

شعبان - شوال 1433

«To the righteous soul will be said,

O thou soul, in complete rest and satisfaction!»

Surat Al-Fajr, 89:27 Holy Quran



مجلة عالم 'Alim

The Shari'ah Scholar's Journal

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Mohammed Elgari

Talha Kapadia

Umer Majid

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Sami Aldeeb

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www.wtclugano.ch



Alberto Di Gennaro
Chairman & Publisher



Editorial

Dear Readers

On behalf of 'Alim-The Shari'ah Scholar's Journal staff, we would like to wish you a very blessed month of Ramadan—the month in which the holy *Qur'an* was revealed over 1,400 years ago, and the month in which our beloved Prophet Muhammad, *salla Allahu `alayhi wa sallam* (peace and blessings be upon him) stressed, “Whoever observes fasts during [this month] out of sincere faith, and hoping to attain Allah's rewards, then all his past sins will be forgiven” (Bukhari).

This month not only signifies the holiest month for Muslims, but it also marks an entirely new path for 'Alim-The Shari'ah Scholar's Journal.

There exists great concern with the current situation of the *Ummah*, but in order to understand its state, one must first look into its history. What has placed the *Ummah* in its current state? How did the *Ummah* arrive to where it is now?

Surely, a gradual process of disobedience and inattentiveness to the *deen* (Islamic way of life) has played a significant role towards the current state. To reverse the effects of such insubordination, changes cannot be expected to come overnight, nor can we expect noteworthy results by focusing solely on the *Ummah*.

With all matters however, there are still consequences, either positive or negative. Moreover, in all sayings and actions, we affect not only ourselves, but also those around us; thus, to improve the state of the *Ummah*, it becomes imperative to first focus on the current state of our own characters.

This very need to focus on character is where 'Alim-The Shari'ah Scholar's Journal begins in this year of “Perfecting our Character.” We invite you to open your hearts and minds within this issue and the many issues to come *in sha' Allah* (God Willing), and may Allah (swt) bestow His Blessings upon us in this blessed month of Ramadan—that we may embark on a path of perfecting our character, of reviving our *Ummah*, and ultimately, of attaining our salvation. *Ameen*.

