal naked to the anomalies, beauty and danger of nature – as any animal – but the rational, ethical and aesthetic agent with the free will to understand and make moral decisions that provide the possibilities of living a life of purpose, responsibility and happiness. Capitalism's ideal is referenced by morality and merit. It is patterned on ethical reason, wealth creation, enlightenment and integrity. It places primacy on trust, knowledge and openness, with attention to the generational covenant with the future. The true capitalist knows that ignorance and greed are the enemies of democracy and any market driven economy, for they

close the mind. The principles of the Caux Round Table make clear that successful institutions are run by people committed to open-mindedness, merit, civility and take responsibility for the firm's success or failure. On the other hand, a professional administrative class, by contrast, spends much of its time evading responsibility for failure and taking credit for other people's achievements. As we have learned recently and at great cost, it may even harbor agendas that are in tension or even in open conflict with the institution's core mission. Within any institution, there is the need to bring merit and morality forward. Institutional leaders, those who understand institutional capital, know the etymology of merit and morality and their deep relationship, one to the other. That is, merit means good deeds, absent personal praise or external reward. Morality means relational good character. Both relate to virtuous conduct.

Democracy and capitalism DEMAND virtue. That is, more than anything else, they demand a **course of conduct**. If we do not conduct our lives in virtue, only corruption and poverty can follow.

### **Why So Much Corruption and Poverty?**

Since the beginnings of agricultural societies, poverty has and remains the dominant characteristic of human society. Pundits have always suggested that the reasons have to do with geography, religion, ethnic character and even race. There is absolutely no data to support such claims. Wherever you go, most societies are defined by entrenched political elites – rich, healthy and in control, while the majority of people are without education, healthcare, infrastructure and freedom. Whether self-imposed in some cases or not, this is the condition. Why, then, do we find some nations better off, while most are poverty stricken? Well, it has little to do with location, natural resources or belief systems. What drives poverty and sickness is politics. That is, the way in which political power, education and public healthcare are established and implemented. Rationales based on God's will or self-esteem are self-serving and beholden to fear and the will of the political (economic) elite. However, wealth created and allocated through the criteria of merit and morality define a prosperous and happy society. And this is done not through the market, but first by the quality of the political institutions. Quality here meaning merit and morality. This causal relationship is clear to reason, historical records and empirical replication.

### **The Temple of Prosperity**

The temple of prosperity can only be entered through the gate of morality and the courtyard of merit. If we define prosperity as wealth, excellence, flourishing and happiness, which is universally true, then we are aligned with the wisdom of all people. And what do the wise suggest?

First, morality and merit mean the acceptance and practice of responsibility and the attitude of hope as necessarily true for any sense of acquiring grace in the future. It is this grace that

comes by rightful behavior that, in turn, brings happiness to the here and now. That is, our behaviors, while reflective of a collection of past experiences, are governed by our vision and virtue of the future. You never are, so much as you are to become. It is in this becoming that we bring grace into the future and to others.

Secondly, to suggest that rightful conduct is a relative or situational notion, made acceptable by cultural norms, is unacceptable by experience, experimentation and reason. Merit and morality are and necessarily must be such that no human is ever treated as an object. Being human is an end in itself. For example, to tell any lie to further your advantage over another is using that other as a non-human. This is immoral. The person lied to is made an object of your greed, thus making the individual less than you, less than human. To use someone to get what you want is gross incompetence and violent, period.

In the end, capitalism and democracy are children of merit and morality. To the degree this is not understood and practiced, to that same degree, they become orphans of a lesser god.

*Michael Hartoonian is Associate Editor of Pegasus.*

(Below are excerpts of Warren Buffet's 2024 annual letter to Berkshire Hathaway shareholders. He's a master class in making profits, quality profits. The entire letter can be found [here](#).)

## BERKSHIRE HATHAWAY INC.

To the Shareholders of Berkshire Hathaway Inc.:

...

Writers find it useful to picture the reader they seek, and often they are hoping to attract a mass audience. At Berkshire, we have a more limited target: investors who trust Berkshire with their savings without any expectation of resale (resembling in attitude people who save in order to buy a farm or rental property rather than people who prefer using their excess funds to purchase lottery tickets or “hot” stocks).

Over the years, Berkshire has attracted an unusual number of such “lifetime” shareholders and their heirs. We cherish their presence and believe they are entitled to hear every year both the good and bad news, delivered directly from their CEO and *not* from an investor-relations officer or communications consultant forever serving up optimism and syrupy mush.

....

### **Operating Results, Fact and Fiction**

Let's begin with the numbers. The *official* annual report begins on K-1 and extends for 124 pages. It is filled with a vast amount of information – some important, some trivial.

