

# Faith-Based Investing, Stewardship, and Sustainability: A Comparative Analysis

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## Abstract

This article discusses how faith-based investing addresses sustainability, focusing on Catholic, Church of England, and Islamic faith-based investing in the US, the UK and Malaysia, respectively, as illustrative examples. It posits that there are three dimensions to how these three institutional religions approach sustainability through faith-based investing, namely the underpinning religious values and principles, the legal and regulatory framework governing faith-based investing, and investment stewardship approaches. Section 2 provides an overview of sustainability and sustainable finance, situating faith-based investing within the universe of socially responsible investing and environmental, social and governance investing. Section 3 delves into sustainability and the values and organising principles underpinning Catholic, Church of England, and Islamic faith-based investing to highlight areas of conceptual alignment and their nexus to sustainability. Section 4 examines the legal and regulatory frameworks governing faith-based investing contrasting an extensive reliance on soft law in the US context with specifically tailored law and regulation for Islamic faith-based investing in Malaysia and considers its implications on the certification of faith-based investing as a central element. Section 5 compares the faith-based investment stewardship approaches in these jurisdictions to identify areas of convergence and divergence. Section 6 reflects on the broader opportunities which faith-based investing encounters in its development and the challenges it faces in advancing sustainability.

**Keywords:** ESG, faith-based investing, stewardship, sustainability.

*'Finance was born in the shade of sanctity.'* – Gustave Glotz<sup>1</sup>

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1 G. Glotz, *Ancient Greece at Work* (1967), at 3.

## 1 Introduction

Faith-based investing<sup>2</sup> is investing in accordance with religious tenets, allowing investors who engage in this form of investing to adhere to the tenets of their faith while still having a diversified portfolio.<sup>3</sup> In recent decades, faith-based investing has grown rapidly alongside conventional investing. Although there is no estimated specific figure for total assets held by faith-based investors, there is strong evidence that illustrates vast accumulation of wealth by faith organisations.<sup>4</sup> As an economic activity, faith-based investing plays a significant role in Islamic finance centres such as Malaysia which had US\$620 billion in Islamic finance assets in 2020, putting it in the third spot behind Iran and Saudi Arabia.<sup>5</sup> A key impetus driving faith-based investing is a desire to align investment choices with religious beliefs on the basis that, among others, purchasing and the use of resources in the market have both moral and economic dimensions.<sup>6</sup> As such, faith-based investing may also be

2 Similar terms for faith-based investing include faith-formed, faith-informed, faith-consistent, faith-aligned and faith-inspired investing and may be used interchangeably.

3 See, e.g., C. Akers, 'Religion Is Inspiring a Different Way to Invest', 19 January 2023, <https://www.investorschronicle.co.uk/news/2023/01/19/religion-is-inspiring-a-different-way-to-invest> (last visited 8 January 2024). A contrasting negative definition of the term, i.e., investing, without violating an investor's religious beliefs has been posited in the literature, but this is overly capacious and unclear. See T. Kwon and V. Samberger, 'Unleashing the Potential of Faith-Based Investors for Positive Impact and Sustainable Development', University of Zurich Center for Sustainable Finance & Private Wealth and Initiative for Blended Finance, [https://ibf-uzh.ch/wp-content/uploads/2021/05/CSP\\_Unleashing\\_the\\_Potential\\_of\\_Faith-based\\_Investors\\_29-4-2021-pages.pdf](https://ibf-uzh.ch/wp-content/uploads/2021/05/CSP_Unleashing_the_Potential_of_Faith-based_Investors_29-4-2021-pages.pdf) (last visited 20 September 2023).

4 The Global Impact Investing Network, 'Engaging Faith-Based Investors In Impact Investing', January 2020, at 1, <https://thegiin.org/research/publication/engaging-faith-based-investors-in-impact-investing>.

5 M. Aidil and R. Al Ansari, 'Islamic Finance Development Report 2021: Advancing Economies', 2021, at 24, <https://static.zawya.com/pdf/Islamic%20Finance%20Development%20Reports/2021%20IFDI%20Report.pdf> (last visited 29 December 2023).

6 See, e.g., Pontifical Council of Justice and Peace, 'Compendium of the Social Doctrine of the Church', 143, [https://www.vatican.va/roman\\_curia/pontifical\\_councils/justpeace/documents/rc\\_pc\\_justpeace\\_doc\\_20060526\\_compendio-dott-soc\\_en.html](https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html) (last visited 4 January 2024); Pope Benedict XVI, 'Caritas in Veritate', 43, [https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf\\_ben-xvi\\_enc\\_20090629\\_caritas-in-veritate.html](https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html) (last visited 3 January 2024); Congregation for the Doctrine of the Faith and the Dicastery for Promoting Integral Human Development, 'Considerations for an Ethical Discernment Regarding Some Aspects of the Present Economic-Financial System', 3-4, <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2018/05/17/180517a.pdf> (last visited 3 January 2024).

conceived as a response to various social, economic and ecological crises arising from deep-seated moral beliefs and principles.

The development of the concepts of sustainability and sustainable development also points to the need for a new paradigm to address the various social, economic and ecological crises. In this connection, a question which arises is how faith-based investing addresses sustainability. To answer this question, this article takes a comparative perspective to critically examine the similarities and differences between the values, legal and regulatory framework, and investment stewardship approaches of three forms of faith-based investing, namely Catholic, Church of England, and Islamic faith-based investing as practised in the US, the UK and Malaysia respectively. It contributes to the literature by highlighting three distinct approaches of faith-based investing towards sustainability, namely its values, legal and regulatory framework, and investment stewardship approaches even as it grapples with opportunities and challenges in developing as a viable alternative investing method.

Religion has long been regarded as a private matter, leading to the development of a 'value free society'.<sup>7</sup> However, religions are now seen as a powerful complementary tool to combat behaviours and attitudes deemed as irresponsible according to religious tenets and to transform economic life.<sup>8</sup> The choice of Christian and Muslim faith-based investing in this study is also motivated by Christianity and Islam as the largest and second largest religions in the world, comprising more than 55% of the world's population.<sup>9</sup> In addition, Catholic, Church of England, and Islamic faith-based investing have been chosen as central illustrative examples in this analysis in view of their common tradition as Abrahamic religions.<sup>10</sup> These religions have a specific cosmology that defines the role of human beings in God's design for creation, which has profound implications for the natural world and extends to the role played in investment and stewardship.<sup>11</sup> As regards the other Abrahamic faith, Judaism, formalised Jewish faith-aligned

investing is a much newer concept although Jewish investing principles have been discussed from as long as centuries ago.<sup>12</sup> Additionally, in view of the jurisdiction-specific nature of the law and regulation governing investment activities, this article will focus on the US, the UK and Malaysia in which the faiths of Catholicism, Church of England and Islam have an active presence.<sup>13</sup> The article is structured as follows. Section 2 examines the concepts of sustainability and sustainable finance and situates faith-based investing within the universe of socially responsible investing (SRI) and environmental, social and governance (ESG) investing. Section 3 then compares the values and organising principles underpinning Catholic, Church of England, and Islamic faith-based investing to highlight areas of conceptual alignment and their nexus to sustainability. Section 4 sets out the legal and regulatory frameworks governing faith-based investing, contrasting an extensive reliance on soft law in the US context with specifically tailored law and regulation for Islamic faith-based investing in Malaysia. It considers the implications of these institutional approaches on the character and integrity of faith-based investing and investor trust in faith-based investing. Section 5 of the article analyses the investment stewardship approaches of Catholic, Church of England, and Islamic faith-based investing in the US, the UK and Malaysia, respectively. Section 6 of the article will highlight the opportunities in developing faith-based investing and challenges which it encounters in advancing sustainability. Finally, the article concludes with a brief summary of these three approaches taken by faith-based investing with regard to sustainability, its potential as well as its constraints.

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## 2 Sustainability, Sustainable Development, and Faith-Based Investing

This article begins by examining the definition of sustainability. This is a broad term generally regarded as comprising three interconnected pillars encompassing economic, social and environmental (or ecological) factors or goals.<sup>14</sup> In the context of this article, sustainability is focused on the deployment of business and finance

ed 1 January 2024); E. Poole, *The Church on Capitalism: Theology and the Market* (2010), at 33; M. Ma'sum Billah, *Modern Islamic Investment Management*, 'An Islamic Investment Paradigm' (2019), at 4-7.

7 G. Rice, 'Islamic Ethics and the Implications for Business', 18(4) *Journal of Business Ethics* 345 (1999).

8 A. Helfaya, A. Kotb & R. Hanafi, 'Qur'anic Ethics for Environmental Responsibility: Implications for Business Practice', 150(4) *Journal of Business Ethics* 1105 (2016); R. Peace, 'Accountants and a Religious Covenant With the Public', 17(6) *Critical Perspectives on Accounting*, 781 (2006); S. Uddin, 'Understanding the Framework of Business in Islam in an Era of Globalization: A Review', 12(1) *Business Ethics: A European Review* (2003).

9 The Royal Aal al-Bayt Institute for Islamic Thought in Jordan, *A Common Word: Between Us and You*, 5-Year Anniversary Edition (2009), at 53, 72.

10 The term 'Abrahamic religions' is a modern concept which comprises Judaism, Christianity and Islam as related faiths. See, e.g., M. Silk, 'The Abrahamic Religions as a Modern Concept', in A. Silverstein and G.G. Stroumas (eds.), *The Oxford Handbook of The Abrahamic Religions* (2015), at 71.

11 D.M. Abdelzahar, A. Koth & A. Helfaya, 'Eco-Islam: Beyond the Principles of Why and What, and into the Principles of How', 155(3) *Journal of Business Ethics* 623 (2019), at 638. See also E. Chuvieco, 'Religious Approaches to Water Management and Environmental Conservation', 14(S1) *Water Policy* (2012), 9.

12 D.B. Bressler, 'Ethical Investment', in M. Pava and A. Levine (eds.), *Jewish Business Ethics* (1996), 177. See also A. Nicholls, G. Peterson & E. Sukumaran, *Oxford Faith-Aligned Impact Finance Project Phase 1 Report* (September 2022), at 124.