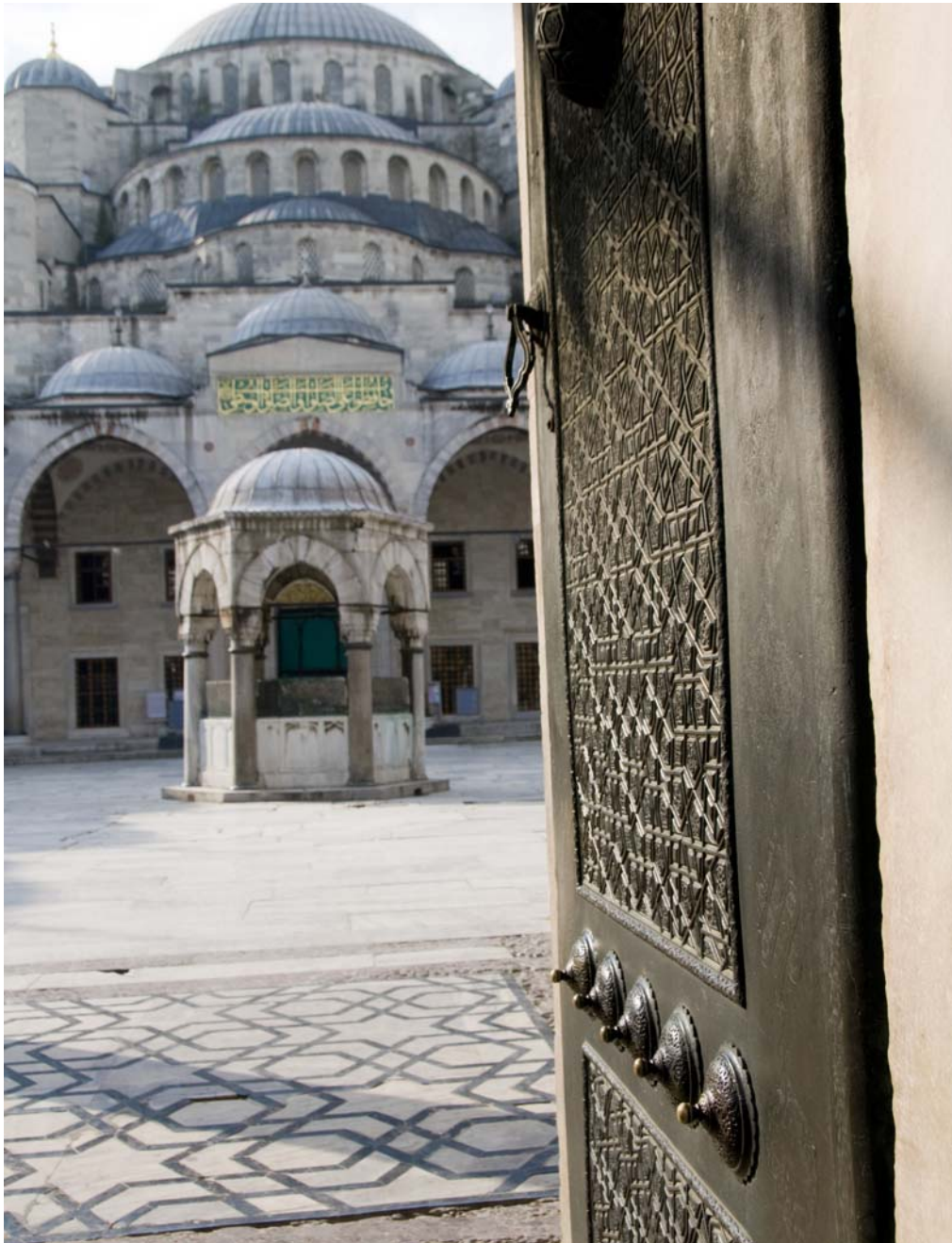
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Talha Kapadia

Shariah Coordinator, Shariah Advisory Department, at BankIslami Pakistan Limited Karachi, Pakistan.

Stock Market Transactions From Shari'ah Perspective

By Dr. Talha Kapadia

This article is based on Shari'ah status of Stock Market transactions and the reasoning (logic) behind the screening criteria developed by renowned Fuqahah involved in the implementation of Islamic finance all around the world. This article will highlight the factors on which the permissibility and impermissibility of any transaction in stock market can be measured (Shari'ah wise). At the end a conclusion will be furnished which explain some alternatives to make transaction acceptable by Islamic Law of Contract and also explaining some misconceptions regarding acceptability or unacceptability of Stock Market Transactions.

The Islamic Capital market represents the implementation of Shari'ah principles in the capital market transactions where all the prohibited activities will be considered as not allowed. It has been found that neither the basic concept of Stock Market is Haram nor all the transactions are permissible. It is also suggested that some alternatives have also been available to finance Share purchasing through Murabahah (an Islamic mode of finance) which is according to the guidelines provided by Shari'ah.

Stock market depicts the economic activities of any country and one of the economic indicators. It also provides an opportunity for investors and household members to invest their saving to maximize their utility at minimum risk and highest return for the level of risk to be taken.

In order to identify the non Islamic activities, it is important to understand the behavior of the conventional stock market. The conventional stock market generates practices such as speculations and fluctuation in share prices which are inconsistent with the practices of Islam.

Permissible and impermissible activities in Stock Exchange:

There is no single, sizable and organized financial center that can claim to be functioning in accordance with Islamic principles. Although stock markets in emerging Islamic countries such as Egypt, Jordan, and Pakistan are active, they are not fully compatible with Islamic principles. Moreover the secondary market for Islamic products is extremely shallow and illiquid, and money markets are almost nonexistent, since viable instruments are not currently available. Therefore, development of an interbank market for Shari'ah compliant products is an another challenge.