Among its disclosures many owners, along with financial reporters, will focus on page K-72. There, they will find the proverbial “bottom line” labeled “Net earnings (loss).” The numbers read \$90 billion for 2021, (\$23 billion) for 2022 and \$96 billion for 2023.

What in the world is going on?

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What in the world is going on?

You seek guidance and are told that the procedures for calculating these “earnings” are promulgated by a sober and credentialed Financial Accounting Standards Board (“FASB”), mandated by a dedicated and hard-working Securities and Exchange Commission (“SEC”) and audited by the world-class professionals at Deloitte & Touche (“D&T”). On page K-67, D&T pulls no punches: “In our opinion, the financial statements.....present fairly, *in all material respects* (italics mine), the financial position of the Company . . . . and the results of its operations . . . . for each of the three years in the period ended December 31, 2023 ”

So sanctified, this worse-than-useless “net income” figure quickly gets transmitted throughout the world via the internet and media. All parties believe they have done their job – and, legally, they have.

We, however, are left uncomfortable. At Berkshire, *our* view is that “earnings” should be a sensible concept ...– *but only as a starting point* – in evaluating a business. Accordingly, Berkshire *also* ... what we call “operating earnings.” Here is the story *they* tell: \$27.6 billion for 2021; \$30.9 billion for 2022 and \$37.4 billion for 2023.

The *primary* difference between the mandated figures and the ones Berkshire prefers is that we exclude unrealized capital gains or losses that at times can exceed \$5 billion *a day*. Ironically, our preference was pretty much the rule until 2018, when the “improvement” was mandated. Galileo’s experience, several centuries ago, should have taught us not to mess with mandates from on high. But, at Berkshire, we can be stubborn.

\* \* \* \* \*

Make no mistake about the significance of capital gains: I expect them to be a *very* important component of Berkshire’s value accretion during the decades ahead. Why else would we commit huge dollar amounts of your money ... to marketable equities just as I have been doing with my own funds throughout my investing lifetime?

I can’t remember a period since March 11, 1942 – the date of my first stock purchase – that I have *not* had a majority of my net worth in equities, *U.S.-based* equities. And so far, so good. The Dow Jones Industrial Average fell below 100 on that fateful day in 1942 when I “pulled the trigger.” I was down about \$5 by

the time school was out. Soon, things turned around and now that index hovers around 38,000. America has been a terrific country for investors. All they have needed to do is sit quietly, listening to no one.

It is more than silly, however, to make judgments about Berkshire's investment value based on "earnings" that incorporate the capricious *day-by-day* and, yes, even year-by-year movements of the stock market. As Ben Graham taught me, "In the short run the market acts as a voting machine; in the long run it becomes a weighing machine."

## **What We Do**

Our goal at Berkshire is simple: We want to own either all or a portion of businesses that enjoy good economics that are fundamental and enduring. Within capitalism, some businesses will flourish for a very long time while others will prove to be sinkholes. It's harder than you would think to predict which will be the winners and losers. And those who tell you they know the answer are usually either self-delusional or snake-oil salesmen.

At Berkshire, we particularly favor the rare enterprise that can deploy *additional* capital at high returns in the future. Owning only one of these companies – and simply sitting tight – can deliver wealth almost beyond measure. Even heirs to such a holding can – ugh! – sometimes live a lifetime of leisure.

We also hope these favored businesses are run by able and trustworthy managers, though that is a more difficult judgment to make, however, and Berkshire has had its share of disappointments.

In 1863, Hugh McCulloch, the first Comptroller of the United States, sent a letter to all national banks. His instructions included this warning: "Never deal with a rascal under the expectation that you can prevent him from cheating you." Many bankers who thought they could "manage" the rascal problem have learned the wisdom of Mr. McCulloch's advice – and I have as well. People are not that easy to read. Sincerity and empathy can easily be faked. That is as true now as it was in 1863.

This combination of the two necessities I've described for acquiring businesses has for long been our goal in purchases and, for a while, we had an abundance of candidates to evaluate. If I missed one – and I missed plenty – another always came along.

...

Nevertheless, managing Berkshire is mostly fun and always interesting. On the positive side, after 59 years of assemblage, the company now owns either a portion or 100% of various businesses that, on a weighted basis, have somewhat better prospects than exist at most large American companies. By both luck and

pluck, a few huge winners have emerged from a great many dozens of decisions. And we now have a small cadre of long-time managers who never muse about going elsewhere and who regard 65 as just another birthday.

\* \* \* \* \*

Berkshire benefits from an unusual constancy and clarity of purpose. While we emphasize treating our employees, communities and suppliers well – who *wouldn't* wish to do so? – our allegiance will *always* be to our country and our shareholders. We never forget that, though your money is *comingled* with ours, it does not *belong* to us.