13 See C. Grammich, 'Catholics in the U.S. Religion Census: November 2022', <https://www.usreligioncensus.org/sites/default/files/2023-05/RRA%20Catholic%20presentation.pdf>; UK Office for National Statistics, 'Religion, England and Wales: Census 2021', <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/bulletins/religionenglandandwales/census2021>; Department of Statistics Malaysia, 'MyCensus 2020 dashboard', <https://open.dosm.gov.my/dashboard/kawasanku> (last visited 5 January 2024).

14 B. Purvis, Y. Mao & D. Robinson, 'Three Pillars of Sustainability: In Search of Conceptual Origins', 14 *Sustainability Science* 681 (2019).

in a manner that protects the stability and resilience of the environment, facilitates social justice and promotes long-term economic prosperity securing the social foundation of humanity without further degradation of the planetary boundaries.<sup>15</sup> The terms ‘sustainability’ and ‘sustainable development’ are often intertwined in the literature<sup>16</sup> and difficult to tease apart, resulting in economic growth-centred development becoming an implicit part of sustainability.<sup>17</sup> Indeed, the adoption of the United Nations 2030 Agenda for Sustainable Development (2030 UN Agenda) and the articulation of the 17 Sustainable Development Goals (SDGs)<sup>18</sup> and 169 targets indicate an entrenchment of the notion of ‘sustainable development’<sup>19</sup> which is now an essential guiding principle of international environmental and climate law. The 2030 UN Agenda is focused on the maintenance of ecology that allows the human species to flourish<sup>20</sup> and is broadly centred on people, planet and prosperity.<sup>21</sup> Gladwin, Kennelly and Krause<sup>22</sup> have defined five principles of sustainable development as follows: comprehensiveness,<sup>23</sup> connectivity,<sup>24</sup> equity,<sup>25</sup> prudence<sup>26</sup> and security.<sup>27</sup> Although sustainable development is a holistic concept, Norström et al. argued that it is necessary to address trade-offs between the ambition of economic, social and environmental goals and the feasibility of reaching them, recognising biophysical, social and political constraints.<sup>28</sup>

Sustainable finance plays an important role in allocating investment to sustainable corporates and projects, enabling the transition to a low-carbon and more circular economy in line with sustainable development.<sup>29</sup> It focuses on the interaction between finance and economic, social and environmental issues<sup>30</sup> and deals with the inherent uncertainty about environmental issues such as the impact of carbon emissions on climate change with a shift from short-term profit to long-term value creation.<sup>31</sup> Here, this article focuses on investing rather than other activities connected to finance such as lending, pricing and the allocation of risk as central to the analysis of faith-based investing and its relationship with sustainability. The concept of sustainable finance may be further divided into the following stages: Sustainable Finance 1.0, Sustainable Finance 2.0 and Sustainable Finance 3.0.<sup>32</sup> Under Sustainable Finance 1.0, the concept of shareholder value was refined in which profit was still maximised but investments in ‘sin’ stocks were minimised. Companies with extremely negative impacts were also encouraged to introduce sustainable practices and policies into their business in a slightly more positive variant of the refined shareholder value approach.<sup>33</sup> Corporate success was still evaluated from a purely economic point of view and remained focused on serving the business itself and its economic goals.<sup>34</sup> Sustainable Finance 2.0 sought to create shareholder value through the internalisation of social and environmental externalities which was more relevant for equities rather than bonds, in view of the maturity of the financial instrument in question.<sup>35</sup> To do so, investors incorporated the negative social and environmental externalities into their investment decision with reference to the triple bottom line (people, planet, profit) and integrated profit and loss accounting approaches.<sup>36</sup> Finally, Sustainable Finance 3.0 pivoted from risk management to realisation of opportunities, in which investments were made only in sustainable companies and projects – but the problem was how the financial part of the decision is

- 15 B. Sjäfjell and C.M. Bruner, ‘Corporations and Sustainability’, in B. Sjäfjell and C.M. Bruner (eds.), *The Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability* (2019), at 3, 7-10. To date, six of the nine planetary boundary zones are in the red. See K. Richardson, ‘Earth beyond six of nine planetary boundaries’, 9(37) *Science Advances* (13 September 2023), <https://www.science.org/doi/10.1126/sciadv.adh2458>.
- 16 G. Tsagas and C. Villiers, ‘Why “Less Is More” in Non-Financial Reporting Initiatives: Concrete Steps towards Supporting Sustainability’, 10(2) *Accounting, Economics, and Law: A Convivium* 8 (2020), which opines that ‘Sustainability and sustainable development are often used interchangeably from a policy perspective.’
- 17 Purvis et al., above n. 14, at 691.
- 18 United Nations, ‘Transforming Our World: The 2030 Agenda for Sustainable Development’, 2, <https://sdgs.un.org/2030agenda> (last visited 6 January 2024).
- 19 Ibid.
- 20 B. Sheehy and F. Farneti, ‘Corporate Social Responsibility, Sustainability, Sustainable Development and Corporate Sustainability: What Is the Difference, and Does It Matter?’, 13(11) *Sustainability* 5965, at 5968 (2021).
- 21 United Nations, n. 18, at 13-27.
- 22 T.N. Gladwin, J.J. Kennelly & T-S. Krause, ‘Shifting Paradigms for Sustainable Development: Implications for Management Theory and Research’, 20(4) *Academy of Management Review* 874 (1995).
- 23 This refers to the holistic or all-embracing nature of sustainability in terms of space, time and component parts.
- 24 In this context, it is an understanding of the world’s challenges as systemically interconnected and interdependent.
- 25 Here, this refers to a fair distribution of resources and property rights, both within and between current and future generations.
- 26 The focus is on keeping life-supporting ecosystems and interrelated socioeconomic systems resilient, avoiding irreversible actions, and keeping the scale and impact of human activities within regenerative and carrying capacities.
- 27 Security in this regard is centred on a safe, healthy, high-quality life for current and future generations.
- 28 A. Norström, A. Dannenberg, G. McCarney, M. Milkoreit, F. Diekert, G. Engström, R. Fishman, J. Gars, E. Kyriakopoulou, V. Manoussi, K. Meng, M. Metian, M. Sanctuary, M. Schlüter, M. Schoon, L. Schultz & M. Sjöstedt, ‘Three

Necessary Conditions for Establishing Effective Sustainable Development Goals in the Anthropocene’, 19(3) *Ecology and Society* 8 (2014).

- 29 D. Schoenmaker and W. Schramade, *Principles of Sustainable Finance* (2019), 4, 18. The concept of the circular economy focuses on reform of the predominantly linear economic model of the production and distribution of goods (which has become known as ‘take, make, and dispose’) into a system where disposal is minimised. See P. Deutz, ‘Circular Economy’, in A.L. Kobayashi (ed.), *Encyclopedia of Human Geography* (2020), 193-201. A policymaker-oriented definition of sustainable finance is ‘the process of taking ESG considerations into account when making investment decisions in the financial sector, leading to more long-term investments in sustainable economic activities and projects’. See European Commission, ‘Overview of Sustainable Finance’, [https://finance.ec.europa.eu/sustainable-finance/overview-sustainable-finance\\_en](https://finance.ec.europa.eu/sustainable-finance/overview-sustainable-finance_en) (last visited 5 February 2024).
- 30 Schoenmaker and Schramade, above n. 29, at 31.
- 31 Ibid., at 5.
- 32 Ibid., at 20.
- 33 Ibid.
- 34 T. Dyllick and K. Muff, ‘Clarifying the Meaning of Sustainable Business: Introducing a Typology from Business-as-Usual to True Business Sustainability’, 29(2) *Organization & Environment* 1 (2015).
- 35 Schoenmaker and Schramade, above n. 29, at 22.
- 36 See J. Elkington, *Cannibals with Forks: The Triple Bottom Line of 21st Century Business* (1999).

made, particularly in relation to its economic and financial viability.<sup>37</sup> The ultimate aim was that of long-term value creation for the common good<sup>38</sup> which may be defined as what is shared and beneficial for all or most members of a given community.

While faith-based investing is typically framed as an investing activity, this article argues a broadened conceptualisation of faith-based investing to include its underlying values, supporting legal and regulatory framework, and investment stewardship enables a deeper understanding of its approach to sustainability. The analysis presented here shows that there are elements of all three stages of sustainable finance in faith-based investing. As an activity, faith-based investing encompasses the entirety of the investment chain<sup>39</sup> featuring actors such as faith-based asset owners, asset managers and investees and is underpinned by support functions in the form of investment service providers, investment networks as well as other related partner organisations.<sup>40</sup> Religious organisations which are asset owners are commonly associated with faith-based investing, although faith-based asset owners also include faith-related family offices, foundations, health services and non-profit pension plans.<sup>41</sup> Critically, there is a bottom-up element in the role played by devout individuals who engage in faith-based investing and either construct their own investing portfolio or invest through asset managers who function as intermediaries to oversee the operation and value of an investment portfolio. It follows that investment decisions by individuals engaging in faith-based investing are manifestations of a voluntarily bound autonomy or free will with regard to purchasing choices to align with the religious values which they uphold.

## 2.1 Faith-Based Investing in the Sustainable Investing Universe

Faith-based investing has further been conceptualised as a subset of SRI and ethical investment, both of which have been broadly described as an investor including factors such as social and ethical considerations in addition to the standard finance theory variables of risk and returns.<sup>42</sup> The growth of the financial performance of SRI has enabled it to become financialised, prioritising financial goals over ethical goals and applying financial

strategies of conventional funds to SRI funds.<sup>43</sup> Faith-based investing is also generally regarded as synonymous with values-based investing which has more secular connotations. It has been argued that ethical, socially responsible, green, and faith-based investments should be considered as different approaches within the broader field of sustainable investing.<sup>44</sup> Faith-based investing is conceptually distinct from impact investing in which impact investments are those made with the intention to generate positive, measurable social and environmental impact alongside a financial return<sup>45</sup> and are different from established practices of socially responsible and ethical investment.<sup>46</sup>

Be that as it may, early forms of SRI stemmed primarily from religious motivations,<sup>47</sup> with scholars tracing the earliest version of social screening of investment opportunities back more than 2,000 years to the Hebrew bible.<sup>48</sup> In the period between the 17th century and until the mid-20th century, the idea of socially screened investment remained a small, religiously centred movement.<sup>49</sup> However, the growing civil rights, women's rights and environmental movements in the 1960s led to a renewed interest in SRI in the 1970s.<sup>50</sup> Since the introduction of Pax World Fund in 1971,<sup>51</sup> which was the first broadly diversified fund to use social and financial criteria in investment decisions,<sup>52</sup> other similar funds have come onto the market such as the Domini Social Equity Fund and Calvert Social Investment Fund.<sup>53</sup> Subsequently, investor opposition to South African apartheid policies in the 1980s drove the further development of SRI.<sup>54</sup> Although the origins of SRI lay in Abrahamic faiths, SRI has become increasingly secular as a result of the secularisation of Western Europe, which is considered the heartland of modern SRI as well as a wider

37 D. Schoenmaker, *From Risk to Opportunity: A Framework for Sustainable Finance* (2017), at 2.

38 See, e.g., J. Tirole, *Economics for the Common Good* (2017).

39 See D.-L. Arjaliès, P. Grant, I. Hardie, D. MacKenzie & E. Svetlova, *Investment Management and the Investment Chain* (2017), at 1-24 in *Chains of Finance: How Investment Management Is Shaped* for a description of the investment chain as 'sets of intermediaries that "sit between" savers and companies or governments, along with the links between those intermediaries'.