The purpose of the stock exchange is to act as an intermediary where stocks are being bought and sold. The word stocks itself means things which are commonly traded by the traders. In current era it is used as Capital. The phenomenon of the stock exchanges came from Europe when Joint venture companies were known as Joint stock companies. In these companies number of investors used to pitch in their investments to form a company. In order to ascertain the return of the investments as per their participation, shares were introduced. Higher the investment more numbers of shares were provided. Each share represents a certain percentage of ownership. Since there were multiple investors investing in the company and these Joint venture companies were on going concern and if any of the investors wanted to discontinue itself from the company there were only two options either another investor buys the shares or companies return the investment. Since the latter option was not a viable solution, therefore, a stock exchange existence become important where different investors can sell and buy shares. In short stock market is a place where financial instruments are bought and sold. Moreover, there are three types of financial instruments which are currently traded in the stock market i.e.

1. Shares.
2. Debt Securities/bonds.
3. Derivatives product/future trading.

Status of the Stock exchange in Shari'ah:

It was unanimously agreed among all the interviewees that the idea of the stock market is permissible in Islam. Since the shares represent the ratio of the ownership, therefore, there is absolutely no doubt in terms of permissibility of trading of owned shareholding. Moreover, Shari'ah also allows the structure of stock exchange where particular brokers/members of Stock Exchange are only allowed to buy and sell and if individuals wanted to trade, they have to trade through the members of the stock exchange.

Impermissibility of derivatives and debt securities:

Debt securities and derivative products are impermissible according to Shari'ah. The basic reason behind the impermissibility of trading of debt securities is element of Riba/Interest. Debt securities mean bonds including coupon bonds, zero coupon bonds, junk bonds, treasury bills, PIB's and Term deposits. In short, all the interest bearing securities issued by banks, Corporate and Central Banks has returns in terms of interest. These securities can be trading at Par, discount or at premium depending on the discount rates volatility. These securities are usually traded in Money market. They can also be held as collateral to borrow interest bearing loans.

However, derivatives are special kind of financial products having underlying assets of stocks and debt securities. Derivatives are majority categorized in four different products.

1. Futures
2. Forwards
3. Options
4. Swaps

Without going into further details of these categories, the basic purpose of these products is for hedging the prevalent risk so that the banks, organizations, individuals could minimize their risk of losing the investment. However, these products are usually used for speculations. These derivatives products are traded at the stock exchanges. Currently in Pakistan Stock Exchange there is only one product of derivative which is offered i.e. Futures. Moreover, there is another reason for the impermissibility of trading of derivatives is because there is an aspect of gambling/Qimar.

Relaxation of Impermissible Activity under Screening Criteria:

Since any activity having the involvement of Riba is impermissible in Islam, and there are number of occasion where Quran has pointed which also affirmed by Ahadith.

However, keeping the Quran and Ahadith as a guideline, still Ulemas have considered the relation in the Screening Criteria. To understand this concept it is important to comprehend two terms of Fiqh. First of them is "Pure and Impure" and the second term is "Halal and Haram". Both these terms have different implications. The Islamic Scholars has clearly explained that there is an absolute no relaxation in the case of "pure and impure". However, there are certain set of rules that provides slight relaxation for the later concept.

Islamic scholars are with the opinion that for last 400 years the interest based structures has deepen its roots such that it is practically impossible for any public limited company by far to survive without interest based financing. Therefore, it has become an important element and absolutely difficult for any investor to find a company to invest which don't have a debt. According to Islam any element of interest is not permissible and not a single point is found in classical FIQH that allows the interest/Riba. However, there is a principal exist which suggests that any contract having a mixture of both permissible and impermissible activities is called "MUSHTABAH" (/مشتبه doubtful). Deriving from the concept of MUSTABAH, Any MUSHTABAH contract will be considered according to the majority "LIL AKSAROAN-E-HUKUM UL KULL" (لاكثر حكم الكل), which means that the concept of majority will be implemented. Using this concept and after a careful consideration Fuqahah of the world came to a conclusion that a leniency should be specified for investors in the criteria derived from MUSHTABAH to according which they can invest and have a Halal returns.

