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## Islam and Elder Care in Egypt after the Arab Spring Uprisings Between Divine Law and Secular Law: *Quo Vadis?*

### Abstract

An accurate and thoughtful understanding of the Islamic perception of the essential rights of elderly Muslims that considers the substantial contemporary fluctuations and adaptations of their cultural, economic, social, and emotional necessities, evolutions, and renovations calls for attention to Shari‘a (Islamic) principles and religious norms.

**Keywords:** Muslim elderly rights; elder care; Egypt; Shari‘a; Arab Spring.

Worship Allah (God) and join none with Him (in worship); and do good to parents.<sup>1</sup>

### 1. Introduction and Overview

An accurate and thoughtful understanding of the Islamic perception of the essential rights of elderly Muslims that considers the substantial contemporary fluctuations and adaptations of their cultural, economic, social, and emotional necessities, evolutions, and renovations calls for attention to Shari‘a (Islamic) principles and religious norms.<sup>2</sup> It should be noted that a socio-cultural framework based on Islamic ideals is considered a crucial feature of Arab and Middle Eastern regions in the shaping of their political and legal support systems.<sup>3</sup> In light of Islamic philosophies and code of ethics, the family remains the keystone for the sustenance of the elderly; placing the elderly, especially parents, in nursery homes or similar places is prohibited, as it represents a direct transgression of the divine *Law of God*.<sup>4</sup> However, family unity cannot be assumed to be secure, given the new demographic and economic realities.<sup>5</sup> Islam is more than a faith, and has more than divine significance in Muslim lives.

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<sup>1</sup> *The Holy Qur’an: English Translation of the Meanings and Commentary* (2002), at 4:36 [An-Nisaa’], <http://www.muslim.org/english-quran/quran.htm> [hereinafter *Qur’an*].

<sup>2</sup> Sibai, Yamout, 2012: 63-64.

<sup>3</sup> Sibai, Yamout, 2012: 63-64; Clemetson, 2006.

<sup>4</sup> In this regard, Mahmood, 1989: 33 defines the Muslim family as follows: ‘A Muslim family primarily includes the self, the spouse and the immediate ascendants and descendants—the position of none of these constituents being within the intergenerational roles prescribed by Islam, the elderly hold a place of honor. . .’.

<sup>5</sup> Wood, 1999: 457.

It includes a social command, one in which belief is reflected in behaviour that follows the Islamic code of conduct.<sup>6</sup> Familial and societal affairs, comprising the privileges and duties of parents, children, and elder care, have largely been guided by the *Qur'anic* texts, furthered in the *Sunnah* (Prophet Mohammad's teachings), and in the views of Muslim *juriscounsults* (Islamic jurisprudential scholars).<sup>7</sup>

Islamic norms introduce an amplified awareness of the constructive value of the elderly, and the possibilities inherent in maintaining a positive atmosphere within the environment of the ageing, while also preserving their self-esteem, safety, balance, and societal rapport.<sup>8</sup> As such, the Islamic perspective regarding the elderly lends itself to an operative and synergetic correlation between the elderly and the general public, while reducing and preventing inactivity, segregation or social detachment.<sup>9</sup> Additionally, Islamic law is at the centre of legislation, providing most of the social values applied by Arab administrations and guiding social activism dedicated to the care of the elderly.<sup>10</sup> Yet, remarkable variety exists across the individual nations, a diversity that mirrors dissimilarities in political systems, natural and economic resources, cultural traditions, demographic and socio-political primacies, and most recently, the geopolitical implications of the revolutionary waves of the regrettable 2011 Arab Spring.<sup>11</sup> Such multiplicity has prompted a variety of attitudes and forms of estrangement from the classical family pattern, resulting in alterations in the field of elderly care, affected by three superseding features of the Arab region:

- a. Islamic principles, moral and cultural standards, impacting major societal domains, particularly marriage, co-residence, reproduction and rearing;
- b. Innovation and socio-economic developments with the resulting outcomes of social change and amplified permanence, including the exertion of better control over chronic disease;
- c. Conflicts, wars, and the political turmoil or chaos in this region, generating discriminatory policies in some settings and pushing youth to migrate.<sup>12</sup>

In this domain, the Muslim community has a straightforward social hierarchy that places elders at the top, as they are highly valued, not only because they are a source of wisdom and experience, but also because of their special status in the eyes of God.<sup>13</sup> Hence, they are highly esteemed, and their views and wishes are heeded and accommodated when possible.<sup>14</sup> Under Islamic elder law, it is mandatory for Muslims to show reverence at all times when cooperating with elders, especially if they

<sup>6</sup> Mahmood, 1989: 42 note 5.

<sup>7</sup> For further explanation on Islamic law's concept and its sources, Bassiouni, Badr, 2002:138-139; El Fadl, 2014.

<sup>8</sup> Mahmood, 1989.

<sup>9</sup> Sibai, Yamout, 2012. This raises and provokes positive expressive states, strengthens a sense of responsibility towards parents, validates deep acknowledgement of parent care, and grows feelings of loyalty.

<sup>10</sup> Islam offers normative social values that exist in accordance with families' perceptions and sustain positive interfaces of mutual interest to both families and civic society towards the treatment of the ageing.

<sup>11</sup> Gerges, 2013.

<sup>12</sup> Sibai, Yamout, 2012. See also Mallat, 2009 which provides an introduction to the laws of the Middle East, defining the term 'Middle Eastern law,' dwelling on Islamic law as the 'common law' of the Middle East by examining legislative reform in family and elder laws and the women's status in the current legal system.

<sup>13</sup> Clemetson, 2006. See generally Gaspar, 2007.

<sup>14</sup> Al-Sheha, n.d.: 'The application of the individual and social principles of the third trend, when guided by the perfect revealed law from Allah in the *Qur'an* and *Sunnah*, will definitely make humanity happier and more prosperous. [A]pplication of these principles will enable the society to achieve peace and security'.

have a familial relationship. Culturally, families are led by the eldest male or female, who has the final decision on important family decisions, and exercises a great deal of influence.<sup>15</sup> An Islamic religious perspective sheds light on societal value systems and ethical rules, thus confirming that faith and ethics play an important role in senior care.

Based on this succinct backdrop regarding the interconnection between Islam and elderly care, this article examines what Islamic elder and human rights laws propose for the needs of the elderly. Part one briefly reviews theological concepts (discourse) on ageing and old age. Part two discusses the maintenance of the elderly (parents) and their essential rights according to Islamic theory. Part three highlights an action plan (or model) for the future regional strategy on treating the elderly in Muslim countries where positive law fails or otherwise cannot insure the basic care required by Islamic law, and by vital international human rights instruments. This section will track how *Shari'a* law and reasoning in this arena can be a more fruitful alternative. Finally, the paper offers conclusions on how the axiomatic view of Islamic elder law is, in essence, fashioned by religious theories, laws, and divine practice, via a critical discussion of these Islamic principles. Ultimately, I will contend that Islam constitutes an appropriate and comprehensive design for the care of elderly people, so much so that national statutes should strive to meet its criteria.

