

Book Review: The Right to Education, Work and  
Welfare in Islam (Fundamental Rights and Liberties in  
Islam Series) by Mohammad Hashim Kamali, Islamic  
Texts Society (2011)

UMAR F. MOGHUL<sup>†</sup>

I. SUMMARY

The still prevailing financial and economic crises throughout much of the world certainly make the subjects of the rights to education, work, and welfare very relevant. Notwithstanding the global financial climate, what Islam has to offer to this discussion, as the Muslim (and other parts of the) world grapple with the development of more representative governments, is particularly important.

Kamali begins Chapter One with a discussion of the right to education, presenting relevant Qur'anic and Sunnaic texts — the sources of Islamic law. He notes that “[k]nowledge thus acquires a spiritual dimension in Islam and becomes a means to salvation of the soul and attainment of felicity in this life and the hereafter.”<sup>1</sup> These sources, Kamali contends, employ a holistic approach, speaking not only to the importance of religious knowledge but to knowledge of this world, such as the scientific, as well. He proceeds to briefly assess public education in the Muslim world and its lack of focus on critical thinking and analysis as well as the duality between the religious and the secular that unfortunately persists therein. Kamali answers the question of whether there exists a right to education in Islam affirmatively by addressing those upon whom providing an education is obligatory and impressing upon the reader that this is a right of women as much as it is of men. He closes the chapter by arguing for more effective contemporary educational institutions mirroring in principle those of the past, setting forth an argument for a broad right to academic freedom in Islam, and providing a discussion of the general congruence among Islam, science, and rationality.

Chapter Two tackles the subject of the right to work as well as business ethics. Similar to Chapter One, Kamali begins by presenting the various Qur'anic and Sunnaic texts of relevance as evidence for the right to work. Kamali demonstrates that the concept of work is closely related to

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<sup>†</sup> Umar F. Moghul is an international corporate and finance attorney, with a focus on Islamic finance and investment. He also teaches Islamic law as well as Islamic finance as an adjunct faculty member at the University of Connecticut School of Law.

<sup>1</sup>Mohammad Hashim Kamali, *The Right to Education, Work and Welfare in Islam (Fundamental Rights and Liberties in Islam Series)*19 (2011).

the concept of performing good religious deeds (in Arabic, ‘amal). Work that is acceptable under Islamic law (excluding the illegal; for example, prostitution) is encouraged, if not required, and the government plays a significant role in creating a marketplace with ample, socially beneficial opportunities and actors. Succeeding subsections take up the various subjects of fair trading, business ethics, child labor, rights and duties of both employers and employees generally (e.g., fair wages and work place conditions), workplace accidents and liability, and worker’s associations. Two other sections of this Chapter address the question of whether a Muslim may be employed in a non-Muslim government and the right to work for women. The former is described as legally permissible, if not legally recommended or required in certain situations, to help minimize oppression, injustice, and evil generally in those contexts in which effectuating positive change is possible. With respect to the latter, Kamali generally affirms that women have a right to work, to the wages they earn, and of financial independence. There may be instances in which a woman, as a mother, is obliged to devote more of her energies to motherhood and other instances in which she may be obliged or recommended to work for the welfare of community or her family depending on contextual particulars.

The third and final chapter of this work discusses the right to welfare. Affirmative evidence in the Qur’an and Sunnah support the notion that individuals have a right to assistance from public funds as a component of the right of individuals to live an honorable and dignified life. This right becomes “seriously compromised” in the face of “crushing poverty and degradation,”<sup>2</sup> both of which not only eat into material well being but into spiritual and moral integrity as well. Kamali then presents a brief historical sketch of the welfare provided in early Muslim communities before proceeding into a lengthier discussion of the obligation upon the state to guarantee social and economic justice for its citizens. In particular, this would include inter alia food and drinking water, shelter, clothing, healthcare, education, assistance with the costs of marrying, transportation, fixing of minimum wages, and the prohibition of usury. An Islamic state may also have the ability to tax “the rich” in order to effectuate the purposes of the law — namely the protection and preservation of religion, life, property, human intellect, and progeny. In this regard, Kamali also takes up the subject of “sufficiency” and minimum dignified living standards from both classical and contemporary Islamic legal perspectives. The concept of family support or welfare, inheritance and bequest, legally required almsgiving (in Arabic, zakah) and other charitable giving, the public treasury, as well as land and poll taxes among others are also addressed.

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<sup>2</sup> *Id.* at 192.

## II. REVIEW

Each of the three chapters begins with a presentation of affirmative evidence in the sources of the Shari'ah. It goes without saying that Kamali's assessment of these textual sources, as with any other, depends in part on his overall understanding of the religion. Some understandings emphasize certain political or economic aspects of the faith, while others focus upon matters of ritual worship. Kamali's periodic inclusion of spiritual and moral concerns within a legal discussion, such as his at length inclusion of business ethics, per al-Ghazali (d. 1111 C.E.), is quite welcome. But his quick dismissal of the determination by al-Ghazal that certain worship (in Arabic, 'ibadah) is preferable to earning (in Arabic, kasb) as a mere consequence of the latter's spiritual practice or Sufism does little to recognize al-Ghazali's standing as a jurist.

The discussion of academic freedom is strong but would benefit from some comments on which person or body would assess any restrictions thereon. Kamali states that "corrupt and misleading ideas and doctrines that are prejudicial to human welfare,"<sup>3</sup> must not be tolerated, but he does not address who is to make such a determination and why nor does he address the consequences of violating such a restriction.

The following subsection concerning science and rationality is oddly placed in a chapter speaking to the right to education — unless there is a concern that either science or religion might not be taught due to a particular educational paradigm. At the least, this discussion would have likely been enhanced by a historical overview in which the absence of a chasm between science and religion, either theoretically or otherwise, in Muslim cultures and civilizations, is presented.

Kamali often utilizes custom in his discussions and does so with respect to arguing how sufficient living standards should be assessed, needs measured, and fair wages determined. But one wonders what comes to be if in a particular society prevailing customs have become so skewed and so violative of Shari'ah as to be unreliable and unusable in an Islamic legal discourse. Here, I am not concerned with obvious, outright contradictions with the Shari'ah, such as extra marital sexual relations, but in those cases where the Shari'ah does not set forth a quantitative bright line standard. For instance, as is the case today even in many "developed" nations, the gap between the rich and poor is seemingly ever widening. How does that impact the assessment of what is sufficient for dignified living standards?

Lastly, Kamali's discussion of inheritance is informative and a helpful addition to the literature in English. He takes on the subject of why, in certain instances, a male might receive double the share of a similarly situated female. He notes properly that such a distinction is not based on

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<sup>3</sup> *Id.* at 68.

gender per se, but exists because of the financial obligations placed on such male that are not placed upon such female. Such a ruling must be maintained as the general rule because its effective cause and rationale are not presently universally absent. Yet, as a general rule, it is subject to exception by way of the flexibility which is inherent in Islamic jurisprudence so that another division, as determined on a case by case basis, might be more just.

As with other of Kamali's works, this book provides an abundance of information on a number of highly relevant subjects important both theoretically and practically. The information is provided from both classical and contemporary Islamic legal perspectives, and as such serves as a highly useful resource. As with certain other works in this series of fundamental rights in Islam, this is a work best viewed as a foundational volume initiating further research. From it ought to proceed a more contextualized approach, assessment, and application of the principles and norms therein.