With that focus, and with our present mix of businesses, Berkshire *should* do a bit better than the average American corporation and, more important, *should* also operate with materially less risk of permanent loss of capital. Anything beyond “slightly better,” though, is wishful thinking. This modest aspiration wasn't the case when Bertie went all-in on Berkshire – but it is now.

### **Our Not-So-Secret Weapon**

Occasionally, markets and/or the economy will cause stocks and bonds of some large and fundamentally good businesses to be strikingly mispriced. Indeed, markets can – and will – unpredictably seize up or even *vanish* as they did for four months in 1914 and for a few days in 2001. If you believe that American investors are now more stable than in the past, think back to September 2008. Speed of communication and the wonders of technology *facilitate* instant worldwide paralysis, and we have come a long way since smoke signals. Such instant panics won't happen often – but they *will* happen.

Berkshire's ability to immediately respond to market seizures with both huge sums and certainty of performance *may* offer us an occasional large-scale opportunity. Though the stock market is massively larger than it was in our early years, today's *active* participants are neither more emotionally stable nor better taught than when I was in school. For whatever reasons, markets now exhibit far more casino-like behavior than they did when I was young. The casino now resides in many homes and daily tempts the occupants.

One fact of financial life should never be forgotten. Wall Street – to use the term in its figurative sense – would *like* its customers to make money, but what truly causes its denizens' juices to flow is feverish activity. At such times, whatever foolishness can be marketed *will* be vigorously marketed – not by everyone but always by someone.

Occasionally, the scene turns ugly. The politicians then become enraged; the most flagrant perpetrators of misdeeds slip away, rich and unpunished; and your friend next door becomes bewildered, poorer and sometimes vengeful. Money, he learns, has trumped morality.

One investment rule at Berkshire has not and will not change: *Never* risk permanent loss of capital. Thanks to the American tailwind and the power of compound interest, the arena in which we operate has been – and will be – rewarding *if* you make a couple of good decisions during a lifetime *and* avoid serious mistakes.

...

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This year, I would like to describe two other investments that we expect to maintain indefinitely. Like Coke and AMEX, these commitments are not huge relative to our resources. They are worthwhile, however, and we were able to increase both positions during 2023.

At yearend, Berkshire owned 27.8% of Occidental Petroleum’s common shares and also owned warrants that, for more than five years, give us the *option* to materially increase our ownership at a fixed price. Though we very much like our ownership, as well as the option, Berkshire has no interest in purchasing or managing Occidental. We particularly like its vast oil and gas holdings in the United States, as well as its leadership in carbon-capture initiatives, though the economic feasibility of this technique has yet to be proven. Both of these activities are very much in our country’s interest.

Not so long ago, the U.S. was woefully dependent on foreign oil, and carbon capture had no meaningful constituency. Indeed, in 1975, U.S. production was eight million barrels of oil-equivalent per day (“BOEPD”), a level far short of the country’s needs. From the favorable energy position that facilitated the U.S. mobilization in World War II, the country had retreated to become heavily dependent on foreign – potentially unstable – suppliers. Further declines in oil production were predicted along with future increases in usage.

For a long time, the pessimism appeared to be correct, with production falling to five million BOEPD by 2007. Meanwhile, the U.S. government created a Strategic Petroleum Reserve (“SPR”) in 1975 to alleviate – though not come close to eliminating – this erosion of American self-sufficiency.

And then – Hallelujah! – shale economics became feasible in 2011, and our energy dependency ended. Now, U.S. production is more than 13 million BOEPD, and OPEC no longer has the upper hand. Occidental itself has annual U.S. oil

production that each year comes close to matching the entire inventory of the SPR. Our country would be very – *very* – nervous today if domestic production had remained at five million BOEPD, and it found itself hugely dependent on non-U.S. sources. At that level, the SPR would have been emptied within months if foreign oil became unavailable.

Under Vicki Hollub’s leadership, Occidental is doing the right things for both its country *and* its owners. No one knows what oil prices will do over the next month, year, or decade. But Vicki does know how to separate oil from rock, and that’s an uncommon talent, valuable to her shareholders and to her country.

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Additionally, Berkshire continues to hold its passive and long-term interest in five very large Japanese companies, each of which operates in a highly-diversified manner somewhat similar to the way Berkshire itself is run. We increased our holdings in all five last year after Greg Abel and I made a trip to Tokyo to talk with their managements.