## 2. Legal Responsibility for Elder Care in Islamic Law and Arab Law

The *Qur'an* provides a set of ethical terms which are 'among the (precepts of) wisdom, which thy Lord has revealed to thee'.<sup>16</sup> As Professor Solomon Alexander Nigosian has highlighted, 'these resemble the *Ten Commandments* in the Bible and represents the fullest statement of the code of behaviour every Muslim must follow'.<sup>17</sup> One of the main teachings in this respect is to be kind, moral, and modest to one's parents, as the *Qur'an* text stipulates plainly:

Thy Lord hath decreed that ye worship none but Him, and that ye be kind to parents. Whether one or both of them attain old age in thy life, say not to them a word of contempt, nor repel them, but address them in terms of honour. Thy Lord hath decreed, that ye worship none save Him, and (that ye show) kindness to parents. If one of them or both of them attain old age with thee, say not 'Fie' unto them nor repulse them, but speak unto them a gracious word. And your Lord has commanded that you shall not serve (any) but Him, and goodness to your parents. If either or both of them reach old age with you, say not to them (so much as) 'Ugh' nor chide them, and speak to them a generous word. And, out of kindness, lower to them the wing of humility, and say: 'My Lord! Bestow on them thy Mercy even as they cherished

<sup>15</sup> This area of research would be of advantage to scholars, chiefly health specialists, therapists, and social workers on cultural, ethical, and religious values revolving around the treatment of elderly parents. Current studies show that religiosity training can have a profound influence on the psychological well-being of the elderly, and results in decreasing some depressive symptoms, an overall improved quality of life, and reduced rates of aggression and rebelliousness.

<sup>16</sup> *Qur'an*, at Al-Israa, [17:22]. It reads: 'Take not with *Allah* another object of worship; or thou (O man!) wilt sit in disgrace and destitution. Set not up with *Allah* any other god (O man) lest thou sit down reprov'd, forsaken. Do not associate with *Allah* any other god, lest you sit down despised, neglected'.

<sup>17</sup> Nigosian, 1987:117. Professor Nigosian is an Egyptian/Canadian Theological professor and was a minister of the Armenian Evangelical Church and a member of the Armenian community in Toronto. For further information, see [http://library.vicu.utoronto.ca/collections/special\\_collections/f43\\_solomon\\_alexander\\_nigosian](http://library.vicu.utoronto.ca/collections/special_collections/f43_solomon_alexander_nigosian)

me in childhood'. And lower unto them the wing of submission through mercy, and say: My Lord! Have mercy on them both as they did care for me when I was little . . .<sup>18</sup>

Generally speaking, Islamic law as a spiritual and socio-legal order is founded on justice and compassion, and grants human dignity and egalitarianism among people irrespective of their faith, religion, language, colour, social status, race, sex, cultural values, or origin. Islam outlaws discrimination and *xenophobia* and this is confirmed by various *Qura'nic* manuscripts and the Prophet Mohammad's teachings.<sup>19</sup> Muslim scholars have argued that Islamic elder law, as fashioned within various ideologies, focuses on respect and honour of the elderly, as there is no doubt that *Šhari'a* has given the elderly a special status. This follows from several concepts, including: (a) humans are honoured creatures and have an honourable status in Islam as stipulated by God's law;<sup>20</sup> (b) the Muslim *ummah* (community) is the society of *maslahh muresalahh* 'common consideration' of public interest and is a subordinate source of Islamic law, cooperation, and unity; as the Prophet Mohammad said: 'None of you truly believes until he loves for his brother what he loves for himself';<sup>21</sup> (c) ageing beings have a high position and prestige before God if they obey God's commandments, as Mohammad (PBUH) asked: 'O Messenger of God, who is the best of people?' He said, 'The one who lives a long life and does good deeds';<sup>22</sup> (d) respecting and glorying older individuals, as he also said: 'Part of glorifying God is honouring the grey-haired Muslim,'<sup>23</sup> and (e) conducts in which a Muslim takes care of the elderly, such as enjoining good action and decent treatment to parents, who are usually elderly, and the command to honour one's parents is accompanied by the command to *tawheed* (believe) in God along with blessing one's parents' friends even after the parents have passed away.<sup>24</sup> Unlike Western (non-Muslim) communities, this last command represents one of the main doctrinal and divine principles of Islamic elder law; when members of the Muslim community visit the family's ageing friends, they are thereby included in socio-historical continuum within society, putting an end to any seclusion they may feel, which in turn moderates influence of the emotional, social, and mental changes that the elderly go through.<sup>25</sup>

Thus, based on the notion of the 'duty' paradigm in Islamic law, God asks that we not only pray for our elderly parents, but act with infinite sympathy, and treat them generously, modestly, and mercifully, with kindness and selflessness. Serving one's parents and the community elderly is the

<sup>18</sup> *Qur'an*, at [17:23 & 24].

<sup>19</sup> Elsaman, 'Arafa, 2012: 9-12.

<sup>20</sup> *Qur'an*, at Al-Israa, [17:70].

<sup>21</sup> *Qur'an*, at al-Fath, [48:29] & [al-Balad 90:17-18]. In the same vein, the Prophet said: 'The likeness of the believers in their mutual love, mercy and compassion is that of the body; if one part of it complains, the rest of the body joins it in staying awake and suffering fever'. Sahih Muslim, *Hadith* No.2586 & Sahih Al-Bukhari, *Hadith* No.13 (describing the believers as being like a single body).

<sup>22</sup> See Sahih Al-Tirmidhi, *Hadith* No. 1899 and See also, *ibid.*, at Sahih Muslim, No. 2682.

<sup>23</sup> Sunan Abu Dawood, *Hadith(s)* Nos. 4843 and 4053. It has been reported that an old man came wanting to see the Prophet and the people did not make way for him. The Prophet said: 'He is not one of us who does not show mercy to our young ones and respect our old ones'. *Ibid.*, at Al-Tirmidhi, No. 1565.

<sup>24</sup> *Ibid.*, *Qur'an*, at [17:23]. Further, it has been reported that the Prophet asked 'Which deed is most beloved to God?' He said, 'Prayer offered on time'. He said, 'Then what?' He said, 'Then honoring one's parents'. *Ibid.*, at Sahih Al-Bukhari, *Hadith* No.527. Also, the Prophet reported: 'Part of honoring (one's parents) is to keep in touch with your father's friend'.

<sup>25</sup> Chaulk, 1994: 7-19.

second duty in Islam and so it is their right to expect this kind of treatment.<sup>26</sup> In this respect, Islamic elder guidelines teach that elders should be treated with a sense of responsibility, leniency, and particular care, courtesy, and respect, as explicitly outlined in the *Qur'anic* verses and the *Sunnah* views, which define this behaviour as a moral and religious obligation.<sup>27</sup>

In addition to these main principles, Islamic law emphasizes that the *Qur'an* defines and condemns elder abuse and confirms that blessing and respecting one's elder parents brings God's mercy as a most beloved act to him. Violating this duty is a major *ithm* or *zanb* (sin) (and curse from the Prophet), as *Shari'a* elder law decrees that the abuser of the elderly is not among the believers.<sup>28</sup> In the same vein, some scholars have proposed the notion of 'functional age,' in contradistinction to old age, which is typically linked with a noticeable and assessable decline in physical and rational abilities.<sup>29</sup> Hence, the Islamic code of ethics for elder care can be seen to have a *humanistic* and *universal* perspective; and a comprehensiveness in matters of human life.

It has been reported that the Prophet said, 'If a young man honours an elder on account of his age, God appoints someone to honour him in his old age'.<sup>30</sup> Within the intergenerational roles determined by Islamic norms, the elderly hold a place of integrity, and take precedence over *communal* and *supplementary* divine acts. The following section will highlight the focal *religio-legal Qur'anic* and *Sunnah* scripts, specifically defining the elderly's basic rights (parenthood).