40 The Global Impact Investing Network, 'Faith-Based Investing Definitions' (Faith-Based Investing Map), June 2022, 1, <https://thegiin.org/assets/Faith-Based%20Investing%20Map.pdf>.

41 Ibid.

42 J. Tippet, 'Ethical Investment in Australia' (PhD thesis on file at RMIT University, Australia).

43 C. Revelli, 'Socially Responsible Investing (SRI): From Mainstream to Margin?' 39(PB) *Research in International Business and Finance* 711, at 711 (2017).

44 K. Lesser, F. Röbke & C. Walkshäusl, 'Socially Responsible, Green and Faith-Based Investment Strategies: Screening Activity Matters', 16 (C) *Finance Research Letters* 171, at 178 (2016).

45 The Global Impact Investing Network, 'Core Characteristics of Impact Investing', [https://thegiin.org/assets/Core%20Characteristics\\_webfile.pdf](https://thegiin.org/assets/Core%20Characteristics_webfile.pdf) (last visited 16 September 2023).

46 S. Findlay and M. Moran, 'Purpose-Washing of Impact Investing Funds: Motivations, Occurrence and Prevention', 15(7) *Social Responsibility Journal* 853 (2018).

47 R. Sparkes, 'Ethical Investment: Whose Ethics, Which Investment?' 10(3) *Business Ethics: A European Review* 194 (2001). See also R. Sparkes, 'A Historical Perspective on the Growth of Socially Responsible Investment', in R. Sullivan and C. Mackenzie (eds.), *Responsible Investment* (2006), at 39.

48 S.J. Tison, *The SAGE Encyclopedia of Business Ethics and Society* (2018).

49 Ibid.

50 S. Schueth, 'Socially Responsible Investing in the United States', 43(3) *Journal of Business Ethics* 189 (2003).

51 J. Hopfinger, 'Where's Your Piggy Going to Market? The Dividends of Faith-Based Investing', 68(1) *US Catholic* 15 (2003).

52 C. Louche, D. Arenas & K.C. van Cranenburgh, 'From Preaching to Investing: Attitudes of Religious Organisations Towards Responsible Investment', 110(3) *Journal of Business Ethics* 301(2012).

53 Hopfinger, above n. 51.

54 See, e.g., T. Siew Hong, I. Welch & C.P. Wazzan, 'The Effect of Socially Activist Investment Policies on the Financial Markets: Evidence from the South African Boycott', 72(1) *The Journal of Business* 35 (1999); W.H. Kaemper, J.A. Lehman & A.D. Lowenberg, 'Divestment, Investment Sanctions, and Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments', 41(3) *International Organization* 457 (1987).

change in social values from those espoused in classic SRI.<sup>55</sup>

Sustainable finance accordingly encompasses faith-based investing in terms of its engagement with non-financial factors and is similar to ESG investing. While there are overlaps, faith-based investing has a distinct character of its own as compared to ESG investing arising from the teachings and fundamental principles of the religions in question, especially relating to moral aspects at the heart of the religion. By contrast, ESG investing is premised on the fundamental belief that ESG factors may have a material effect on investment returns especially over the long term and that responsible companies seek to either mitigate social impacts or produce better ones by making better long-term investments<sup>56</sup> without being rooted in deeper faith values. Faith-based investing therefore provides a foundation for investment other than pure financial reasons, that is, through religious lenses which may then be linked to sustainability. Given that the remit of sustainability is broad as reflected by the wide-ranging nature of the SDGs, they require prioritisation, and it is arguable that environmental concern is one of the most urgent.<sup>57</sup> This article will therefore focus on environmental concerns in the subsequent discussion.

### 3 Faith-Based Investing Values: Conceptual Alignment and Nexus to Sustainability

In this section, the originating values and principles underscoring faith-based investing within the three religions under examination are analysed from a comparative perspective to identify areas of conceptual alignment and their relationship with sustainability as well as to draw out their similarities and differences. These values are important as they form a conceptual foundation which is expressed in the investment management space. Furthermore, values act as relatively stable guiding principles that enable individuals to evaluate situations, end-states or modes of conduct in terms of desirability.<sup>58</sup> They have also been shown to influence invest-

ment decisions.<sup>59</sup> As such, the following values and principles will be discussed: the love of God and neighbour, the role of man as steward over the created order, a holistic concept of development beyond the economic dimension, and the importance of preserving natural resources and maintaining the ecological equilibrium.

A foundational principle of Christianity and Islam is love of the One God and neighbour.<sup>60</sup> For example, in the Holy Qur'an, *surah Al-Muzzammil* 73:8 describes the necessity for the love of God<sup>61</sup> and a *Hadith*<sup>62</sup> by the Prophet Muhammad (s.a.w.) expands on the necessity of love for neighbour.<sup>63</sup> Furthermore, in the New Testament of the Bible, Jesus Christ taught about the importance of loving God with all one's heart, soul and mind and to love one's neighbour as oneself.<sup>64</sup> The two great commandments are accordingly an area of common ground and a link between the Qur'an, the Torah and the New Testament.<sup>65</sup> A manifestation of love for God and neighbour is recognising the abundance of God's bountiful blessings and resources. To this end, man is positioned as a steward on Earth of all of its resources.<sup>66</sup> The stewardship of human beings on Earth is the principal value upon which Christianity and Islam base their understanding of an ethical economy. Dominion over the resources of the Earth is to be tempered with a responsibility in light of the divine commands of temperance, purposefulness and care which are based on cultivating and nurturing civilisation in both Christianity and Islam.<sup>67</sup> It follows that the stewardship of all created goods, including all forms of financial activity such as asset management and investment, should be directed to reflect this gift of God to the human family, by serving the common good, respecting justice and ethical standards.<sup>68</sup> The Catholic Church further notes that every decision is latent with grace from the Holy Spirit for building God's kingdom and responding to God's great gift of love with our lives; one of the gifts of such grace is dis-

55 U. Hayat, 'Sustainable, Responsible, and Impact Investing and Islamic Finance: Similarities and Differences' (2019), 8, <https://www.cfainstitute.org/-/media/documents/survey/sri-investing-and-islamic-finance.pdf> (last visited 5 February 2024).

56 G.E. Henderson, 'Making Corporations Environmentally Sustainable: The Limits of Responsible Investing', 13 *German Law Journal* 1412, at 1413-1414 (2012).

57 R. Bandari, E.A. Moallemi, R.E. Lester, D. Downie & B.A. Bryan, 'Prioritising Sustainable Development Goals, Characterising Interactions, and Identifying Solutions for Local Sustainability', 127 *Environmental Science & Policy* 325 (2022). See also C. Allen, G. Metternicht & T. Wiedmann, 'Prioritising SDG Targets: Assessing Baselines, Gaps and Interlinkages', 14 *Sustainability Science* 421 (2019).

58 S.A. Schwartz, 'Theory of Cultural Values and Some Implications for Work', 48 *Applied Psychology* 23 (1999).

59 W.R. Pasewark and M.E. Riley, 'It's a Matter of Principle: The Role of Personal Values in Investment Decisions', 93(2) *Journal of Business Ethics* 237 (2010).

60 The Royal Aal al-Bayt Institute for Islamic Thought in Jordan, above n. 9, at 53.

61 Ibid.

62 *Hadith* refers to the corpus of the sayings or traditions of the Prophet Muhammad (s.a.w.), revered by Muslims as a major source of religious law and moral guidance. See A. Sayeed, 'Hadith', in Editors of *Encyclopedia Britannica*, *Encyclopedia Britannica* (2003) at 1.

63 The Royal Aal al-Bayt Institute for Islamic Thought in Jordan, above n. 9, at 53.

64 See, e.g., Matthew 22:34-40; Mark 12:28-31.

65 The Royal Aal al-Bayt Institute for Islamic Thought in Jordan, above n. 9, at 68.

66 Global Ethical Finance Initiative, 'Edinburgh Finance Declaration: An Interfaith Shared Values Framework on Ethical Finance' (22 October 2018), <https://www.globalethicalfinance.org/wp-content/uploads/2018/06/Edinburgh-Finance-Declaration-Overview.pdf>. See also the Qur'an 2:30 and Genesis 1:26-27.