Berkshire now owns about 9% of each of the five. (A minor point: Japanese companies calculate outstanding shares in a manner different from the practice in the U.S.) Berkshire has also pledged to each company that it will not purchase shares that will take our holdings beyond 9.9%. Our cost for the five totals ¥1.6 trillion, and the yearend market value of the five was ¥2.9 trillion. However, the yen has weakened in recent years and our yearend unrealized gain in dollars was 61% or \$8 billion.

Neither Greg nor I believe we can forecast market prices of major currencies. We also don’t believe we can hire anyone with this ability. Therefore, Berkshire has financed most of its Japanese position with the proceeds from ¥1.3 trillion of bonds. This debt has been very well-received in Japan, and I believe Berkshire has more yen-denominated debt outstanding than any other American company. The weakened yen has produced a yearend gain for Berkshire of \$1.9 billion, a sum that, pursuant to GAAP rules, has periodically been recognized in income over the 2020-23 period.

In certain important ways, all five companies – Itochu, Marubeni, Mitsubishi, Mitsui and Sumitomo – follow shareholder-friendly policies that are much superior to those customarily practiced in the U.S. Since we began our Japanese purchases, *each* of the five has reduced the number of its outstanding shares *at attractive prices*.

Meanwhile, the managements of all five companies have been *far* less aggressive about their own compensation than is typical in the United States. Note as well that each of the five is applying only about 1/3 of its earnings to dividends. The large sums the five retain are used both to build their many businesses and, to a lesser degree, to repurchase shares. Like Berkshire, the five companies are reluctant to *issue* shares.

An additional benefit for Berkshire is the possibility that our investment may lead to opportunities for us to partner around the world with five large, well-managed and well-respected companies. Their interests are far more broad than ours. And, on their side, the Japanese CEOs have the comfort of knowing that Berkshire will always possess huge liquid resources that can be instantly available for such partnerships, whatever their size may be.

Our Japanese purchases began on July 4, 2019. Given Berkshire’s present size, building positions through open-market purchases takes a lot of patience and an extended period of “friendly” prices. The process is like turning a battleship. That is an important disadvantage which we did not face in our early days at Berkshire.

### **The Scorecard in 2023**

Every quarter we issue a press release that reports our summarized operating earnings (or loss) in a manner similar to what is shown below. Here is the full-year compilation:

	(in \$ millions)	<u>2023</u>	<u>2022</u>
Insurance-underwriting .....		\$ 5,428	\$ (30)
Insurance-investment income .....		9,567	6,484
Railroad .....		5,087	5,946
Utilities and energy .....		2,331	3,904
Other businesses and miscellaneous items .....		14,937	14,549
Operating earnings .....		<u>\$37,350</u>	<u>\$30,853</u>

....

\* \* \* \* \*

So what is going on? Is it Omaha's water? Is it Omaha's air? Is it some strange planetary phenomenon akin to that which has produced Jamaica's sprinters, Kenya's marathon runners, or Russia's chess experts? Must we wait until AI someday yields the answer to this puzzle? ...

February 24, 2024

Warren E. Buffett  
Chairman of the  
Board



# Islamic Law and the Children of Adam

Recep Senturk



*(Foreign ambassadors being received at the Topkapı Palace in Istanbul, Jean Baptiste Vanmour, ca. 1700s)*

Islam is arguably the fastest-growing religion in the world today, which raises questions and concerns for Western societies that have growing Muslim populations. If Muslims were to become a majority community one day, how would they treat their neighbors? What would they contribute, and what would they have to offer to Western societies? These questions rightfully worry native populations, and as Islam spreads, the public discourse tends to become dominated by answers from security experts, journalists, and politicians who have little or no grounding in Islam.

As we shall see, the Islamic tradition— in particular, its political history and jurisprudence — addresses these worries: simply put, in Islamic law, all human beings possess inviolability, regardless of their creed, color, class, or culture. This surprising legal maxim and its religious and philosophical justification deserve to be explored, as well as its implications for Muslims negotiating religious pluralism. The classical books of Islamic jurisprudence and the history of Muslim rule extending from India to the Balkans testify—conceptually and practically—to the inviolability of all human beings in Islam. Moral, legal, and political theories in Islam,

as well as state practices over a vast geography across centuries, assure us that Muslims—if grounded in their tradition—would carry good tidings to today’s societies. Thus, growing numbers of Muslims represent an opportunity, not a threat, to liberal Western societies.

But today’s Muslims, unlike their predecessors or traditions, carry the burden of proof, especially given the relentless anti-Muslim propaganda fueling public fear about Islam and creating adversity between Muslims and their neighbors. This means Muslims must reverse the tragic loss of their social memory and restore the disconnect from their own intellectual, political, and moral history; they face the daunting task of relearning their own tradition so they can articulate, and represent, what Islam can contribute to the commonweal.