Arab nations have taken crucial collective and cooperative actions in the arena of elder rights by inaugurating several bodies committed to cultivating older people's quality of life and status.<sup>31</sup> These institutions believe that older people play an active role in society; they offer quality services to them while raising public, legal, and social awareness of the elderly's needs, so they can remain engaged and active in the surrounding community.<sup>32</sup> The primary goal of these efforts is to assist elders who may be overwhelmed by economic, health, and/or social difficulties and to endorse their social status in

<sup>26</sup> See generally, *Caring between Generations: Islam against Elder Abuse*, Wisdom Global Islamic Mission, 15 June 2014, <http://wisdomislam.org/caring-between-generations-islam-against-elder-abuse/>, last retrieved 28 April 2015: 'Elder abuse is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which cause harm or distress to an old person' says WHO, 2002. It can be of various forms: physical, which may include beating, burning, spitting on, restraining using rope, belts, drugs and other chemicals; emotional, which include verbal and non-verbal behavior affecting self-esteem or dignity; financial, which includes theft, fraud, forgery, extortion sales of assets, wrongful use of power of attorney; sexual, including assault, harassment or exploitation; neglect, which might be the worst of all, includes intentional or unintentional failing to meet the needs; and systematic, which include rules, regulations, policies of discrimination. Various organizations under UN have adopted plans of action to solve the problem of elderly people.

<sup>27</sup> See also 'How Muslims 'Should' Treat Their Parents', *Zaufishan* (3 Nov. 2010), <http://www.zaufishan.co.uk/2010/11/how-muslims-should-treat-their-parents.html>, last visited 28 April 2015.

<sup>28</sup> The *Qur'an*, describes this stage of life as 'infirm old age' while creating the virtual quality of old age regarding divine ruling as found in the reality that some die young while others grow older to acquire wisdom; determined by Divine will..

<sup>29</sup> 'Izzat, 1983: 17. The popular opinion in Islamic law refers in general practice to definite personal phases such as physical faintness, greying hair (being a sign of ascendancy of religious stature), amnesia, and fragility.

<sup>30</sup> 'Izzat, 1983.

<sup>31</sup> See generally Ward, Younis, 2013 which elaborates on the elder care literature of the Arab countries, examines steps toward planning a framework for improving elder health, quality life, training issues, and healthcare in the Arab world via (program assessment and planning), Arab world elder demographics; quality of life issues; demand for services; training issues and capacity).

<sup>32</sup> Ward, Younis, 2013.

society in a rehabilitative way that involves them in family and community life. Another goal is to help the general population to better understand the issues facing senior citizens, offering management and direction to their families, and advocating and campaigning for their rights, endorsing Islamic values for care, human treatment, and maintenance.<sup>33</sup>

Several Arab countries including Egypt, have taken other dynamic steps by issuing numerous international agreements in this field, such as the Cairo Declaration of Human Rights in Islam of 1993 ('CDHR'), the Universal Islamic Declaration of Human Rights of 1981 ('UIDHR'), and the Arab Charter on Human Rights (2004) ('Charter').<sup>34</sup> It should be noted that the UIDHR is based on the *Qur'anic* texts and *Sunnah* instructions, outlining diverse human rights such as the right to life, equality, education, and freedom, [and] proscription against impermissible [racism], justice, and so on. This text is expansive, stipulating and confirming that everyone shall be substantially supported, the elderly in particular shall be provided with the necessary care, [and elderly] mothers are entitled to special respect, care, and support from their families and communities.<sup>35</sup>

The Arab Charter is also aligned with transnational human rights norms and contemporary humanitarian rights jurisprudence. The Charter's preamble states its intent to apply the 'eternal principles' imparted by *Šhari'a* and other 'divine religions'.<sup>36</sup> The Agreement includes general rules on diverse aspects of human rights matters, such as equality, health, work, education, etc., and stipulates that each member country shall 'ensure the necessary protection and care for mothers, children, older persons and persons with special needs'.<sup>37</sup> Unfortunately, the rules of these global pacts on the protection of older people are few, broad, and not comprehensive. Even those accords that refer to *Šhari'a* as the pivotal source of their rules do not guarantee the essential and mandatory rights of the elderly which are so strongly promoted by Islamic standards.<sup>38</sup> This state of affairs represents an enormous gap between Islamic law theoretical principles and their accurate legal [interpretation and] application in each country.<sup>39</sup>

In this regard, several Arabian constitutions and statutes (or by-laws) establish good rules to safeguard older people, but are seen to be frequently misapplied, such as occurs with the Algerian

<sup>33</sup> For example, the Qatar Foundation for Elderly People Care ('IHSAN'), <http://qatarcio.com/organizations/other-organizations/qatar-foundation-for-elderly-people-care-ihsan/>.

<sup>34</sup> Elsaman, 'Arafa, 2012.

<sup>35</sup> See Universal Islamic Declaration of Human Rights, 21 Dhul Qaidah 1401, Sept. 19, 1981, available at [http://www1.umn.edu/humanrts/instree/islamic\\_declaration\\_HR.html](http://www1.umn.edu/humanrts/instree/islamic_declaration_HR.html); Cairo Declaration on Human Rights in Islam, 5 Aug. 1990, available at <http://www1.umn.edu/humanrts/instree/cairodeclaration.html>, and Council of the League of Arab States, Arab Charter on Human Rights, 23 May 2004, at <http://www1.umn.edu/humanrts/instree/arabcharter2.html>, last visited 20 Nov. 2015.

<sup>36</sup> *Ibid.*

<sup>37</sup> See International Bill of Human Rights (A/RES/3/217, 10 Dec. 1948), at Arts. 22 & 25, <http://www.un-documents.net/a3r217.htm> (last visited Nov. 20, 2015). See also Mayer, 1994: 329. In this regard, this bill declares that: 'Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. Everyone has the right to . . . and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control'.

<sup>38</sup> Al-Sheha, *n.d.*

<sup>39</sup> Elsaman, 'Arafa, 2012: 32.

Constitutional Charter and the Algerian Family laws. Mismanagement includes, for instance, a deficiency of residential care services, and poor distribution of those that do exist.<sup>40</sup> For example, the number of residential (nursing) care facilities in Egypt does not exceed 300, which is not adequate to face the needs of the growing elderly population.<sup>41</sup> On the other hand, the current Bahraini Constitution guarantees social security [solidarity] for its seniors nationals by offering them social treatment and health and medical insurance amenities; Bahrain has various employment and social insurance rulings that provide for older people and, a bill on the fortification of the rights of the elderly that would focus on ageing matters has been proposed.<sup>42</sup>

### 3. Human Rights of the Elderly: Sources in Secular Law and Divine (Islamic) Law?

As regards elderly rights, Article 83 of the Egyptian Constitutional Charter 2014 assures ageing rights and specifies ‘appropriate pensions to ensure them a decent standard of living’. This constitutional provision reads:

The State shall guarantee the health, economic, social, cultural, and entertainment rights of the elderly people, provide them with appropriate pensions which ensure a decent life for them, and enable them to participate in public life. In its planning of public facilities, the State shall take into account the needs of the elderly. The State shall encourage civil society organizations to participate in taking care of the elderly people. All the foregoing is to be applied as regulated by Law.

Similarly, another provision within Article 17 cites the following legal and constitutional norm:

The State shall ensure that social insurance services are provided. All citizens who do not benefit from the social insurance system have the right to social security, in a manner that ensures a decent life in the event of being incapable to provide for themselves and their families, as well as in cases of incapacity to work, old age or unemployment. In accordance with Law, the State shall strive to provide suitable pensions to small farmers, agricultural workers and fishermen, and irregular labour. The funds of social insurance and pensions are deemed private funds that enjoy all aspects and forms of protection afforded to public funds. Those funds along with their returns are the rights of their respective beneficiaries; they shall be safely

<sup>40</sup> See People Dem. Repub. Algeria Const., 28 Nov. 1996, at Arts. 29, 31, 50, 51, 54, 55, 56, 59, & 69.

<sup>41</sup> Mayer, 1994.