Quantitative Description of Majority:

1. More than 50% share. (LIL AKSAR-E-HUKUM UL KULL). (الكل حكم للاكثر)
2. 33% or more % of shares (AS SULUS O KASEER) (الثلث اكثر).
3. Considerable Shares/ not ignorable quantity (MOUTAD BHEE) (معتمد به) "MUSHTABAH"

"MUSHTABAH"

In the light of the above points Scholars come in to the consensus that in case of interest based borrowing above 40% of the total assets is not allowed. However any business

having an income from Interest based lending above 5% is not permissible. Moreover, in case of interest based income less than 5% that was allowed with subject to certain set of conditions which is necessary to be fulfilled. i.e.

1. With subject to purify the non permissible (interest) based income.
2. Capital gain will also be purified with proportion to impermissible income.

“MUSHTABAH”

Different percentages of lending and borrowing under Screening Criteria:

In case of Haram income criterion of Mautad Bih (به معتد) is taken which in the opinion of scholars cannot be smaller/less than 5%. However this 5% haram income must be purified. In case of borrowing the criterion of major is taken. As per a Hadith one third is like major (كثير الثلث) however, investors will be liable to call for shedding this interest bearing borrowing in Annual General Meeting.

Price Mechanism in Screening Criteria (Cash Per Share):“MUSHTABAH”

Islam doesn't deny the market forces i.e demand & supply, although we have mentioned earlier that sale is only considered valid where Free Consent of the parties exist, without free consent sale w“MUSHTABAH”ill be considered as VOID (invalid). However, the above restriction is considered because it was explained by Prophet (P.B.U.H) about Baye Surf (exchange of money/currency with same currency). Islam explains that any amount which is over and above the actual amount of another currency is considered as RIBA. Therefore if Gold is exchanged with Gold (same like Dollars against Dollars) it should be contained with two conditions.

1. It should be equal to equal
2. The delivery should be hand to hand means no deferment of delivery.

In the above situation, if the prices of the shares which are going to be sold are less than the Cash per share so its means that cash is exchanging with lesser cash/ sale of cash with discounting, therefore, it is not allowed by Prophet (P.B.U.H).

Initial Public Offering:

Stock exchange plays very crucial role in national economy to encourage the investment by providing place for buyers and sellers to trade securities.

Corporations issue their new securities in the primary market of stock exchange, usually investment banker help them for it by acquiring the initial issue of new securities from the corporation at a negotiated price and then make the securities available for its clients and other investors in an initial public offering (IPO). In primary market trading, corporations are the one who receive the earnings of security sales. “MUSHTABAH”

An initial public offering is referred to simply an offering of

shares by Issuer (company who want to raise the funds) to the public for the first time. Issuers of an IPO usually seek assistance of underwriting firms (investment banks) to best offering price to bring into the market.

After this IPO, the securities are bought and sold in the secondary market and the corporations usually do not involve in the secondary markets trading. Stock exchanges basically function as secondary markets and also support the performance of the primary markets. Stock exchanges also encourage investment in stock trading by maintaining rules and regulations for investor's protection that ensures trade will be fair and investors will receive exactly what they are paying for. Exchanges also support state-of-the-art technology and the business of brokering, which helps traders in buying and selling their securities quickly and efficiently, and also increases the relative safety of investing to being able to sell a security in the secondary market because investors can unload a stock that may be on the decline or that faces an uncertain future.

When corporation wanted to raise funds through IPO's they hire an underwriter (investment banks) to assist them to raise the funds. IPO's initially are usually offered to corporate sector than also offered to general public. Since we know that the IPO shares issued to those whose application are being accepted. Now the question arises that if anyone who has got the confirmation of his application being accepted and he is trading the shares in Pro market, however, haven't got the physical shares in procession, does that investor is allowed to sell these shares or not? What is the status of this transaction in terms of Shari'ah?