Driven by the unprecedented increase in geographic mobility in the modern age, societies around the world have rapidly increased in social diversity. Yet some ideologies see diversity as a threat to their homogeneous culture and seek to erase diversity, an impulse that contradicts the Islamic vision. Muslims always understood diversity as a God-given condition of human society, necessitating its careful management for a moral, just, and peaceful society. Far from being an epiphenomenon, diversity reflects God’s ultimate and endless power. God uniquely manifests Himself in every creature, and because divine manifestation never repeats, each human being differs from every other — we are a collection of individuals, not a collective mass. But we also have a common denominator—namely, our humanity, or *ādamiyyah* in Arabic.

The Qur’an repeatedly makes it explicit that social diversity is the will of God and that created beings cannot make diversity disappear through forced conversions, expulsions, or other means. Thus, Islamic social thought seeks not to extinguish diversity, an ambition doomed to fail, but to manage it in a way that allows all individuals to flourish. Modern and postmodern ideologies, which desire to redesign human beings according to their standards, inevitably fail—after causing suffering and bloodshed—because they oppose God’s will.

In Islam, the management of diversity is grounded in the laws of brotherhood (*ḥuqūq al-ukhuwwah*), which have three tiers: the universal tier is brotherhood in *Ādamiyyah*, next is brotherhood in *Ibrāhīmiyyah*, and third is brotherhood in *Muḥammadiyyah*. Islamic law and morality define the laws in each tier.

Brotherhood in *Ādamiyyah* affirms that Adam—the first human and the first messenger of God, who descended from paradise to earth—is the father of all humanity; thus all human beings across time are brothers in *Ādamiyyah*. Other terms for this tier include brotherhood in substance (literally, “brotherhood in ash,” *al-ukhuwwah fī al-tīn*) because all human beings are created from soil.

Brotherhood in *Ibrāhīmiyyah* asserts that Prophet Abraham is the father of the prophets of Judaism, Christianity, and Islam and that Muslims share a common spiritual genealogy as well as commonalities in faith, law, and morality with Jews and Christians.

Brotherhood in Muḥammadiyah acknowledges the Prophet Muḥammad صلى الله عليه وسلم as the spiritual father of the ummah, the global Muslim community. The Qur'an declares that all believers are brothers and sisters and that the criteria for nobility and superiority are God-consciousness, piety, integrity, and virtue (taqwā). In addition, the Prophet Muḥammad's ummah has two groups: those who have already accepted his call and those still being called upon—Muslims comprise the first group, and the rest of humanity comprises the second.

Finally, there is also a cosmic tier: brotherhood in being. All beings, including human beings, form a family—which we can call nature, or the universe—and exist in both the physical and metaphysical worlds. This unitive perspective guides our relationship with the natural world, which is particularly important for environmental ethics.

## **The Law of Universal Brotherhood**

Throughout history, when Muslims encountered diversity from other religious communities and from minorities under their rule, they relied on the Ādamiyyah paradigm to guide them so they could live in harmony amid the diversity. Then came a long eclipse of that concept under exclusionist ideologies, so now Muslims must aim to revive the Islamic legacy of an open civilization grounded in Ādamiyyah to contribute to peace and justice in the world.

To rediscover their heritage, modern Muslims must familiarize themselves with classical Islamic terminology for the rights of the ādamīs in Arabic, which we today call human rights. These rights include the inviolability of ādamīs ( *īsmat al-ādamiyyīn*), the sanctity of ādamīs (*ḥurmat al-ādamiyyīn*), and the dignity of ādamīs (*karāmat al-ādamiyyīn*).

These rights are also called *ḍarūriyyāt*, or *al-ḍarūrah al-shar'iyyah*, which can be glossed as the axiomatic principles of law, as well as *al-kulliyyāt al-shar'iyyah*, or universal principles of law. In other words, classical Islamic literature employs various terms to denote the rights that accrue to all human beings simply on the basis of their humanity. More specifically, this category of rights includes the following six rights:

1. the right to inviolability of life ( *īsmat al-nafs* or *īsmat al-dam*)
2. the right to inviolability of religion ( *īsmat al-dīn*)
3. the right to inviolability of property ( *īsmat al-māl*)
4. the right to inviolability of freedom of expression ( *īsmat al- aql*)
5. the right to inviolability of family ( *īsmat al-nasl*)
6. the right to inviolability of honor ( *īsmat al- ird*)

This raises the question of whether Muslims should be responsible for protecting the rights of all human beings, without exception, or only of citizens in Muslim polities. Islamic law forwards two major approaches. The majority of Muslim jurists, including the Hanafi, Maliki, and Hanbali scholars as well as some Shia scholars, commonly concur that Muslims are

obligated to protect the rights of all human beings in the world (al- ísmah bi al-Ādamiyyah). In contrast, the second approach comes from Shafi'i scholars, who coalesce around the more limited notion that Muslims are responsible for protecting the rights only of citizens in Muslim polities (al- ísmah bi al-īmān aw bi al-amān). For Shafi'i scholars, the right to inviolability arises from shared faith or from a covenant with a Muslim authority for protection.