<sup>42</sup> Const. Kingdom of Bahrain, 14 Feb. 2002, at Arts. 1, 2, & 4. For further debate on the discussion of a law (Protecting Rights of the Elderly), see The National Report Bahraini Human Rights Ministry and Social Development (2009) (discussing the efforts toward elderly issues and the residential care difficulties in Bahrain, along with some legal regulations governing elderly development programs and harsh punishments in case of their abuses), [http://www.microsofttranslator.com/bv.aspx?ref=SERP&br=ro&mkt=en-US&dl=en&lp=AR\\_EN&a=http%3a%2f%2fwww.social.gov.bh%2fnode%2f697](http://www.microsofttranslator.com/bv.aspx?ref=SERP&br=ro&mkt=en-US&dl=en&lp=AR_EN&a=http%3a%2f%2fwww.social.gov.bh%2fnode%2f697), last retrieved 20 Nov. 2015). In addition, Kuwait is considered to be one of the most developed Arab countries to have taken steps to promote elder rights, in part due to its wide-ranging health program providing the elderly with free in-home health services and its [detailed] law regarding their social care.

See ‘Afasy, 2010, <http://www.alraimedia.com/alrai/Article.aspx?id=229596&date=03102010> (citing Law No. 11 of 2007, which establishes the National Committee for the Elderly).

invested, and shall be managed by an independent entity in accordance with the Law. The State shall guarantee social insurance and pension funds.<sup>43</sup>

The rights of the elderly therefore have great importance and enjoy meaningful protection under the Egyptian Constitution and Egyptian domestic laws, within the framework of economic and social justice ideologies, and the reasonable distribution of wealth.<sup>44</sup> Likewise, it should be noted that important legislative measures on elder care rights have been issued by the Ministry of Insurance and Social Affairs ('MISA'), and other official care and solidarity agencies in Egypt. These include: Law No. 79 of 1975 [and its amendments] governing the establishment and operation of social insurance for civil servants, employees in private sector and in public enterprises, Laws No. 64 and 112 of 1980 regulating the operation of alternative social insurance systems under the supervision of the Ministry of Insurance and Social Affairs, social insurance for casual and informal workers, and many others.<sup>45</sup> In addition, Egyptian social insurance regulations govern most social insurance issues and care rights for the elderly and provide retirement pensions (social income), while the Egyptian Labour (employment) Law sets the retirement age at sixty, and controls the employment relationship between employers and employees. Egyptian Inheritance Law regulates elders' inheritance rights according to the Islamic law principles, and *fiqh* (jurisprudential) recognized values.<sup>46</sup>

As a socio-legal system, Islamic values forbid discrimination and bigotry based on belief, religion, language, colour, sex, social status, or any other reason, as fairness, impartiality, and equality standards should prevail in all acts, both among Muslims and non-Muslims.<sup>47</sup> Right to respect and care of the parents is the central commitment of children under Islamic family and elder laws.<sup>48</sup>

<sup>43</sup> Constitution of the Arab Republic of Egypt, 18 Jan. 2014, at <http://www.sis.gov.eg/Newvvr/Dustor-en001.pdf>, at Arts. 53 and 83.

<sup>44</sup> Elsaman, 'Arafa, 2012.

<sup>45</sup> Such as for instance, Law No. 54 of 1975 [and its amendments] on the establishment and operation of occupational voluntary private pension plans in Egypt and their tax treatment (Specific bylaw regulates asset management of pension funds); Law No. 108 of 1976 regulates the creation and operation of a specific model for employers and self-employed-persons, and Law No. 50 of 1978 prescribes regulations governing social insurance for migrant workers and Law No. 61 of 1981 on comprehensive social insurance issues.

<sup>46</sup> 'Arafa, 2016. Islamic (*Sharie'a*) law has its own distinctive processes of identifying and developing legal norms. The role of jurists in framing rules of law is also unusual in Islamic law, in large part because it is both a religion and a means toward establishing a legal and social order in civil and criminal matters. As such, it comprises rules concerning devotional obligations as well as rules that create a comprehensive and integrated guide to all aspects of political, economic, national, and even international affairs. Islamic law has a great influence on the legal and political systems of many countries with mixed Islamic and civil law systems, in particular in the Middle East and in South Asia. Islamic law is, therefore, studied throughout the world, and increasingly seen as a *conditio sine qua non* for the study of law in a comparative context. Since Egypt is a civil law country, the civil written code applies; Islamic norms apply only in inheritance and family issues.

<sup>47</sup> In this regard, Prophet Mohammad said, 'No Arab has superiority over a white person and no white person has superiority over an Arab; no black person has superiority over a white person and no white person has any superiority over a black person. The criterion of honor in the sight of God is righteousness and honest living'. See *Qur'an*, 49:13, at AL-Hujurat & Ahmad ibn Hanbal, *Hadith* No. 24204.

<sup>48</sup> In other words, Islam sets out numerous spiritual, moral, and legal processes to promote just treatment and clemency, replicating indispensable values.

### 3.1. The Right to Respect and Maintenance (Sustainable Care Commitment)

Parents give their children numerous protections. They provide food, shelter, and care to the newly born. In the classic model, the mother sacrifices her comfort to offer comfort to her children, and the father works hard to provide for their physical, educational, and psychological needs.<sup>49</sup> Therefore, it is considered natural that if the parents did all of these things for their children, they are then morally entitled to recompense and reward, especially in their old age, as a form of holistic gratitude.<sup>50</sup> According to the *Qur'an*, God ordered individuals to worship none but *Him* and to be benevolent to parents when they reach old age. Muslims are commanded not to say words of impudence or contempt to their parents, but rather to address them with terms of decency and honour, and to attend them with humility, and out of kindness. By the same token, decent treatment should be extended to elder relatives, orphans, neighbours, companions, and the needy.<sup>51</sup> Muslim scholars have said that 'the caretaking of elderly parents is found to be morally and spiritually uplifting by Muslims'.<sup>52</sup> Some Muslim specialists have discussed a probable relationship between the condition of age-related weakness and the dogmatic philosophies one holds, while others scholars propose that age-related conditions are instead simply a result of frailty of body and mind, as understood in the *Qur'an*.<sup>53</sup> Predominantly, scholars have argued that old age offers the individual an opportunity for self-purification and transformation.<sup>54</sup> This process gives us a basis of knowledge and understanding that caring for ourselves alone is not enough for our ultimate fulfilment; any suffering of others that we can take upon ourselves becomes a salve to mollify and decrease our own attachment to the self.<sup>55</sup> Offering happiness, joy, and merit to others ultimately serves to develop our own well-being.<sup>56</sup>

It should also be noted that the Islamic rules treat the mother and father as equals—with no hesitation—in contrast to some radical Muslim's understandings that favour one parent over the other. The Prophet said 'Curse be on him who finds either of his parents in old age and does not attain eternal bliss by serving them well' and he added in a symbolic warning, 'None else but parents are their children's heaven or hell'.<sup>57</sup> Additionally, Islam forbids Muslims to neglect, or to be rude or vulgar to their elders, even if they are non-Muslims. No maltreatment should come to parents even if they commit excesses, unless they command sinfulness, as they are still parents, they gave birth to their children and brought them up by bearing the same pains and privations met by Muslim parents. In this regard, the social utility and appreciation of the elderly offers a direct advantage to the public

<sup>49</sup> It should be noted that the *Qur'an* 'designs a scheme of material and moral defense for the elderly based on the family structure'.

<sup>50</sup> See e.g., Ahmed, *Rights of Parents*, Haq Islam (Apr. 12, 2009), <http://www.haqislam.org/rights-of-parents>, last visited 30 Apr. 2015.

<sup>51</sup> Elsaman, 'Arafa, 2012: 12-14. Accordingly, children are banned to reproach, belie, reject or cause any inconvenience to their parents, and are also ordered to attend to their manners in addressing other's parents.