67 Global Ethical Finance Initiative, above n. 66.

68 Pontifical Council of Justice and Peace, above n. 6, at 105; The Pontifical Academy of Social Sciences, '*Mensuram Bonam* - Faith-Based Measures for Catholic Investors: A Starting Point and Call to Action', 2022, 4. While finance is an important sector and includes investing as an activity, it must actively be at the service of the real economy and not be used solely as a means of unproductive speculation.

cerning the true value – and, therefore, measure – of all things.<sup>69</sup> The Islamic understanding of man as representative guardian for the divine will or *khalifah* has been further argued to mean that man is the custodian of creation who is tasked with maintaining creation's order and may enjoy the fruits of the Earth but must not wastefully exploit its resources.<sup>70</sup>

In construing the connection between investment and growth, Christian and Islamic faith-based standpoints emphasise development beyond the economic dimension. Development is a human life goal which always considers the moral and spiritual spheres and universal uplift in the process.<sup>71</sup> The principle of social justice and overall societal well-being are central to Christianity and Islam. Key principles of Catholic Social Teaching<sup>72</sup> focus on the human person and human dignity,<sup>73</sup> the common good, solidarity, social justice,<sup>74</sup> subsidiarity, care for our common home, the inclusion of the most vulnerable, and integral ecology.<sup>75</sup> While the UN has fashioned measures of just, inclusive and ecologically sound practices, the Catholic Church believes that there is no investment algorithm to 'simulate the human conscience and that numbers are an imperfect representation of priorities in the investment calculus.'<sup>76</sup> Under Islam, concepts of common welfare (*maslahat*) and the broader purpose of the *Shariah*<sup>77</sup> (*maqasid*) speak to the ultimate goal of life in Islam to protect the five essential interests, namely the faith (*din*), the self (*nafs*), the intellect (*'aql*), the progeny (*nasl*) and wealth (*mal*).<sup>78</sup> *Maqasid* emphasises a holistic view of life in Islam and is a foundation towards a righteous way of life in which these outcomes can be achieved: the fulfilment of basic human needs, the optimisation of natural resource consumption, the promotion of economic well-being and social justice, the alleviation of poverty and reduction of income disparities, as well as the adoption of permissible and productive activities while eschewing prohibited and harmful activities under the rubrics of Islam.<sup>79</sup>

69 The Pontifical Academy of Social Sciences, above n. 68, at 14.

70 A. Rakhmat, 'Islamic Ecotheology: Understanding the Concept of Khalifah and the Ethical Responsibility of the Environment', 3(1) *Academic Journal of Islamic Principles and Philosophy* 20 (2022).

71 Jeremiah 29:6-7, and *Surah Al-Muwatta*.

72 A.M. Gómez-Bezares and F. Gómez-Bezares, 'Catholic Social Thought and Sustainability. Ethical and Economic Alignment', 14(11) *Journal of Risk and Financial Management* 1 (2021).

73 Pontifical Council of Justice and Peace, above n. 6, at 48.

74 The Pontifical Academy of Social Sciences, above n. 68, at 23.

75 Pope Francis, 'Encyclical Letter of The Holy Father Francis on Care for Our Common Home: *Laudato Si'*', 2015, paras. 10-11. See also E.d. Quay, 'Integral Ecology in the Roman Catholic Church', <https://sri.campion.ox.ac.uk/IntegralEcologyRC> (last visited 5 February 2024).

76 The Pontifical Academy of Social Sciences, above n. 68, at 7.

77 *Shariah* is defined as the totality of guidance that God Most High has revealed to His Prophet Muhammad (s.a.w) pertaining to the dogma of Islam, its moral values and its practical legal rules. See M.H. Kamali, *Shariah and the Halal Industry* (2021).

78 S.E. Hidayat, Y. Izharivan & C.A. Sari, 'Islamic Finance and Sustainable Economy: A New Model of Islamic Financial Ecosystem', in M.K. Hassan, M. Saraç and A. Khan (eds.), *Islamic Finance and Sustainable Development* (2021) 265, at 270.

79 Securities Commission, 'Capital Market Masterplan 3', 70, <https://www.sc.com.my/api/documentms/download.ashx?id=99798151-53e6-4809-b9de-6e2f094202b9> (September 2021).

There is a perception within the Islamic finance sector that there is no significant difference between the *Shariah* and the SDGs in view of their compatibility with each other,<sup>80</sup> with the difference being in the means or *wasa'il*.<sup>81</sup>

Faith-based investing holds as important the preservation of natural resources and the maintenance of ecological equilibrium. In the Catholic understanding of the natural order, the economy is nested within society, impacts human beings in positive and negative ways and is bound by natural limits.<sup>82</sup> As stated in the papal encyclical *Laudato Si*,

creatures tend towards God, and in turn it is proper to every living being to tend towards other things, so that throughout the universe we can find any number of constant and secretly interwoven relationships.<sup>83</sup>

The Anglican Church declaration of Five Marks of Mission which expresses the mission statement of the Church of England includes striving to safeguard the integrity of creation and to sustain and renew the life of the Earth.<sup>84</sup> From an Islamic perspective, the concept of *fitrah* describes the original natural order while the principle of *tawhid* or unity describes all elements of divine creation as related to each other and because they are all equal signs of God, are equally important, valuable and worthy of preservation.<sup>85</sup> Furthermore, *tawhid* is premised on belief in one God and man as servant to God, which accordingly drives the believer to conduct all activities with good intentions, good manners and the prevention of harm to others.<sup>86</sup> The Qur'an also cites the concept of *mizan* or balance which has been interpreted as intending the 'natural regeneration of the diverse life forms on earth' in a state of properly ordered creation which needs to be maintained or restored.<sup>87</sup>

The values underpinning faith-based investing are essential in providing a solid theological foundation for investment choices. Returns on investment are important in faith-based investing across both Christianity and Islam. However, in the Christian context, these must be distinguished from the promises of wealth as evidence of God's blessings pursuant to the prosperity gos-

80 M. Bhojroo, 'Islamic Finance Converges with Sustainability' (19 July 2022), <https://www.ftserussell.com/blogs/islamic-finance-converges-sustainability>.

81 UK Islamic Finance Council, 'Islamic Finance: Shariah and the SDGs (Thought Leadership Series Part 4 – October 2021)', <https://www.ukifc.com/wp-content/uploads/2021/09/IF-Report-part-4-Oct-2021.pdf>.

82 The Pontifical Academy of Social Sciences, n. 68 above, at 13-14.

83 Pope Francis, n. 75, at 240.

84 Anglican Communion, 'The Five Marks of Mission', <https://www.anglicancommunion.org/mission/marks-of-mission.aspx> (last visited 5 February 2024).

85 O. Sacarcelik, 'Sustainability in Islamic Finance: Regulatory Developments and Environmental, Social and Governance (ESG) Practices of Islamic Financial Institutions' (2018-2019) 20 *Yearbook of Islamic and Middle Eastern Law* 119, at 132.

86 Hidayat et al., above n. 78, at 269.

87 A. Ali and C. Bruch, 'Maintaining Mizan: Protecting Biodiversity in Muslim Communities', 32 *Environmental Law Reporter* 10020 (2002), at 10025. See also the Qur'an 15:19; 55:7-8

pel<sup>88</sup> which is viewed as contrary to the Catholic and Church of England faith traditions.<sup>89</sup> Based on the foregoing analysis, these values canvassed here which focus on the love of God and neighbour, man's role as steward, a broader concept of development and the importance of the environment are well aligned with the SDG's 'universal call to action to end poverty, protect the planet and ensure that all will enjoy peace and prosperity'.<sup>90</sup>

## 4 The Legal and Regulatory Framework of Faith-Based Investing

This section analyses the legal and regulatory framework governing faith-based investing as it takes place within national-level legal frameworks governing religion and investment. The analysis which follows illustrates that there is a continuum in terms of the law and regulation governing faith-based investing. On one end, the US approach is primarily market-driven and reliant on standard-setting by private actors which contrasts with the Malaysian approach of extensive state involvement through public law and regulation specifically tailored for Islamic faith-based investing on the other end. Interestingly, while there is a link between church and state as regards the Church of England, the UK approach of governing faith-based investing shares more similarities with the US rather than Malaysia. This continuum has implications on the reliance on public versus private mechanisms in the governance and certification of faith-based investment securities and products.

The First Amendment of the US Constitution provides that the country shall have no official religion,<sup>91</sup> although debates have arisen about the line between religion and government since the founding of the country.<sup>92</sup> By contrast, the Church of England is the established church in England, which means that the reigning monarch is the supreme governor of the church, the church performs various official functions and the

church and state are linked.<sup>93</sup> Islam is established as the state religion under Article 3(1) of the Malaysian Federal Constitution, although other religions may be practised in peace and harmony, and the establishment of Islam shall not derogate from other provisions in the constitution.<sup>94</sup> Nevertheless, the general law in Malaysia is secular, and separate *Shariah* jurisdiction is carved out for personal matters for persons professing the religion of Islam.<sup>95</sup>

The US asset managers that carry out faith-based investing in the Catholic tradition are subject to the same law and regulations as conventional asset managers.<sup>96</sup> Additionally, Catholic faith-based investing in the US is reliant on soft law and guidelines which function as private standard-setters, such as those issued by the Vatican Pontifical Academy of Social Sciences and the US Conference of Catholic Bishops (USCCB) who jointly exercise pastoral functions on behalf of the Christian faithful within the Catholic denomination. In 2021, the USCCB issued an expanded version of its SRI Guidelines<sup>97</sup> supplementing the USCCB's Catholic Framework for Economic Life which is based on the Catechism of the Catholic Church, papal encyclicals, statements from US bishops, and the pastoral letter, *Economic Justice for All*.<sup>98</sup> This was soon followed by the issuance of a public guideline for ethical investing titled *Mensuram Bonam*<sup>99</sup> by the Pontifical Academy of Social Sciences in November 2022 which builds on earlier papal teaching on the need for ethics in the marketplace.<sup>100</sup> These guidelines serve as a call to all Catholics involved in investing to formally adopt and apply faith-based criteria in the stewardship of their finances. To this end, they are called to reconcile economic objectives with the overarching principles of the Church's moral and social teachings and to use their expertise, engagement skills and ethical concerns to contribute to changing economic culture to accelerate the flourishing of integral human development.<sup>101</sup> Compliance with the Vatican and USCCB guide-

88 See generally K. Bowler, *Blessed: A History of the American Prosperity Gospel* (2013).

89 See, e.g., V. Radio, 'Pope: The Rich Who Exploit the Poor Are Bloodsuckers' (19 May 2016), [www.archivioradiovaticana.va/storico/2016/05/19/pope\\_the\\_rich\\_who\\_exploit\\_the\\_poor\\_are\\_bloodsuckers/en-1230913](http://www.archivioradiovaticana.va/storico/2016/05/19/pope_the_rich_who_exploit_the_poor_are_bloodsuckers/en-1230913); B. Chitemba and D.Ncube, 'Anglican Leader Condemns Prosperity Gospel' (17 April 2016), <https://www.sundaymail.co.zw/anglican-leader-condemns-prosperity-gospel>.

90 United Nations, above n. 18.

91 US Congress, 'Constitution Annotated: First Amendment', <https://constitution.congress.gov/constitution/amendment-1/> (last visited 10 September 2023); R. Leppert and D. Fahmy, '10 Facts about Religion and Government in the United States' (5 July 2022), <https://www.pewresearch.org/fact-tank/2022/07/05/10-facts-about-religion-and-government-in-the-united-states/>.