The major jurisprudential difference manifests itself in the question of the universal applicability of Islamic law. The majority of Muslim jurists consider Islamic law universal, and they assert it adjudicates the rights and duties of all human beings, regardless of their religion and citizenship. Again, the Shafi'i school differs and argues that Islamic law adjudicates only for the citizens of the Muslim polity, which includes adherents of the Abrahamic religions, known as People of the Book (Ahl al-Kitāb).<sup>1</sup>

The first school of thought, represented by the Hanafis, Malikis, and Hanbalis, aligns with the school of Ādamiyyah, and the second school, represented by the Shafi'is, aligns with the school of Ibrāhīmiyyah. The first school grants rights universally to all the children of Adam, regardless of their religion or citizenship, while the second school grants rights only to the followers of Abrahamic religions who are citizens of a Muslim polity. These two positions about rights in Islamic law are comparable to the division in modern jurisprudence between advocates of universal human rights and advocates of constitutional or civil rights within a nation.<sup>2</sup>

Jurists from the Hanafi, Maliki, and Hanbali schools stated how they viewed the relationship between Ādamiyyah and human rights in their works. For example, eleventh-century Hanafi scholar al-Sarakhsī (d. 1090 CE) explained the view of his madhab on universal human rights as follows:

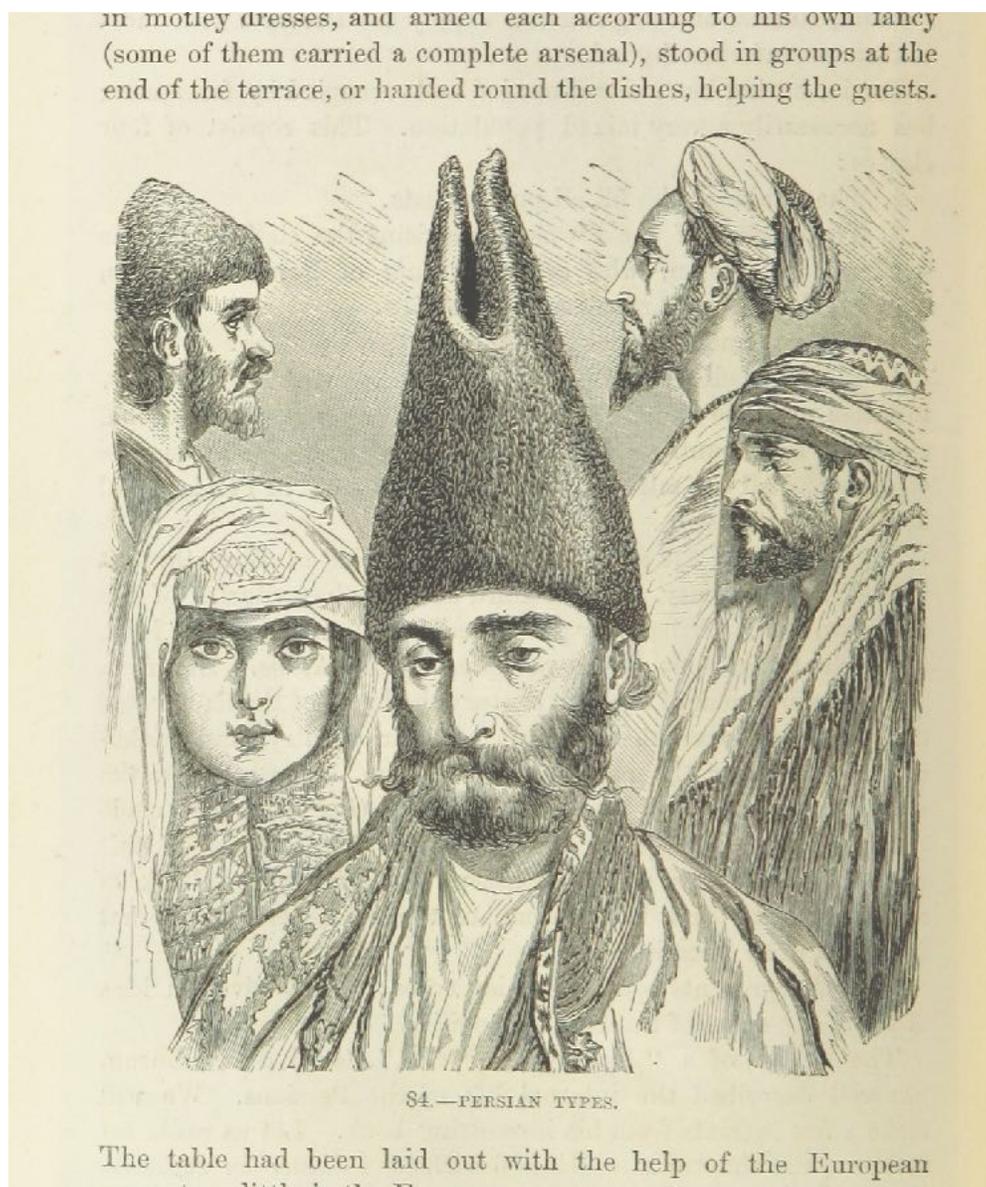
*Upon creating human beings, God graciously bestowed upon them intelligence and legal personality with accountability (dhimmah). This was to make them ready with these qualities to get obliged to fulfill the rights of God. Then He granted them the right to inviolability, freedom, and property to let them continue their lives in such a way that they can perform the duties they are burdened with as part of the divine trust. Then these rights to carry the divine trust, freedom, and property exist with the human being at his birth. The insane/child and the sane/adult are the same concerning these rights. This is how the proper personhood with accountability is given to him at birth in order for God to firmly assign him with the rights and duties.*<sup>3</sup>