Basically the IPO (initial public offering) is the MOU between the investor and the company that this company will offer Partnership to the investor in the company, therefore after the selection of that person (successful applicant) cannot trade these upcoming shares until he get the shares weather physically or constructively (in CDC), because Hadis (which is mentioned above) do not allowed to sell what is not in the possession and in the ownership of the seller.

Alternate:

The alternate to execute these sort of transaction in which seller do not have the possession and the ownership of the goods being sold, he can enter into an understanding that is “Promise to sell” and when he will get the possession both (buyer and seller) further execute sale and purchase contract on spot basis. However, it is pertinent to mention that the difference between Promise to Purchase/sale and Sale contract is that the contract is always bilateral but the promise is unilateral.

In case the promiser is suffered losses or unable to provide the promised shares he may windrow from his promise, but in case of Contract nobody can go back without the consent of other party.

Right Shares:

Another activity in the Stock Market is the selling of Right shares (coupon). Right shares are the shares that are given by the company to its existing share holders on subsidized rates. These right shares are also trading in the Stock Market before the delivery gets into place. What is the status of this sort of activity in the Stock Market?

Selling of right Shares before getting delivery is like selling the goods before they come into existence. Hadis clearly disallows to sell those things that do not exist and not into the ownership and possession of the seller. However, the right of getting the right shares is just a right to get shares in the future, this is considered as only right in Shari'ah and this sale of right shares are to be considered as sale of right, and Fuqahah are unanimous in their views that the sale of Right is not allowed. The person is allowed either to exercise or leave, selling of any right is not permissible.

Callable Stocks:

There is another type of Stock which has a callable option by the issuer. Callable shares are those stocks issued for a subsidiary company or to general public by the issuer. The issuer reserves the right to buy back the shares of the subsidiary company should it be strategically beneficial. How is this transaction workable in terms of Shari'ah?

Before we move forward and reach into the answer of the above issue we have to re-mention the concept the treatment of Shares and the position of investors in light of Shari'ah. The investors are considered as Partner in the company according to their ratio of investment. Fuqahah has classified two types of Partnership.

1. Shirkat Ul Milk
2. Shirkat Ul Aqd

Shirkat Ul Milk is a type of Shirkat/ Partnership where the partners do not intend to invest for commercial purpose. For example two brothers have purchased a house for living purpose.

Shirkat Ul Aqd is a type of Shirkat/ Partnership where the partners make an investment with the intention of a commercial objective. For example two persons have purchased a shop to make business.

Now, the status of investor is a Partner and as this partnership is for commercial purpose therefore this partnership is called Shirkat Ul Aqd.

Fuqahah describes the rules of Shirkat Ul Aqd such that (1) the ownership of the shares cannot be bought back unless the consent of the actual owner of those shares. Furthermore, it has also been described that (2) the purchase price cannot be pre-determined.

Alternate:

The correct transaction would be if the above two conditions should exist.

Day Trading:

Since we know that another phenomenon is quite popular

among the small investors i.e. Day Trading.

Day trading explains as the practice of buying and selling financial instruments within the same trading day such that all positions are usually closed before the market closes for the trading day. Impermissibility or Permissibility about day trading is based on the concept and rules of Sale in Shari'ah. The transaction will be impermissible in case the asset is not owned at the time of Selling.

But another question might arise that if a person has some shares in his possession and he further buys some shares of the same company and sells on the same trading day. At the time of settlement we observed that the shares were bought has been sold rather than the one he had in possession before. Since it is a settlement process nothing to do with investor, what would be the Shari'ah treatment?

This question is based on the principle of Fiqh that is Fungibility (Gheer Mutayyin), Fiqh suggests that everything that is fungible will be taken as actual. For instance if I have \$800 of my own and 100 were provided to me to buy a grocery, now total I have \$900, in which I have spent \$50 of my own and bought grocery of rupees 50, now Shari'ah does not implicate me to purchase with the same note which was provided for the grocery. The concept of these type of concept is known as MUQASSAH, Therefore the same concept is implemented in these transactions and it will be allowed by Shari'ah.

The recording methods of the transaction will not be effected the validity of the transaction.