92 See, e.g., N. Totenberg, 'Supreme Court Says Boston Unconstitutionally Barred Christian Flag From City Hall' (2 May 2022), <https://www.npr.org/2022/05/02/1095943871/supreme-court-says-boston-unconstitutionally-barred-christian-flag-from-city-hal>.

93 D. Torrance, 'The Relationship Between Church and State in the United Kingdom' (14 September 2023), <https://commonslibrary.parliament.uk/research-briefings/cbp-8886/>.

94 Art. 3(4) Malaysian Federal Constitution.

95 Schedule 9, List II, Malaysian Federal Constitution sets out these matters, including succession, testate and intestate, marriage, divorce, and the punishment of offences by persons professing the religion of Islam against precepts of that religion. See also D. Shah, *Constitutions, Religion and Politics in Asia* (2017), at 24.

96 US Securities and Exchange Commission, 'The Laws That Govern the Securities Industry', <https://www.sec.gov/about/about-securities-laws> (last visited 3 February 2024). See also H. Bines and S. Thel, 'The Varieties of Investment Management Law', 21(1) *Fordham Journal of Corporate & Financial Law* 71 (2016).

97 US Conference of Catholic Bishops, 'Socially Responsible Investment Guidelines for the United States Conference Of Catholic Bishops' (November 2021), [https://www.usccb.org/resources/Socially%20Responsible%20Investment%20Guidelines%202021%20\(003\).pdf](https://www.usccb.org/resources/Socially%20Responsible%20Investment%20Guidelines%202021%20(003).pdf).

98 US Conference of Catholic Bishops, 'Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy' (1986), [https://www.usccb.org/upload/economic\\_justice\\_for\\_all.pdf](https://www.usccb.org/upload/economic_justice_for_all.pdf).

99 J. Horowitz, 'Catholic Church Issues Guidelines for Ethical Investing', *New York Times* (25 November 2022).

100 Pope Benedict XVI, above, n. 6, at 45-46.

101 The Pontifical Academy of Social Sciences, above n. 68.

lines with regard to investment funds' religious standards and criteria is determined by internal Catholic advisory boards set up by the asset manager,<sup>102</sup> and there is no external certification authority in this respect.

Although the Church of England is the established church of England, there is no prescribed legal and regulatory framework for faith-based investing in accordance with the Church of England teachings. Asset managers in the UK which conduct faith-based investing are subject to the prevailing laws regulating conventional asset managers. Faith-based investing in accordance with the teachings of the Church of England considers guidelines such as the statement of ethical investment policy issued by the National Investing Bodies of the Church of England, namely the Church Commissioners for England, the CBF Church of England Funds, and the Church of England Pensions Board.<sup>103</sup> This statement outlines in broad terms the Church of England's position relating to stewardship, engagement and investment exclusions with more detailed policies and reports on topical concerns which include climate change and supply chain engagement as well as sectors such as extractive industries.<sup>104</sup> These policies and reports provide theological reflections and practical recommendations with regard to investment strategies. Similar to the US position, certification of compliance of faith-based investments with Church of England guidelines is conducted by internal faith advisory committees.<sup>105</sup>

The legal framework of Islamic faith-based investing sits within the wider Islamic finance framework in Malaysia. Islamic finance is a long-standing and viable alternative to conventional finance. Islamic faith-based investing is contrasted with Christian-aligned investing which operates within the mainstream financial system, given fewer restrictions on fundamental tenets such as the payment of interest<sup>106</sup> and the integration of various denominations of Christianity within the Western and global financial system.<sup>107</sup> Under Malaysian law, asset managers which carry out Islamic faith-based investing are subject to the legislative and regulatory requirements pursuant to the Islamic finance law and regulations. These include quasi-legislative guidelines issued

by the Malaysian Securities Commission which are subject matter specific. Islamic finance products are also subject to *Shariah* regulations which are fundamentally different from the common law.<sup>108</sup> The Qur'an is the primary legal source followed by the *Hadith* and other secondary sources.<sup>109</sup>

While the US and the UK faith-based investments include equities and ETFs,<sup>110</sup> Islamic faith-based investments are open to an even broader range of financial products beyond the equity universe such as Islamic bonds or *sukuk* which must comply with *Shariah* requirements. In this respect, *Shariah* certification is conducted on a national level in Malaysia through the Shariah Advisory Council.<sup>111</sup> The Council plays an essential role to ensure that the implementation of the Islamic Capital Market complies with *Shariah* principles. It is a formalised version of an earlier Islamic Instrument Study Group which was formed in 1994 and its establishment was endorsed by the Minister of Finance to ensure that the implementation of the Islamic Capital Market complied with *Shariah* principles. Its scope of jurisdiction is to advise the Malaysian Securities Commission on all matters related to the comprehensive development of the Islamic Capital Market and to function as a reference centre for all Islamic Capital Market issues. *Shariah*-compliant and non-*Shariah*-compliant businesses are differentiated by the Shariah Advisory Council using *Shariah* equities screening criteria which may overlap with ESG in the focus on socially responsible purposes and the exclusion of businesses which are deemed unethical.<sup>112</sup> Their decisions are documented in the resolutions of the Shariah Advisory Council.<sup>113</sup>

The governance of faith-based investing takes on different forms across the US Catholic, the UK Church of England, and Malaysian Islamic settings. The US regulatory approach is mainly market-driven and stands in contrast with extensive state support in the form of specific law and regulation governing Islamic faith-based investing in Malaysia. Consequently, for the purposes of certification of investment compliance with faith principles central to faith-based investing, there is reliance on private mechanisms in the form of internal faith advisory committees in the US and the UK which may be distinguished from the use of public mechanisms such

102 See, e.g., Ave Maria Mutual Funds, 'Advisory Board' (2021), <https://avemariafunds.com/about-us/advisory-board.html>; M. Stanley, 'Catholic Values Investing' (September 2016), <https://www.morganstanley.com/content/dam/msdotcom/articles/building-value-values/IIP-CatholicValues-Primer.pdf>.

103 Church of England, 'Ethical Investment Advisory Group', <https://www.churchofengland.org/about/leadership-and-governance/ethical-investment-advisory-group> (last visited 1 September 2023).

104 Church of England, 'Policies and Reviews', <https://www.churchofengland.org/about/leadership-and-governance/ethical-investment-advisory-group/policies-and-reviews> (last visited 1 September 2023).

105 See, e.g., S. Hickey, 'Church of England Investment Manager Launches Retail Fund' (13 June 2022), <https://www.ftadviser.com/investments/2022/06/13/church-of-england-investment-manager-launches-retail-fund/>.

106 W. Ghoul and P. Karam, 'MRI and SRI Mutual Funds: A Comparison of Christian, Islamic (Morally Responsible Investing) and Socially Responsible Investing (SRI) Mutual Funds', 16(2) *The Journal of Investing* 96 (2007).

107 R.S. Stultz, 'An Examination of the Efficacy of Christian-Based Socially Responsible Mutual Funds', 1(2) *The Journal of Impact and ESG Investing* (2020) 105.

108 V. Chen, 'Law and Society in the Evolution of Malaysia's Islamic Capital Market Regulation', 4 *Asian Journal of Law and Society*, 133 (2017).

109 Ibid.

110 The increasing popularity of ETFs also means that investment advisors must carefully monitor the companies which the ETF invests in for adherence to religious values to prevent 'faithwashing'. See M. Penton, 'Connecting with Clients Through Faith-Based Investing', *Wealth Management*, 27 October 2021.

111 Securities Commission Malaysia, 'Shariah Advisory Council', <https://www.sc.com.my/development/icm/shariah/members-of-the-shariah-advisory-council> (last visited 5 February 2024).

112 S.P. Lee, 'Environmental, Social and Governance (ESG) Practices and Performance in Shariah Firms: Agency or Stakeholder Theory?' 16(1) *Asian Academy of Management Journal of Accounting and Finance* 1, at 8 (2020).

113 Securities Commission Malaysia, 'Resolutions of the Shariah Advisory Council of the SC', <https://www.sc.com.my/development/icm/shariah/resolutions-of-the-shariah-advisory-council-of-the-sc> (last visited 5 February 2024).



as the Malaysian Shariah Advisory Council. The usage of private certification mechanisms allows for flexibility in the interpretation of religious principles in investment decisions, but they are also more susceptible to divergences between official religious precepts and investment choices driven by a variety of factors, including politics as Section 6 will show. This, in turn, may affect the integrity and character of faith-based investing which is less likely where there is a state-backed certification authority as is the case in Malaysia. From another perspective, given the reliance on private standard-setting mechanisms in faith-based investing in the US and the UK contexts, issues relating to the lack of transparency and accountability may arise which make this an interesting line of inquiry into the benefits and challenges of private modalities of governance.<sup>114</sup>

## 5 A Comparative Perspective of Faith-Based Investing Stewardship Approaches

Investment stewardship approaches in faith-based investing are akin to a bridge which links the abstract values discussed in Section 3 with tangible actions to lead towards sustainability. As such, this section compares the investment stewardship approaches in the US Catholic, the UK Church of England, and the Malaysian Islamic finance contexts to appraise their relationship with sustainability. In this respect, investment stewardship approaches consist of the activities of screening, monitoring and engagement, as well as divestment of investments. It is worth noting that monitoring and engagement activities are commonly carried out in the conventional investment context as evidenced by various stewardship codes worldwide.<sup>115</sup>

As argued earlier, investment decisions by individuals engaging in faith-based investing are a form of voluntarily bounded autonomy driven by their beliefs. The foundational principle of stewardship is at the heart of these religions. Faith-driven stewardship is realised in an investment context through the investment stewardship approaches discussed below. These approaches enforce the legal and social limits applicable to faith-based investing and are typically performed by asset managers on behalf of the said individuals as a result of the asset managers' greater knowledge and strength of their collective voice. Investment stewardship has been regarded as operating in the form of a bull's eye model – investments related to faith at the centre as an ideal followed

by causes that have an impact on the SDGs as the second ring.<sup>116</sup>

To begin with, faith-based investing is based on a screening process<sup>117</sup> which is typically undertaken by asset managers to ensure investments are compliant with the values and teachings of the religion. With regard to negative screening, certain activities and products are screened out so that their portfolios align with the values of the beneficiaries or clients and the overarching goals of developing a sustainable and fair society without harming people or damaging the environment.<sup>118</sup> The usage of investment screens is similar to the approach under Sustainable Finance 1.0 discussed in Section 2 in which profit maximisation is prioritised while minimising investment in the so-called sin stocks. It is therefore important to identify what constitutes 'sin stocks' within Catholic, Church of England, and Islamic faith traditions. This is contrasted with positive screening in which investments are made in companies with better or improving ESG performance relative to sector peers which are also known as best-in-class methodology, positive selection or positive alignment.<sup>119</sup>