Al-Sarakhsī describes inviolability for all children of Adam as the natural, fundamental case (al- ísmah li al-ādamī aśl).<sup>4</sup> In other words, inviolability is the de facto case unless a valid cause negates it. He likens the state of inviolability for humans to the state of health, which is the natural case unless sickness occurs, or the state of life, which is the natural state until death occurs.

Ibn Ābidīn (d. 1836 CE), the famous Hanafi jurist, stated that “a human being has legal sanctity (karāmah), even if he is non-Muslim.”<sup>5</sup>

Al-Maydānī (d. 1881 CE), also a Hanafi jurist, wrote that a free person is inviolable by virtue of his existence (“Al-ḥurr ma sūm bi nafsih”).<sup>6</sup> Ibn Māzah wrote: “Al-Ādamī muḥtaram ḥayyan wa mayyitan,”<sup>7</sup> which means a human being has inviolability (ḥūmah) whether alive or dead.

Abū Abd Allāh Muḥammad Aḥmad Alīsh presented the Maliki view on universal human rights as follows: “A land in which the rights of God are violated is preferred over a land in which humans are violated [in their rights].”<sup>8</sup>



*(An image taken from an 1872 monograph on the human race by Guillaume Louis Figuier / Wikimedia Commons)*

Alā' al-Dīn al-Mardawī (d. 1480 CE) demonstrated the Hanbali view on universal human rights with the following statement: “Violation of the divine rights disappears with repentance, but the violation of human rights disappears with removing the traces of injustice.”<sup>9</sup>

It is commonly known that Islam grants freedom of religion and equal fundamental human rights to the People of the Book, who follow Abrahamic religions. Lesser known is how Islam treats people outside the Abrahamic religions, such as Zoroastrians, Buddhists, Hindus, pagans, and so on. Tareq Sharawi, in his doctoral thesis, demonstrated that the Hanafi, Maliki, and Hanbali views converge with respect to the universal human rights granted to all people, regardless of their Abrahamic status. Sharawi studied the experiences of Hindus and Buddhists under Mughal rule in India, Zoroastrians in Iran, and the pagans in Mauritania who lived under Muslim rule, and he showed that these minority communities enjoyed fundamental human rights under the Ādamiyyah paradigm for many centuries.<sup>10</sup>

### **Does Islamic Law Protect Those Who Deny Islam?**

These universalist statements about human rights for all people, even those who deny the final religion of God (Islam), His final messenger (Muḥammad), and His Book (the Qur'an), raise important questions: Why did God and the Prophet Muḥammad صلى الله عليه وسلم grant freedom and human rights to those who denied them? Why does Islamic law protect those who denied Islam?

The answers lie in the Islamic understanding of the reasons behind the creation of the universe and its inhabitants, and of paradise and the hellfire. God's creative act is designed to test human beings and their conduct on earth and to eventually reward or punish each individual, but they can only be held accountable for their conduct if they enjoy complete freedom and the right to inviolability. Only free actors deserve rewards for choosing right actions over wrong actions. Likewise, only free actors deserve punishment for wrong actions chosen when right actions are possible. Without complete freedom, paradise and the hellfire would be meaningless for humans.