<sup>52</sup> Khan, 2003: 196.

<sup>53</sup> *Qur'an*, at [At-tin 95:4-6].

<sup>54</sup> Elsaman, 'Arafa, 2012. It should be noted that during war or times of conflict, the elderly cannot be killed, and prisoners with their distinct position demand kind behavior, according to *Qur'anic* texts and *Sunnah* guidelines.

<sup>55</sup> Rinpoche, 2013.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*, at Sunah Abou-Dawood, *Hadith* No.4884 & Sahih Muslim, *Hadith* No.6189.

community, sustaining daily life through positive involvement, and eliminating the lethargy potentially associated with later age, and the emotional state of vulnerability and hopelessness that can accompany it.<sup>58</sup>

### 3.2. Duty of Obedience to Parents

Parents must be esteemed, loved, obeyed, and gratified by their relationship with their children. This encompasses demonstrating attention, gentleness, and kindness to parents, being dutiful at all times and serving them in all deeds acceptable in *Shari'a*.<sup>59</sup> Piety for parents is an ordinary attitude which must be reinforced through thoughtful and caring activities.<sup>60</sup> If parents need financial assistance, children should give them access to their own funds, sustaining their living costs, even if they are *kafirs* (agnostics/atheists), and provide them the best of their foodstuff and beverage.<sup>61</sup> Old age often makes parents confrontational due to numerous factors, including physical sickness, the effects of medications for diseases and more, but it is the adult children's responsibility to be concerned and understanding. With honourable children, such support should come automatically, without being requested.<sup>62</sup> Accordingly, it is prohibited to cause parents any harm, or behave disobediently, even if parents commit any excesses due to old age or other reasons.<sup>63</sup> In this regard, John Esposito mentions that Islam is almost fanatical with regard to the notion of social equity, and this encompasses interfamilial relations as well.<sup>64</sup> One of Islamic law's major pillars is the theory of *haq* as a societal definition, rather than an individual one (where everybody's rights are definite), and this also extends to bad parenting.<sup>65</sup> A parent who fails to provide for a dependent child, or abuses them physically or emotionally is considered an aggressor—both against the child and against God— thus even disinheriting natural children is not permitted beyond a certain limit.<sup>66</sup> It is a major *ithm* (sin) if anyone misuses or abuses his own or another person's parents.<sup>67</sup> The Prophet Mohammad confirmed this, as has the *ijma'a* (consensus) of the Muslim *Sunni* schools of *fiqh* (jurisprudential thoughts).<sup>68</sup>

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.* It should be noted that Islam bans kids to show anger or even to raise their voices in front of elderly parents.

<sup>60</sup> Elsaman, 'Arafa, 2012: 14-15.

<sup>61</sup> The *Qur'an* offers an excellent example of obedience in the Prophet Ismail. It states, 'he said, 'O my son, indeed I have seen in a dream that I [must] sacrifice you, so see what you think'. He said, 'O my father, do as you are commanded. You will find me, if *Allah* wills, of the steadfast'. *Qur'an*, at [Al-Safat, 37:102-107].

<sup>62</sup> Arshed, 2015.

<sup>63</sup> Syed 2011.

<sup>64</sup> Esposito, 2013.

<sup>65</sup> Esposito, 2013.

<sup>66</sup> This issue relates to the notion of punishment/discipline; enforcing devotion to the rules always carries destructive significance.

<sup>67</sup> The Prophet Mohammad said in one of his teachings, 'Fear *Allah* and treat your children fairly (with equal justice)'. See Sahih Bukhari & Muslim.

<sup>68</sup> It has been narrated that the Prophet said: 'It is one of the greatest sins that a man should curse his parents'. It was asked (by the people), (...!), How does a man curse his parents?' The Prophet said, 'The man abuses the father of another man and the latter abuses the father of the former and abuses his mother'.

Furthermore, numerous privileges are due to parents after their passing, including *dua'a* (requesting from God) and *istighfar* (praying) for forgiveness, pardon, and sympathy for them; sending gifts and rewards to them in the form of altruistic acts of worship (e.g., charities and donations) on their behalf; making regular calls and visits to their friends and relatives during important life moments (e.g., holidays) and helping them wherever possible; resolving any disputes concerning their *diyoun's* (unpaid loans and debts); fulfilling any oaths or promises that they made; and securing the permitted *wasiyyah* and *awqaf* (legacies and endowments either in cash or assets) they have made to anyone in their life.<sup>69</sup>

### 3.3. Financial and Legacy Rights

Islamic law determines an ethical duty for children to provide substantial support for their elder parents when they are in need. Likewise, Islamic law gives parents access to their children's assets, as long as no damage or mischief comes from taking them.<sup>70</sup> In terms of financial obligations, the foremost principle in Islamic elder law is the policy of 'absolute ownership of property'. Customary property privileges contain the right to practice control over one's property, to use it for one's pleasure, and to satisfy rights to it by way of handover.<sup>71</sup> The model of birth rights to familial property, which has been the keystone of some societies, was never documented in Islamic property law, as it is supposed that everything belongs to God.<sup>72</sup>

In addition, under Islamic law of *mirath* (inheritance), both parents are among the primary heirs of their children, and they cannot be excluded by each other or by any other heir.<sup>73</sup> In the major schools of Islamic *fiqh*, it is stated that in the absence 'of the mother, a maternal grandmother becomes the heir and successor, and in the absence of both parents, a paternal grandfather becomes the heir and successor'.<sup>74</sup> The Islamic law of inheritance takes notable care of ageing *blood* relatives by giving them *ansbah* (dividends) in the decedent's assets, even at the cost of extreme division.<sup>75</sup> Furthermore, the *Qur'anic* rules regarding the law of wills guarantee the reorganization of wealth among many individuals, and consequently, the possession of assets tends not to remain concentrated with a sole individual, or to be in the hands of a few for a long period of time—a maximum of one-third of assets (shares) can be given prior to distribution. In other words, Islamic law permits an individual to bequeath up to 1/3 (one third) of his or her estate to whomever he or she wishes, providing the recipients or the beneficiaries are not amongst those who will benefit from the remaining 2/3 (two thirds). Parents have a right to physical and emotional sustenance, regardless of

<sup>69</sup> Asgari, 2012: 580-583.

<sup>70</sup> It has been narrated that: A man came to the Prophet and said, 'My father is taking all my wealth'. He said, 'You and your wealth belong to your father. Your children are among the best of your earnings, so eat from your wealth'. Sunan Ibn Mājah, *Hadith* No. 2380.

<sup>71</sup> Mahmood, 1989: 184-85.

<sup>72</sup> Afzal-Ur-Rahman, 1980.

<sup>73</sup> Ibrahim, 1989: 189: 'While Islam therefore gives the right of benefit, sale and purchase and even inheritance of land to the individual, the absolute ownership of land is given to *Allah* and from Him to the State or the community'.

<sup>74</sup> Elsaman, 'Arafa, 2012: 17-18.