Catholic investment screens are widely used by the securities industry to prepare and market new offerings.<sup>120</sup> There is a list of 24 categories of concern or prohibition which identifies issues for investors which require discernment from faith<sup>121</sup> and which have already been examined by various local Catholic Episcopal Conferences. They may further be divided into four major categories, namely, upholding the intrinsic dignity of human life, avoiding destructive behaviours, recognising global and sustainability impacts, and securing environmental protection. The USCCB guidelines also address the issue of mixed investments and suggest that socially responsible investors could set limits for corporations engaged in questionable or objectionable activities, to hold a minimal position in those companies that fall under the threshold and then to use one's position as shareholder to work actively to influence or redirect the activities or policies of the corporation towards activities and policies which are socially beneficial and serve the common good.<sup>122</sup> Investors are invited to consider grey areas that may require additional research, new metrics or

114 See, e.g., F. Cafaggi and A. Renda, 'Public and Private Regulation Mapping the Labyrinth', 1 *The Dovensmidt Quarterly* (2012) 16; D. Curtin and L. Senden, 'Public Accountability of Transnational Private Regulation: Chimera or Reality?' 38(1) *Journal of Law and Society* 163 (2011).

115 See, e.g., International Corporate Governance Network, 'Global Stewardship Codes Network', <https://www.icgn.org/global-stewardship-codes-network> (last visited 5 February 2024).

116 See, e.g., Stewardship, 'New Investment Strategy' (12 January 2022), <https://www.stewardship.org.uk/blogs/new-investment-strategy>; R.L. Root, 'What Faith Groups' Move Toward Value-Based Investing Means for NGOs' (16 May 2022), <https://www.devex.com/news/what-faith-groups-move-toward-value-based-investing-means-for-ngos-103151>.

117 P.D. Kinder and A.L. Domini, 'Social Screening: Paradigms Old and New', 6(4) *The Journal of Investing* 12 (1997).

118 Hayat, above n. 55 at 3.

119 Ibid.

120 The Pontifical Academy of Social Sciences, above n. 68, at 11.

121 In practice, Catholic investors reflecting on their faith would use a matrix of questions and prompts to guide their investing practices. These include probing the Catholic scriptures, enquiring of the Catholic Church's teachings, summoning their own ethical wisdom and striving in their own way for openness to the gifts of the Holy Spirit. See also The Pontifical Academy of Social Sciences, above n. 68, 1 at 10. See also Isaiah 11:1-3 and paras. 1285-1287, 1830-1831, and 1845 of the Holy See, Catechism of the Catholic Church.

122 US Conference of Catholic Bishops, above n. 97, at 8.

third-party consultation before an informed decision can be made; these areas include the abuse of speculative products or investment techniques or using accounting practice loopholes that exploit the protection of tax havens.<sup>123</sup> Interestingly, the Catholic Church does not see speculation in the form of games of chance or wagers as contrary to justice in themselves, although they become morally unacceptable when they deprive a person of what is necessary to provide for their needs and those of others.<sup>124</sup> The Church of England also practises investment exclusions including indiscriminate weaponry, the production and distribution of pornography, as well as companies that derive more than 10% revenue from tar sands or thermal coal.<sup>125</sup> The Catholic Church's and the Church of England's methodologies for investment screening are chiefly based on the economic activities of the enterprise in question.

For Islamic faith-based investing or *Shariah*-compliant investing, securities that have been identified as exposed to *haram* or forbidden products and activities are excluded from the portfolio and investment universe, for example, alcohol or pork products. It is noted that the *Shariah* screening procedure has no specific standard that covers environmental and social issues.<sup>126</sup> As detailed in Section 4, the certification of equities is conducted by state bodies such as the Shariah Advisory Council. However, there are differences on the international front as Malaysia's Shariah Advisory Council takes a comparatively liberal stance in its interpretation of *Shariah* considering all four major Islamic schools of thought. This approach is in line with an identified divergence in the interpretation of *Shariah* which results in distinct Arab and Malaysian models of Islamic finance.<sup>127</sup>

In addition, pursuant to Islamic finance principles, the capital structure of the investee company is considered, with companies financed primarily through debt rather than equity being regarded as more problematic as far as debt in the capital structure is interest based. Under the Islamic view, it is essential that the money at the centre of the enterprise is used for productive purposes related to a real underlying asset and the sharing of risk and reward rather than through speculation. Islam also prohibits *riba* which certain scholars regard as equivalent to interest although there is no generally accepted consensus on this matter<sup>128</sup> as well as any speculative activity (*gharar*). This is unlike the comparatively re-

laxed position which Christianity adopts as regards interest and speculation.<sup>129</sup> *Riba* has also been viewed as negatively affecting society as the poor are less likely to be able to earn *riba* and accumulate wealth; *riba* also acts as a disincentive of charity as interest earners are more motivated by *riba* and wealth creation rather than building a cohesive society that benefits everyone.<sup>130</sup> It is arguable that there are theological reasons for the detailed stipulations related to financial ethics in the Islamic tradition; laws governing usury should be seen as emerging from a deep commitment to achieving God's grace.<sup>131</sup> Islamic finance is based on principles designed to regulate self-interest and to give primary consideration to the needs of society through various commandments, prohibitions and doctrines.<sup>132</sup> The relative strictness of the screening criteria moves from a sectoral to a capital-centred approach with regard to the role of debt, with practitioners reporting that a 100% compliance rate with screening criteria may not be possible. Under these circumstances, the fund may evaluate the percentage of revenue which an investee company derives from a prohibited activity.<sup>133</sup> While there are differences in how Christianity and Islam perceive debt, interest and speculation, there is an underlying recognition of its risks, for example, in the case of speculative investing. Indeed, recent research has argued that prioritising investing based on fundamental analysis, values and ethics rather than speculation is in line with sustainability.<sup>134</sup>

Monitoring and engagement with the investee companies as a form of active ownership constitute a key investment stewardship approach in faith-based investing. On the secular front, the UN Principles of Responsible Investment,<sup>135</sup> the UK Stewardship Code<sup>136</sup> and the Malaysian Code for Institutional Investors<sup>137</sup> have stipulated stewardship principles which overlap with the stewardship values and practices under the umbrella of faith-based investing. For instance, engagement strate-

123 The Pontifical Academy of Social Sciences, above n. 68, at 35.

124 The Holy See, Catechism of the Catholic Church, para. 2413.

125 Church Commissioners for England, 'Responsible Investment Policy', 5, <https://www.churchofengland.org/sites/default/files/2023-02/church-commissioners-updated-responsible-investment-policy-november-2022.pdf> (last visited 5 February 2024).

126 D. Ashraf and M. Khawaja, 'Does the Shariah Screening Process Matter? Evidence from Shariah Compliant Portfolios', 132 *Journal of Economic Behavior & Organization* 77 (2016).

127 N.F. Mohammed, F.M. Fahmi & A.E. Ahmad, 'The Influence of AAOIFI Accounting Standards in Reporting Islamic Financial Institutions in Malaysia', 31 *Procedia Economics and Finance* 418 (2015), at 422.

128 M.O. Farooq, 'The Riba-Interest Equivalence: Is There an Ijma (consensus)?', 4(5) *Transnational Dispute Management*, 26 (2007).

129 C. Answers, 'Encyclopedia: Speculation', <https://www.catholic.com/encyclopedia/speculation> (last visited 5 February 2024). As regards betting and gambling, they are viewed as morally problematic although the Catechism of the Catholic Church, which is an organic synthesis of the essential and fundamental contents of Catholic doctrine relating to faith and morals, is not explicit on the matter. See P. Iglesias-Rodríguez, 'The Gambling Business from the Point of View of Catholic Moral and Social Teachings', 52(4) *Studies in Religion* (2023) 531.

130 CFA Institute, 'ESG Integration and Islamic Finance: Complementary Investment Approaches', 2, (2019), <https://www.unpri.org/download?ac=9578>.

131 Global Ethical Finance Initiative, above n. 66, at 20.

132 UK Islamic Finance Council, above n. 81, at 27.

133 See, e.g., Paul Sullivan, 'Faith-Based Investing Makes Up Ground in Gains and Convenience' (14 May 2021), <https://www.nytimes.com/2021/05/14/your-money/faith-based-investing.html>.

134 C. Hecker, 'How Should Responsible Investors Behave? Keynes's Distinction between Entrepreneurship and Speculation Revisited' 171 *Journal of Business Ethics* 459, at 469 (2021).

135 United Nations, 'Principles for Responsible Investment', <https://www.unpri.org/about-us/what-are-the-principles-for-responsible-investment> (last visited 16 September 2023).

136 UK Financial Reporting Council, 'UK Stewardship Code', <https://www.frc.org.uk/investors/uk-stewardship-code> (last visited 16 September 2023).