Consequently, Islamic polity and law seek to create an environment of freedom and inviolability where individuals make free choices so they can meaningfully be held accountable for their choices by God in the hereafter. Islamic law uses power to enforce laws to protect the six human rights identified above. It does not use force to regulate people's faith and their relations with the Almighty God. However, the Qur'an and the hadith of the Prophet Muḥammad صلى الله عليه وسلم criticize the superstitious faith and unjust practices of other traditions and present persuasive arguments so all humans may choose to accept Islam of their own free will.

Muslims have always approached their fellow humans from the perspective of brotherhood, viewing them as either brothers in Ādamiyyah or brothers in Ibrāhīmiyyah. This perspective, which classical Islamic moral, moral, legal, and political literature outlines in detail, guided

Muslim civilization over a large region, extending from India to the Balkans and Africa. As Ibn Khaldūn argues, the future is more like the past than the similarity of water to water. At their best, Muslims cultivated an open civilization and managed diversity based on brotherhood in Ādamiyyah, Ibrāhīmiyyah, and Muḥammadiyyah. Muslims—if grounded in their classical political tradition and rooted in Islamic jurisprudence—have the tools to offer this spirit of unity once again to the world. Thus, the growth of Islam in Western societies should be seen as an opportunity for the sustainability of diversity in the world.

## Endnotes

1. The accepted view among the Shafī‘ī scholars, as related by Abū al-Ma ālī al- Juwaynī, is that the natural and first qualifier for inviolability is to be a Muslim (īmān). With regard to the status of non-Muslims, the Shafī‘ī position on the acceptance of jizyah becomes key; the Shafī‘ī saw payment from a community of non-Muslims as akin to consigning them the status of dhimmah, hence incorporating them into the fabric of the Muslim political unit with all the protection of rights this inclusion entails. See Abd al-Malik b. Abd Allāh Juwaynī, *Nihāyat al-maṭlab fī dirāyat al-madhhab* (Jiddah, Saudia Arabia: Dār al-Minhāj, 2007), 12248. In *Al-Umm*, Imam al-Shāfi ī explains his position that jizyah can only be taken from the People of the Book, which signifies approving their residence and religious practices in the abode of Islam, which is to be protected within the capacity of this covenant with the Muslims. See Muḥammad b. Idrīs al-Shāfi ī, *Al- Umm* (Beirut: Dār al-Ma rifah, 1990), 4182, 4252.
2. Tareq Sharawi writes: “The position of Shāfi ī discernably distinguishes between the existence of inviolability of human beings in general, and the permission to engage in fighting against them. Although the de facto status for non-Muslims is not inviolability according to this position, it still does not mean violability. The absence of ísmah does not suggest that the Muslim army has an unconditional permission to engage in military action even against an opposing army of non- Muslims of any Abrahamic or non-Abrahamic affiliation. There still remains a restriction to fight them until they are properly offered da’wa, and reject it, only in which case fighting becomes permissible.” See Sharawi, “How Does Islam Treat People outside the Abrahamic Religions? Between Ādamiyyah and Ibrāhīmiyyah” (PhD thesis, Ibn Haldun University, 2020).
3. Abū Bakr al-Sarakhsī, *Uṣūl al-Sarakhsī* (Beirut: Dār al-Ma rifah, 2004), 2334.
4. *Al-Sarakhsī*, 2344.
5. Ibn Ābidīn, *Radd al-muḥtār alā al-durr al-mukhtār* (Beirut: Dār al-Fikr, 1966), 558.
6. Abd al-Ghanī al-Maydānī, *Al-Lubāb fī sharḥ al-kitāb* (Beirut: Al-Maktabah al-Ilmiyyah), 4128.
7. Maḥmūd b. Aḥmad b. Māzah, *Al-Muḥiṭ al-burhānī fī al-fiqh al-Nu mānī* (Beirut: Dār al-Kutub al- Ilmiyyah, 2004).

8. Abū Abd Allāh al-Shaykh Muḥammad Aḥmad Alīsh, *Fath̄ al- Alī al-Mālik fī al-fatwā alā madhhab al-Imām Mālik* (Beirut: Dār al-Ma rifah), 1375.
9. Alī b. Sulaymān al-Mardāwī, *Tahrīr al-manqūl wa tahdhīb ilm al-uṣūl* (Doha: Ministry of Endowments and Islamic Affairs, 2013), 114.
10. Sharawi, “How Does Islam Treat People outside the Abrahamic Religions?”

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The logo features a large, black, brush-stroke style circle on the left. To its right, the text "CAUX ROUND TABLE" is written in a teal, sans-serif font, and "FOR MORAL CAPITALISM" is written in a black, sans-serif font below it.

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