<sup>75</sup> For further discussion about the inheritance Islamic jurisprudence, see generally Awang, 2008.

whether they are followers of Islam, and there is no order of priority between maternal and paternal descendants, with each side having the same rights to maintenance.<sup>76</sup>

### 3.4. Equality and Work Rights

Recent developments in the Islamic world have created an atmosphere that is deeply servile to the elderly. According to the authentic *Sunnah* teachings, the Prophet Mohammad specified that the oldest in a gathering should lead the spiritual prayers if all in the group are equal in their public knowledge and wisdom.<sup>77</sup> Culturally, Arab-Muslim (and non-Muslim) elders are also to be assisted first, even within daily performances, as it is a traditional custom that esteem (e.g., respect) and the best seats are given to them or other notables. Similarly, Islamic labour law has valued the significance of work for everyone, and this is equally the case for the elderly [or senior citizens]. For instance, the Prophet is reported to have said: ‘Nobody has ever eaten a better meal than that which one has earned by working with one’s own hands’.<sup>78</sup>

It should be noted that the only adequate standards of preference in employment are the meritocratic qualifications and credentials an employee holds. One of the most important imperative norms defining work in Islamic law is that occupational affairs are based on *union* or brotherhood interactions, which was clearly confirmed by Mohammad.<sup>79</sup> This means managers and owners should establish sound and sensible working hours, taking the elderly and their health conditions into account.<sup>80</sup> Also, Islam has stringent guidelines on swift payment of fair salaries and incomes, and wages considered to be just should be at least at a level that would permit workers to satisfy all of their and their families’ critical necessities in a humanitarian way; as the Prophet said: ‘Give the worker his wages before his sweat dries up’.<sup>81</sup> Therefore, Islam provides for the right to equal control for elderly males and females in their professions (or service) and in civic participation (society) as confirmed by the *Qur’an* and Mohammad, since women, especially the elderly—as they are described by wisdom of the period—could be present not only in Muslim meetings, but also in debates where problems and issues are argued openly with him, and other men, defending their welfare and basic rights, taking part in policy (and decision) making, and even serving in the army<sup>82</sup>.

<sup>76</sup> Ashraf, 2009, which provides various human rights’ discourse such as elderly parent’s rights and the wet-nurse, neighbor and travelling companion’s rights.

<sup>77</sup> Ahmed, *Social Manners with the Elderly*, Haq Islam (1 Jun. 2010), <http://www.haqislam.org/social-manners-with-the-elderly> (citing Shaykh Abdul-Fattah Abu Ghuddah, *Islamic Manners* (2001)).

<sup>78</sup> See, Elsaman, ‘Arafa, 2012: 24.

<sup>79</sup> Sahih Al-Bukhari, *Hadith* No. 2383; Beekun, 2006.

<sup>80</sup> In other words, Islamic law establishes a just and cordial relationship with employees and labor force. Such a relationship must be based on equality and goodwill; al-Sheha, 2010: 77-79.

<sup>81</sup> Tirmidhi, *Hadith* No.2987.

<sup>82</sup> *Qur’an* at Al-Ahẓāb, 33:35. See, e.g., *Qur’an* 3:195 & 4:1.

### 3.5. Social Justice, Solidarity, Securities, Retirement, and Insurance

Collective action, mutual assistance, and collaboration, are the main divine philosophies and pious norms in which relationships in the Muslim *ummah*, including the elderly, should be based, according to the notion of a harmonious family.<sup>83</sup> With regard to elder care, Islamic law urges Muslims to make their living expenses or income through *shari'ii* or *halal* (legitimate) means, and outlaws some kinds of activities, among them *fasad*, *rashwa*, *istglal al-nfouz* (corruption, bribery, and power's misuse, or peddling in influence), *ribba* (interest), *gharar* (excessive uncertainty), and *ihtikar* (monopoly of essential commodities which are required by the general public at all times).<sup>84</sup>

Generally speaking, according to its notions of social justice and accountability, Islam forbids cheating and trespassing on other people's properties through aggressive or forcible acts. If such actions are committed, it is the role of the state to put things right according to norms of accountability and rule of law.<sup>85</sup> It should be stressed that social solidarity is one of the ideologies that Islam has recognized to empower human beings to lead decent lives; hence, Islam has laid down several systems of religious contributions to achieve social solidarity. To define human social solidarity under Islamic law in terms of subsistence, functioning, development, and support of poor people, especially the elderly, Muslim scholars have argued that:

Social Solidarity in Islam is one of the bases of society through which it can achieve its permanent happiness, goodwill, security, unity, and peace. Simply, each member of society should help those in need so that they can lead even the least decent life and meet their basic needs. This includes all members of society whatever their religion or nationality [ . . . ] solidarity is categorized into financial and moral solidarity [and] . . . Financial solidarity includes financial assistant [sic], aiming at making the poor reach the limits of 'financial independence' or 'prosperity'.<sup>86</sup>

On the other hand, ethical cohesion represents the most significant paradigm of solidarity as human needs are not only economic, but also comprise various forms, such as *shura* (consultation), generosity, advice, alliance, and consolation, among others.<sup>87</sup> Even though 'social solidarity' and 'social security' seem alike, there is a clear difference between them. *Social Security* is the leader's responsibility, as well as the government's obligation to its nationals to enable them, at least, to reach the minimum standard of life, to have access to the essentials of life, and to offer assistance to all who need it, especially the ageing.<sup>88</sup> Accordingly, social solidarity is one of the essential human rights that has been assured by Islamic law for decades. The right to a decent life is one of the cornerstones laid down by Islam as necessary to bequeath social solidarity values to future generations.<sup>89</sup>

Islamic law has found several techniques to enrich social solidarity, such as *zakāh* (regular commercial duty), *al-waqf* (endowment as incremental aid), voluntary charities, blood money, *kaffarah*

<sup>83</sup> Haredy, 2014.

<sup>84</sup> *Ibid.*, this income functions as an old-age pension.

<sup>85</sup> Elsaman, 'Arafa, 2012: 27-28. For further illustration on social justice in Islam, see generally Taman, 2011: 490-492.

<sup>86</sup> On the concept of social solidarity and security, Al-Shafy, n.d.

<sup>87</sup> Dean, Khan, 1997: 193-209.

<sup>88</sup> Hasan, 2006.

<sup>89</sup> Hashmi, 2002:148-172.

(expiation or compensation) [a punishment upon persons who commit *ithms* ‘sins’ and can be served by fasting, feeding the poor, or assisting the elderly], and *wa‘ad* (a vow or promise, to perform a legal act).<sup>90</sup> All these forms contribute to social solidarity funding to help poor relatives and the elderly. It can take the form of a monthly allowance, or a deposit to start a project, along with the forming of district social solidarity committees that ensure that wealthy community members can frequently help the poor, the disabled, orphans, and the elderly.<sup>91</sup> Such forms do not diminish basic human independence, but rather contribute to financial independence and prosperity.<sup>92</sup> Nevertheless, the goal is human development-oriented, rather than promoting dependence. The idea is to offer assistance to an individual or family by affording them access to income and other resources that enable them to achieve self-sufficiency (the basis of social unity).

*Zakāh* as a tool of *takaful* (socio-economic) justice plays a fundamental role in improving joint liability and social security. It is a mandatory commercial duty and tax on Muslims of a specific *nisab* (amount), to be directed toward specific recipients.<sup>93</sup> It was historically one of the ruler’s commitments, and was represented in the *bit al-mal* (public treasury). It was effective in battling poverty, enhancing social harmony, concealing any envy or resentment felt by the poor, and in assisting the elderly by providing additional access to employment opportunities.<sup>94</sup> Thus, *zakāh* was not just money to feed the poor, but also a tool for addressing poverty, providing access to employment, bestowing economic and social justice, and boosting economic expansion.<sup>95</sup>

On the other hand, *waqf* under Islamic law is a dutifully motivated contribution of a property that engenders revenues, and is managed and regulated by Islamic law. It is ‘the detention of the corpus from the ownership of any person and the gifts of its income or usufruct either presently or in the future, to some charitable purpose ‘in charity of poor or other good objects’.<sup>96</sup> It can be devoted to serving persons who are economically unable to marry, feeding children, helping the sick, disabled, orphans and elderly, and covering the expenses of the needy. It is subject to the supervision and *control* of governmental institutions, where ministries and public offices were established in Muslim nations to regulate and govern *waqf* properties.<sup>97</sup>

<sup>90</sup> Kamali, 2002.