137 Institutional Investors Council Malaysia, 'Malaysian Code for Institutional Investors 2022', <https://www.iicm.org.my/malaysian-code-for-institutional-investors-2022> (last visited 17 September 2023).

gies outlined in *Mensuram Bonam* map against Hirschman's well-known model of voice, vote and exit.<sup>138</sup> According to *Mensuram Bonam*, active engagement in investee companies is encouraged to influence through dialogue, mutual learning and collaboration in the enterprises in which they invest. This usually means creating greater alignment between operations not only in relation to relevant international legal and ethical standards but also in coherence with the spirit of Catholic Social Teaching principles.<sup>139</sup> The necessity for patience in extending dialogue with others to support proposals that offer an opportunity to achieve professional results that accord with the ethos of their faith is also emphasised.<sup>140</sup> Such an approach is not new. The first retail mutual funds for Catholic investors launched in 1994 took an advocacy approach in engaging with companies to advocate for change.<sup>141</sup> Failure to vote or assigning proxies to management is effectively considered as a vote for current management and the status quo.<sup>142</sup> Similarly, the Commissioners for the Church of England practise active ownership and voting, that is, where there is direct holding of shares, they vote themselves rather than delegating this responsibility to the asset managers to whom they give investment mandates.<sup>143</sup> Voting is conducted in line with the policy recommendations of the Church of England's Ethical Investment Advisory Group (EIAG) on corporate governance, executive remuneration and other ethical issues.<sup>144</sup> On the issue of engagement, the Commissioners believe that asset managers should monitor the investment quality of investee companies, with a longer expected holding period leading to greater stewardship responsibilities.<sup>145</sup> Furthermore, it is expected that investment managers will conduct engagement activities, including on ESG issues, as appropriate in light of their expected holding periods and issues arising at investee companies which should be reported to the Commissioners.<sup>146</sup> To the best of the author's knowledge, strong and active engagement practices have not been documented as part of Islamic investing.<sup>147</sup>

In terms of exit or divestment of investments, the decision to divest has been described by the USCCB as ema-

nating from the principle of cooperation and the avoidance of scandal.<sup>148</sup> An investor maintains the freedom to choose to disinvest or divest from such funds in accordance with their awareness of these guidelines and the impact on their conscience.<sup>149</sup> This would effectively be a faith-informed market response made necessary by the nonbinding nature of *Mensuram Bonam* and the USCCB guidelines. As regards the Church of England position, the EIAG may recommend divestment of any individual company if, after sustained dialogue, the company does not respond positively to EIAG concerns about its practices on the basis that responsibility and a resolution to improve are more important than perfection.<sup>150</sup> Similar to its position on active engagement, Islamic investing has not focused on divestment as part of its investment stewardship approaches as it focuses on the negative screening techniques discussed earlier instead.

The importance of a long-term standpoint in investment is especially pertinent with regard to divestment from high-emitting assets as regards Catholic and Church of England's guidelines for faith-based investing. Nevertheless, there are also contrary views which assert that divestiture is nothing more than greenwashing as it does not change the (carbon) footprint of the world.<sup>151</sup> Instead, proponents argue that active engagement with oil majors to set them on the path towards transition and improved corporate conduct should be the preferred course of action, using a voice over exit strategy.<sup>152</sup> While there are staunch advocates in favour of divestment, the literature indicates that there are also strong arguments against divestment necessitating further research on its effectiveness in advocating for real change.<sup>153</sup> Be that as it may, there is currently a tidal wave of climate pledges by various faith-based organisations and cities to divest from the fossil fuel sector and reinvestment in low-carbon projects to the tune of US\$39.2 trillion.<sup>154</sup> The collective power of these climate pledges and its translation into the faith-based investing arena are left to be seen.

Although there are similarities in the screening techniques employed in Catholic, Church of England, and

138 See A. Hirschman, *Exit, Voice, and Loyalty* (1977).

139 The Pontifical Academy of Social Sciences, above n. 68, at 30.

140 Ibid.

141 Hopfinger, above n. 51.

142 US Conference of Catholic Bishops, above n. 97, at 5.

143 See, e.g., Church Commissioners for England, 'For the Common Good: Stewardship at the Church Commissioners' (2021), <https://www.churchofengland.org/sites/default/files/2022-06/the-church-commissioners-for-england-stewardship-report-2021.pdf> (last visited 5 February 2024).

144 Church of England, 'Policies', <https://www.churchofengland.org/about/leadership-and-governance/ethical-investment-advisory-group/policies-and-reviews> (last visited 5 February 2024).

145 Church Commissioners for England, above n. 125, at 7.

146 Ibid.

147 See, e.g., UN Principles of Responsible Investment, 'Islamic Finance and Responsible Investment' (13 July 2017), <https://www.unpri.org/environmental-social-and-governance-issues/islamic-finance-and-responsible-investment/610>. article (last visited 5 February 2024); CFA Institute, 'ESG Integration and Islamic Finance: Complementary Investment Approaches' (2019), <https://www.unpri.org/download?ac=9578>.

148 US Conference of Catholic Bishops, above n. 97, at 5.

149 B.P. Green, 'Catholicism and Conscience' (1 May 2013), <https://www.scu.edu/ethics/focus-areas/religious-and-catholic-ethics/resources/catholicism-and-conscience/>.

150 Church of England, 'Ethical Investment Advisory Group Statement of Ethical Investment Policy' (October 2018), <https://www.churchofengland.org/sites/default/files/2019-01/statement-of-ethical-investment-policy-october-20181.pdf>.

151 MIT GCFP – Conferences, '8th Annual Conference – Financial Policy and the Environment' (21 July 2021), <https://gcfp.mit.edu/mit-gcfp-8th-annual-conference/>.

152 See, e.g., E. Broccardo, O. Hart & L. Zingales, 'Exit Versus Voice', 130(12) *Journal of Political Economy* 3101 (2022).

153 See, e.g., S. Braungardt, J.v.d. Bergh & T. Dunlop, 'Fossil fuel divestment and climate change: Reviewing contested arguments', 50 *Energy Research & Social Science* 191 (2019).

154 Edie Newsroom, 'Global Fossil Fuel Divestment movement Surpasses \$39trn as Cities and Faith Groups Make New Pledges' (26 October 2021), <https://www.edie.net/global-fossil-fuel-divestment-movement-surpasses-39trn-as-cities-and-faith-groups-make-new-pledges/>.

Islamic faith-based investing, the content of each faith's investment screens differs based on religious principles with Islam taking a more stringent view. Conversely, Islamic faith-based investing does not emphasise the use of monitoring and engagement while the Catholic Church's and Church of England's positions encourage the use of both investment stewardship approaches.

## 6 Faith-Based Investing: Opportunities and Sustainability-Centric Challenges

Having taken a detailed look at the underpinning values, legal and regulatory framework, and investment stewardship approaches of faith-based investing, Section 6 takes a step back to highlight the broader opportunities which faith-based investing encounters in its development and challenges in advancing sustainability. If faith-based investing is to succeed as a means of advancing sustainability through its values and investment stewardship, attention should also be paid to the external drivers for its growth and constraints in advancing sustainability.

As regards opportunities for the growth of faith-based investing and its contribution to sustainability, the evidence points to the performance of faith-based investment funds which are able to hold their own in comparison to conventional funds, thus making it a viable option which may help to promote sustainability. For example, Kurtz and DiBartolomeo found that compared to the S&P 500, funds that invest according to the Catholic Church's teachings had higher beta, lower market capitalisation, higher valuation ratios and higher anticipated growth.<sup>155</sup> Boasson, Boasson and Cheng found statistical evidence that these faith-based funds did not underperform in the market on a risk-adjusted basis and that the mutual fund with the most restrictive exclusionary screen, the Catholic-based Aquinas Value fund, experienced extraordinary performance during their sample period.<sup>156</sup> This study showed that faith-based funds that refrained from investing in more profitable lines of business on the grounds of moral or ethical reasons could perform just as well as funds that did not have such restrictions, suggesting that investment managers could incorporate moral or ethical components into their investment decisions without unduly short-changing their clients to whom they owed fiduciary duties.<sup>157</sup> In Malaysia, from 2018 to 2020, both ESG and Islamic indices have outperformed traditional indices. Additionally, from 2016 to 2020, Malaysia's FTSE-4Good outperformed the local capital market indices,

which is an indicative marker of the ESG investment focus and its performance in the market.<sup>158</sup> An increase in the number of available faith-based investment products across the board is needed for increase in investor participation, particularly those who are attuned to the faith and seek to live out its values in pursuit of sustainable development.

However, the flipside which may affect the attractiveness of faith-based investing is that faith-based investing funds tend to be more expensive because of the dual layers of research required to determine investment potential and social criteria.<sup>159</sup> The variability of the performance of faith-based funds during crisis and non-crisis markets, which are arguably a result of the funds' screening activity and the performance drivers and reducers within each sustainable strategy,<sup>160</sup> may be a factor which detracts from the popularity of faith-based investing.<sup>161</sup> Be that as it may, SRI investors have been found to expect to earn lower returns from SRI funds than conventional funds, suggesting that they are willing to forego financial performance to invest according to their social preferences,<sup>162</sup> and this would likely be true of faith-based investors. In this regard, customisation through direct indexed private funds may be a solution in which investors are able to customise their portfolios to their specific values.<sup>163</sup> Advances in AI are likely to enable even more granular customisation of investment preferences which would further advance faith-based investing.<sup>164</sup> In view of the longer-term horizon of faith-based investing, governments can also help by providing economic incentives for acting in the long term, for example, through taxes on short trading in corporate securities and capital gains tax deductions for patient investors.<sup>165</sup>

The growth of faith-based investment is also linked to impact investment which aligns with Sustainable Finance 3.0. The presence of a greater being, that is, God, which is central to the tenets of faith, broadens the understanding of the role of investing and eases the dissonance faced by secular investors around marrying impact and financial considerations.<sup>166</sup> Nevertheless, a January 2020 Global Impact Investing Network Report on

155 L. Kurtz and D. DiBartolomeo, 'The KLD Catholic Values 400 Index', 14(3) *Journal of Investing* 101 (2005).

156 E. Boasson, V. Boasson & J. Cheng, 'Investment Principles and Strategies of Faith-Based Funds', 32(10) *Managerial Finance*, 837 (2006).

157 Ibid.

158 Ernst & Young, 'Trending: Sustainable Responsible Investment in Malaysia and the Region 2021', [https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_my/topics/climate-change/ey-trending-sri-in-malaysia-and-the-region-final-22022022.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_my/topics/climate-change/ey-trending-sri-in-malaysia-and-the-region-final-22022022.pdf) (last visited 20 September 2023).

159 Hopfinger, above n. 51, at 17.

160 Lesser et al. above n. 44 at 171, 178.

161 This was pithily described by a Catholic mutual fund manager as follows – 'We're a Catholic values fund, not a Catholic martyrs fund' – as faith-based investment was still an investment and not a donation to charity (see Hopfinger, above n. 51, at 17).

162 A. Riedl and P. Smeets, 'Why Do Investors Hold Socially Responsible Mutual Funds?' 72(6) *The Journal of Finance* (2017) 2505.

163 Louche et al., above n. 52, at 29.

164 Deloitte, 'Artificial Intelligence: The Next Frontier in Investment Management', <https://www.deloitte.com/global/en/Industries/financial-services/perspectives/ai-next-frontier-in-investment-management.html> (last visited 20 September 2023).