<sup>91</sup> Mehmet, 1997: 1203-18.

<sup>92</sup> See, e.g., ‘Umar ibn al-Khattab, as he stated: ‘When you make a donation, grant financial independence’. Also, scholars argued via *ijma‘a* (consensus) that this solidarity can also be achieved through providing supplementary access to service occasions and supporting in starting, managing, and improving small businesses.

<sup>93</sup> Morris, Ingram, 2001: 12; ‘Arafa, 2014a: 200-201 (‘As such, Egypt has a powerful culture of giving, practiced in both its Islamic tradition of *zakāh*’).

<sup>94</sup> Bhala, 2011, providing the essential foundational of *zakāh* as a policy model for developing countries as a means of redistributing income to the elderly poor) and describing its various goals of providing economic rehabilitation for the employable, eliminating beggary and poverty, and redistributing wealth in society.

<sup>95</sup> Elsaman, ‘Arafa, 2012: 28-29. Taman, 201: 488-490, explaining the notion of *zakāh* in Islam and the eligibility of the Muslim to pay *zakāh* from his/her wealth under Islamic law.

<sup>96</sup> ‘Arafa, 2014b: 498-501: ‘It should be borne in mind that the protection and enrichment of the natural environment should be understood and interpreted in charitable terms as serving the public interests and sustaining God’s properties, over which human beings have only vice-regency’.

<sup>97</sup> Cattani, 1955; Tawfiq, 1998: 257-265. For a fascinating account on the *waqf*’s historical development in the Islamic world, Ziadeh, 1985: 93-106.

One final thought in this regard is that the Prophet Mohammad expressly declared that one must do everything possible for the elder friends, companions, and associates of one's parents after their death.<sup>98</sup> In general, he told his followers that the 'aged and the infirm among their neighbours were to enjoy rights additional to those of the general Muslim populace'.<sup>99</sup> In the same vein, 'neighbours' is a term that means those who are not family, and it includes, for instance, associates and companions.<sup>100</sup>

#### 4. Action Plan for Elder Care in Middle Eastern/Arab Countries

The theoretical and practical frameworks for a provincial strategy for elder care in Muslim countries based on Islamic principles are built upon three fundamental principles; (a) the contribution of the elderly to development processes; (b) tracking health and well-being into old age; and (c) guaranteeing a facilitating and supportive environment. Procedures and programs that promote lifelong health, including disease prevention, assistive technology, therapeutic and rehabilitative care, and mental health amenities, diminish disability levels related to old age and lead to cost savings. In the Middle East, especially in countries recognizing Islamic law as their main source of legislation, creation of a supportive environment for the elderly requires action in a range of sectors beyond health and social services. Education, employment, finance, social security, housing, transport, justice, and rural and urban development, are all sectors that can articulate 'age-friendly' rules and enable programs for older persons, including those with disabilities. Social and health scholars have recommended to Muslim governments that a baseline strategy in this area should contain: (a) constant periodic review and updating of the district's strategy (subnational levels) to propose suitable means of health and socioeconomic support within the context of the predominant social and cultural norms (values); (b) formation and preservation of an up-to-date and comprehensive statistical database for an evidence-based decision-making process on elder care at the country level; (c) the launch of multidisciplinary regional and domestic networks among agencies, organizations, academic associations interested in training of primary healthcare and community workers; (d) provision of proper knowledge and skills required for self-care, health safety, and promotion for ageing (among families), and (e) sustained research and training in this field.<sup>101</sup>

In this regard, the framework of the strategy needs to have 'active ageing' as the crucial objective for elder care based on Islamic values. Unfortunately, however, most Arab countries merely assume the application of Islamic law—with a complete absence of knowledge of the main principles of this law and its fundamentals. With ageing, the most common social and bodily issues facing the elderly in the Arab World are for instance, failures in the ability to perform daily actions (functional ability) to some extent in every individual. Moreover, older folks, on average, tend to have more health conditions and disabilities than do younger people. What's more, the fluctuations that accompany ageing include more than just deviations in health. Social issues such as living arrangements can

<sup>98</sup> al-Hamid, 1997.

<sup>99</sup> Sahih Al-Bukhari, *Hadith* No.654 & Sahih Muslim, *Hadith(s)* Nos.75-78.

<sup>100</sup> al-Hamid, 1997.

<sup>101</sup> See generally Gruber, Wise, 2001.

influence an older person's risk and experience of illness.<sup>102</sup> Clinicians often do what is called a social history to assist them and other members of the healthcare team to assess a person's care and social support needs, using the social history to help them get a read on, for example, familial, financial, and marital status, living measures, work history, education, and history of substance abuse and legal issues.<sup>103</sup>

The primary pillars of this strategy should include updated research, the growth and development of human resources, and the provision of quality services at a reasonable cost, addressing even the neediest constituents in all phases of the strategy.<sup>104</sup> Therefore, a strategy developed by scholars and researchers in the field must include:

- a. an iterative process of planning and strategy design;
- b. a conception of healthcare as the keystone for energetic and active seniors, including the improvement of human resources for quality healthcare;
- c. a commitment to a robust contribution from the elderly in society;
- d. improvement of human resources across various sectors (public and private);
- e. establishment and maintenance of multidisciplinary networks to expedite elderly care;
- f. research, surveys, studies, and database formation with skilled trainers, and finally
- g. raising social and public understanding of inhabitants through campaigns to spread awareness of the possibilities inherent in a concept of dynamic ageing, with NGO assistance through visible initiatives.<sup>105</sup>

Despite privileges granted to various institutions to protect the elderly in the Arab world, one of the main problems is that these foundations still suffer from a lack of total freedom and political impartiality. Therefore, one of the main weaknesses of these governmental organizations is their subordination to the executive branch.<sup>106</sup>

Making good use of pensioners' material and professional experiences plays a vital role in contributing to the social growth process.<sup>107</sup> New Law No. 70 of 2017 in Egypt on governing the work of Non-Governmental Organizations ('NGOs') and private institutions, for example, recognizes senior citizens contribution to NGO administration, such as running strategies and projects, and making general use of their professional skills and abilities.<sup>108</sup> Also, Egyptian laws prohibit and

<sup>102</sup> Lloyd-Sherlock, 2002: 754-757.

<sup>103</sup> WHO, 2000.

<sup>104</sup> Jacobzone, Oxley, 2002.

<sup>105</sup> See also Rodriguez-Pinzon, Martin, 2003: 915-1008.

<sup>106</sup> 'Arafa, 2016: 'Thus, the transformation in the age profile of the population constitutes the basis for planning programs. According to numerous official statistical data and surveys issued by the Central Agency for Public Mobilization and Statistics ('CAPMS'), there is a systematic growth in older people in the population and this is predicted to rise methodically starting from 2011 to reach 11.500.000 (11%) in 2025 and, about 24.000.000 (21%) in 2050'.

<sup>107</sup> 'Arafa, 2016.

<sup>108</sup> The new law replaces Law No. 84 of 2002 on Associations and Foundations. Law 70 of 2017 includes a number of legal and practical barriers to the establishment of associations. First, the law requires that all organizations doing "civil work" register under Law 70 in order to operate. The law expressly prohibits any entity to carry out civil work without complying with Law 70. Any individual who establishes or works with an unregistered or unauthorized organization is

condemn all vicious acts or abuse against elderly citizens, as they represent an honoured and privileged position within their families in Egyptian society, based on spiritual (Islamic) beliefs, and ethical and moral conduct (consolidating ties among family members).<sup>109</sup>

Under the umbrella of current Egyptian laws (employment law, Social Solidarity, and others), all kinds of mistreatments are proscribed and penalized. The current laws stipulate that ‘physical abuse against a senior citizen entails any use of physical force (e.g., hitting, striking, beating, pushing, shaking, pinching, kicking, slapping, and burning) likely to result in injury, physical pain, or impairment, will be punished by the Egyptian Penal Code regarding the penalties of serious bodily injuries or manslaughter’.