165 B.J. Richardson, 'Socially Responsible Investing for Sustainability: Overcoming Its Incomplete and Conflicting Rationales', 2(2) *Transnational Economic Law* 311 (2013), at 336.

166 Kwon and Samberger, above n. 3, at 37.

engaging faith-based investors states that there are factors which make impact investment challenging for faith-based investors, including a lack of investments with appropriate risk-return profile, availability of investments which match their values, finding opportunities of the right size, and concerns about the exit options or liquidity.<sup>167</sup> These are significant challenges for faith-based investors who generally pursue low-risk, market rate return investments.<sup>168</sup> However, initiatives by the Catholic Impact Investing Collaborative have been endorsed by the USCCB to promote this strategy.<sup>169</sup> From an Islamic perspective, the link between faith-based investing and sustainability is also conceptually supported by its embeddedness in the real economy<sup>170</sup> as well as its potential for redirection to finance infrastructure development.<sup>171</sup>

Nevertheless, a significant challenge in the role of faith-based investing in advancing sustainability arises from the interaction between political and faith beliefs and its spill-over effects in investment choices. It has been shown that views on climate change among the US Catholics vary by political affiliation, race and ethnicity, and age.<sup>172</sup> While 82% of Catholics who are Democrats or lean towards the Democratic Party say global climate change is an extremely or very serious problem, just a quarter of Republican or Republican-leaning Catholics say the same, according to a 2022 Pew Research Center survey.<sup>173</sup> Views among Catholics differ, reflecting similar splits in the wider US population: US adults who are 49 or younger, Democratic or identify as a race or ethnicity other than non-Hispanic White are generally more likely than those who are 50 or older, Republican or White to express concern about climate change.<sup>174</sup> This political gap on the topic of climate change has resonance with the rejection of ESG and its dismissal as 'woke' ideology by conservative critics in a sharp divergence in views from those on the opposite side of the political spectrum.<sup>175</sup>

A striking example of this divergence from official Catholic teaching in an investment context is the example of Catholic-value funds such as the Ave Maria Value Fund which has 44% of its portfolio in energy stocks, including fossil fuel companies that have been poorly rated by ESG ratings-service, Sustainalytics.<sup>176</sup> This fund has often voted against shareholder proposals to improve the sustainability of its energy holdings, for example, when it voted against a proposal at Chevron, which formed 6.2% of the fund's portfolio, to set long-term greenhouse gas emission reduction targets for the company.<sup>177</sup> The lead portfolio manager of the fund relied on a decision by their Catholic Advisor Board which held that the issue of 'climate change' was an ambiguous term with a multitude of definitions and interpretations and was the subject of debate for more than 50 years.<sup>178</sup> This reasoning contrasts starkly with the position taken by the Pope that climate change is a moral issue<sup>179</sup> and may be due to the fact that despite the extensive nature of the USCCB and Pontifical Academy guidelines, there are no sanctions for non-compliance as they are only meant to inform consciences. Furthermore, the reliance on a private advisory board illustrates the influence of politics in driving divergences between official Church teachings and how they are translated into action. Despite the apparent intractability of faith and climate change among certain quarters in the US which is unlikely to change in the short-term, there are efforts to bridge faith and climate change at the global, regional and national levels. These include the United Nations Environment Programme COP 28 Engagement by the Interfaith Coordination Group on Climate Change which focuses on combined efforts against climate change.<sup>180</sup> At a regional level, the Church of Scotland and the UK Islamic Finance Council signed a partnership agreement to co-develop an ethical finance solution based on the shared values between the faith traditions in 2016 which subsequently culminated in a Shared Values Framework which was formally launched as the Edinburgh Finance Declaration in 2018.<sup>181</sup> In addition, in line with the developmental aspirations of Islamic finance, regulators in Islamic finance centres, including in Malaysia, have begun to connect Islamic and sustainable finance with the support of the World Bank,<sup>182</sup> illustrating the importance of regulator and policymaker initiatives to drive such developments. Such developments may be seen as new forms of religious inter-institutional networks or

167 The Global Impact Investing Network, above n. 2.

168 Institutional Shareholder Services, 'Seeking Impact: New Catholic Investing Guidelines Break the Mold' (10 February 2022), <https://insights.issgovernance.com/posts/seeking-impact-new-catholic-investing-guidelines-break-the-mold/>.

169 Ibid.

170 Hidayat et al., above n. 78, at 279.

171 H. Ahmed, M. Mohieldin, J. Verbeek & F. Aboulmagd, 'On the Sustainable Development Goals and the Role of Islamic Finance', *World Bank Group Policy Research Working Paper* 2015:7266.

172 J. Diamant, 'The Pope Is Concerned about Climate Change. How do U.S. Catholics Feel about It?' (9 February 2023), <https://www.pewresearch.org/short-reads/2023/02/09/the-pope-is-concerned-about-climate-change-how-do-u-s-catholics-feel-about-it/>.

173 B.A. Alper, 'How Religion Intersects with Americans' Views on the Environment' (17 November 2022), <https://www.pewresearch.org/religion/2022/11/17/how-religion-intersects-with-americans-views-on-the-environment/>.

174 Diamant, above n. 172.

175 M. Corsalini, 'ESG Capitalism from a Law and Religion Perspective', 14(3) *Religions* 418 (2023); A. Brownstein, 'Religious "woke" capitalism? The Problem with Conservative Arguments against ESG' (19 December 2022), <https://thehill.com/opinion/judiciary/3780778-religious-woke-capitalism-the-problem-with-conservative-arguments-against-esg/>.

176 L. Braham, 'New Vatican Investing Guidelines Pose Challenge to Many Faith-Based Funds', <https://www.barrons.com/advisor/articles/vatican-investing-guidelines-faith-based-mutual-funds-51671732855>.

177 Ibid.

178 Ibid.

179 See generally Pope Francis, above n. 75.

180 See, e.g., UN Environment Program, 'Faith-based engagement at COP28', <https://www.unep.org/events/conference/faith-based-engagement-cop28> (last visited 20 September 2023).

181 Global Ethical Finance Initiative, above n. 66.

182 The World Bank, 'Connecting Malaysia's Islamic and Sustainable Finance to the World' (18 April 2019), <https://www.worldbank.org/en/news/feature/2019/04/18/islamic-finance-initiatives-from-the-hub>.

partnerships under the broader umbrella of networked governance.<sup>183</sup>

These international and governmental efforts are commendable and necessary. However, the engagement of individual believers is also important through faith teachings connecting its values with that of care of the environment and investment to overcome the tendency towards a separation of belief and action. This is a process which lies beyond the remit of law and regulation. Indeed, the exercise of voluntarily bounded autonomy in the investment space begins with knowing the nature of the boundaries in accordance with the tenets of one's faith and the enforcement of those boundaries for the greater good as conceived by the teachings of the faith. To sum up, the notion of autonomy is synonymous with that of freedom which consists 'not in doing what we like, but in having the right to do what we ought'.<sup>184</sup>

## 7 Conclusion

Faith-based investing is an expression of individual, institutional and financial autonomy which is bounded by a combination of legal and social limits arising from the values and teachings of a particular faith. Through the comparative lens utilised here, faith-based investing is conceptualised as comprising three key dimensions in how it approaches sustainability, namely through the underlying values of the religions underpinning faith-based investing, its supporting legal and regulatory governance structures, and its investment stewardship approaches which is an important and likely increasingly influential intervention in the financing of investment-oriented sustainability activities. It enables the alignment of deeply held religious values with investment outcomes which extend to include positive effects on the environment and humankind, even as there are significant differences across religious traditions which shape its investment and stewardship approaches, particularly in the case of Islam.

The examination of the legal and regulatory frameworks governing Catholic, Church of England, and Islamic faith-based investing in the US, the UK and Malaysia respectively, reveals divergent approaches with implications on the certification of investment compliance with faith principles. The reliance on private and market-driven certification mechanisms in the US and the UK in the form of internal faith advisory committees is distinguished from the state-supported certification mechanisms used in Malaysia. This difference in approach arguably leads to greater investor trust in faith-based investing as its integrity in complying with the tenets of the faith is maintained, although private certi-

fication mechanisms provide flexibility in interpreting religious principles within the context of investment decisions.

Furthermore, there are broad commonalities in the use of screening among Catholic, Church of England, and Islamic faith-based investors. However, there are also significant differences driven by deeper underpinning theological values especially in the case of Islam. Nevertheless, these divergences between the Christian approach and the Islamic approach should not be regarded as inimical to the expansion of faith-based investing. The parallel development of institutional investor stewardship codes is promising and aligns well with important underpinning values across the faiths in question. Further research into the inter-relationship between the stewardship codes and faith-based investing, particularly from an empirical perspective, would be helpful to better understand its role through the operation of religion-specific private standard-setting as part of broader modalities of private networked governance in advancing sustainability as articulated in the SDGs.

A closer analysis of the opportunities and challenges relating to faith-based investing and its realisation of sustainability reveals many areas for growth amid faith-based investing's movement from a marginal to mainstream presence. However, there are also concerns arising from the effectiveness of divestment in taking a long-term view of development and a divisive political climate as well as overall scepticism towards ESG which has a domino effect on the growth of faith-based investing as a viable investment approach. There is accordingly a need to build bridges between these faiths on the issue of common values while respecting the differences. Furthermore, it is also necessary for believers to recognise and respond to the call of living out the faith's fundamental values in their purchasing and investment choices because it is in their collective buy-in that society can change and become better prepared to meet the ecological and social challenges in the years to come.<sup>185</sup>

183 See, e.g., B. Hollstein, W. Matiaske & K-U. Schnapp (eds), *Networked Governance: New Research Perspectives* (2017).

184 Revelli, above n. 43, at 714; St Pope John Paul II, 'Apostolic Journey to the United States of America: Homily of His Holiness Pope John Paul II', 4, [https://www.vatican.va/content/john-paul-ii/en/homilies/1995/documents/hf\\_jp-ii\\_hom\\_19951008\\_baltimore.html](https://www.vatican.va/content/john-paul-ii/en/homilies/1995/documents/hf_jp-ii_hom_19951008_baltimore.html).

185 See, e.g., M. O'Leary and W. Valdmans, *Accountable: The Rise of Citizen Capitalism* (2020).