The Ministry of Solidarity and Social Justice (‘MSSJ’) in cooperation with the National Centre for Social and Criminological Research (‘NCSCR’) are in charge of conducting social, legal, physical, and philosophical research, inquiries, and field studies on senior people’s lives, to determine the most significant complications and issues they may face. This work serves to identify their needs, welfare services, and legal rights so that decision and policy makers can study the modern status of institutional welfare and determine any negative features.<sup>110</sup>

The preparation of a national (Islamic) program for nations who do not have one, alongside the adjustment of plans in line with the latest innovative technology and intellectual advancements, should be the first step.<sup>111</sup> In addition, one fundamental aspect of this approach should be to inspire a robust involvement of older people in society, as this simplifies the active contribution of the ageing to economic growth (including formal and informal work and voluntary actions), according to their individual needs, preferences and capacities, and according to each country’s level of socioeconomic evolution.<sup>112</sup>

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subject to up to five years in prison, and a fine of 50,000-1 million Egyptian Pounds (roughly \$2,700-\$55,000). See, at Art. 87. See also, ‘Arafa, 2017.

<sup>109</sup> ‘Arafa, 2017: 24. ‘On the other hand, Egyptian laws forbid and condemn committing any violent acts or abuse against all citizens including older people, as they attain an honored and privileged status within their families in Egyptian society based on the religious (Islamic) values and ethical and moral traditions (strengthening ties among family members).’ In other words, Egyptian culture considers older individuals as the voice of history, deep experience knowledge, and heritage.

<sup>110</sup> Abulkheir, 2011: 11.

<sup>111</sup> Weisstub, 2001.

<sup>112</sup> These actions may include for instance: (i) inclusion of elderly in the planning, implementation and assessment of social development programs and efforts to diminish poverty; (ii) elimination of age discrimination through the enactment of labour market and fair employment policies; (iii) pension reforms that support productivity, a diverse and more flexible system of pension schemes and retirement options (e.g. gradual or partial retirement); (iv) adoption of policies and norms that support fair recognition of older women and men for unpaid work in the informal sector and in care giving in the home; (v) recognition of the value of volunteer work; (vi) formation of actual and positive (effective) images of active ageing in the media, in common literature, and through the removal of negative stereotypes and ageism, and (vii) protection of older consumers from unsafe medications and treatments; and unscrupulous marketing activities.

## 5. Arab Storm? Prospects for Future National Policy on the Elderly (Conclusion and Practical/Policy Recommendations)

In summary, Islamic (*Shari'a*) law offers a comprehensive system for elderly care. While most residential care is still provided by families based on Muslim religious duties, basic human rights for the elderly are addressed by a combination of legal policies and sincere and generally decent citizen practice. A domestic policy for the ageing should take the following factors into consideration: the country's demography, the influence of the elderly in societal institutions,<sup>113</sup> the *status quo* of the elderly in all aspects of life, the tendency for change in family structures<sup>114</sup>, and the economic conditions and the cultural moorings of the particular society. The national policy must rule in an all-encompassing way that is in tune with the country's constitution, laws, and future prospects, (i.e. help in building a society for all ages, specifically the elderly, rather than segregating or discriminating against them as a susceptible group in need of support). The basic areas have to focus on: (a) financial security (an old-age pension for work time); (b) access to reasonable and quality healthcare (oriented towards primary healthcare, ambulatory and institutional mental health care; subsidized specialist care, drugs, aids, shelter and appliances, accessibility of affordable health insurance, cost, quality, etc.); (c) associations for the destitute; (d) obtainability of resources for both formal, and informal education and training; (e) social security and solidarity (Islamic collaterals) by the state and civil society groups; (f) encouragement of NGOs to assist the government in elderly life and property protection; (g) use of press and mass media in swaying society for supporting the ageing and involving them more in community services, and (i) creation of a national association to give them the strength

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<sup>113</sup> It should be noted that the spiritual and cultural background of Muslims and the teachings of Islamic norms deter many Muslims from sending their older family members (including parents and relatives) to nursing homes. See generally Gaspar, 2007. In other words, this dogmatic belief comes at a price, as Medical Insurance provides funds to cover being in nursing homes for different family and older people, but still these policies do not present an equivalent level of funding to individuals who live with family members at home, or at least not to all families who need upkeep and care. See also Clemetson, 2006: 'For generations, immigrant groups have grappled with the American concept of housing for the elderly, tailoring it to meet their ethnic, cultural and religious needs. But for many Muslims, the idea of placing parents in facilities is still unthinkable, seen as a violation of a K[Q]loranic obligation to care for one's elderly relatives'.

<sup>114</sup> Dhami, Sheikh, 2000: 352-356: 'The family forms the basic building block of Muslim society. Despite the many pressures it faces, the family institution remains strong. The future of the extended family, however, is under considerable threat . . . The traditional Muslim family is extended, often spanning 3 or more generations. An extended structure offers many advantages, including stability, coherence, and physical and psychological support, particularly in times of need . . . In Muslim culture, akin to other traditional cultures, respect and esteem increase with age. Elderly parents are respected on account of their life experiences and their hierarchic position within the family unit. The opportunity to attend to the needs of one's parents in their later years is viewed as a gift from *Allah*. Transition is all the more difficult where Muslims live as minorities because in many cases, migration patterns have resulted in fragmentation of the extended family structure. Many second-generation Muslim migrants have grown up in nuclear families, not having first-hand familiarity with the richness and complexity of living within extended family networks. In addition, despite religious teachings that encourage marriage at an early age, a secular trend to marry late is being seen among Muslims. Some observers have suggested that increasing age curtails a person's ability to adapt to change, adaptability being the hallmark of youth. Finally, and perhaps most important of all, Muslim youth in the West are faced with lifestyle choices not available in more traditional cultures. To some, the opportunities with respect to individual freedom offered by a nuclear family structure far outweigh any benefits of living in an extended family'.

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to influence policy and programs meant for them, along with a mechanism to implement and monitor the impact of policy.

It could be observed that within Western cultures some key aspects of Islamic law regarding the rights of the elderly have been forgotten, even by Muslims. Some young and adult children are impolite or offensive towards parents, and show disobedience. They may drive them out of their homes and put them in 'senior citizen homes' when they grow old, feeling that they cannot spare time to attend to the needs of the elderly. Perhaps the most significant issue is that busy Western life has led to a break-down of the family unit.<sup>115</sup> Of course, the obligations of children towards parents are not found only in Islam, but in all faiths and religions.<sup>116</sup> The Islamic perspective on elderly care is genuinely rooted in the revealed texts of the tradition, and as such is divinely based, aimed at instilling devoutness and morality, while also providing instruction on the principles of human dignity, and cultivating appreciation for the value of life. While fostering religious cohesion and sustenance, these norms are not *static*, but rather *dynamic*.

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<sup>115</sup> On this point, Henwood, 1990; Cole, 1992; Gormally, 1994: 763-764.

<sup>116</sup> Obeying elderly parents in Islam falls under the category of Islamic Scale theory on *wajeb* or *fard* (mandatory, required) acts which are obligatory for every Muslim, male or female, and rewarded, for those who have fulfilled the clauses of *takleef* (religious commitment) or possess the ability to do them (maturity by reaching the age of puberty and acquiring sound reasoning).

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