Future Contract:

Definition of Future Contract:

"A futures contract is a standardized contract between two parties to buy or sell a specified asset of standardized quantity and quality at a specified future date at a price agreed today (the futures price)."

However, this type of Future contract is a part of Derivative products. In normal condition, the price is agreed on spot, however, the price of the asset will be paid at the time of Settlement. This method of settlement where both payment and the product is deferred is impermissible.

Short Selling:

among the most important element in stock exchanges the positive or negative news which will have the direct effect on the prices of the shares. If the investor is expecting that the prices of the shares will go down in the future, they start short selling. The important question is that how short selling transaction is treated in Shari'ah and if it is not permissible then is there any other method available for the same transaction?

The main condition of the validity of any sale contract is subject of contract to be traded. Subject matter of any contract should consist of the following characteristics.

1. Should exist prior to sale.

2. Should be owned by seller at the time of execution of contract.

In absence of any characteristics lead to the transaction invalid by Islamic Law of Shari'ah. The transaction of short selling is said to be in conflict with one Prophetic *Hadith*:

"Do not sell what you do not possess"

Badla / Margin Financing / CFS:

In order to purchase the stocks and capitalized the situation where the prices of stocks going high, stocks exchange provides financing namely CFS (continuous funding system) to those investor who have limited capital and requires financing. CFS transaction occurs when an investors request the broker to arrange the financing from a financial institution to buy the shares. The shares bought through CFS are pledge as collateral and at the time of selling it, the borrower has to pay off the financial institution to release its pledged shares to sell it. The markup will be charged on daily basis and the settlement will be done on the basis of number of days the borrower held the financing for it.

Since there is an involvement of the financial institution and the mark-up, we understand that CFS is not valid transaction. Moreover, Badla or Margin Financing also not allowed due to element of interest (Riba). Margin financing can be legalized according to Islam if structured as per the following guide lines.

1. Financial Institution provides funds to the financier on the basis of Wakalah (Agent).
2. The client procures the required share as an Agent of principal.
3. Upon getting delivery of the required shares by Agent (client) all risk and reward automatically transferred to the principal.
4. Principal (Islamic financial Institute) sell these shares to Client on deferred basis and include desired return in to Price.

Conclusions:

This article is an attempt to highlight the importance of Stock Market and its core function i.e. mobilization of funds in economic cycle. It has to be very clear that mobility of funds is a back bone of any economy and for its continuous development. Although Islam has also recognized the channelization of wealth through its various directions like inheritance, Mahar (compensation of marriage), Sadqat, Zakat, monetary obligations on Muslims like Qurbani (sacrifice), Hajj & Zakat etc and justified distribution of wealth. These all direction are channelizing the wealth in the society and hence the living status of poor personnel going to be higher gradually.

Furthermore, there are some very attractive opportunities earn halal income through investment in stock market that should be one of the main goals of Muslims.

After a careful review of last decade in the financial industry we saw a great growth in the Islamic Financial sector. Many Islamic financial institutions have been established like

Islamic commercial banks, Islamic Insurance (Takaful), Islamic indexes, etc. following the trend majority conventional banks in Pakistan have also come with their Islamic Banking Windows in order to bring in more profit to their banks by benefiting their existing and prospecting clients. Furthermore, there have been a recent move taken by state Bank of Pakistan which has made it mandatory for all the banks to have at least one branch based on Islamic banking. For example HSBC a global and well renowned Commercial Bank also offers its Islamic Banking Products with the name of HSBC Amanah. Moreover, UK has also realized the reality of Islamic Banking and permitted Islamic Banking practice as well.

Oil rich countries (Middle East) became familiar with Islamic financial system, and their major share consists of Islamic financial industry.

Screening criteria gives the condition of minimum interest income (less than 5%) and majority equity holding (more than 60% or 67%) shows the strength of the company and confidence of the investors. 5% if interest income shows that more than 95% of the income comes from operating activities rather than just simply lending and making interest. 60% or 67% of the equity shows the stability of that company investment are to be made by investors, Stake holding in the company from owners has also justified the asset backing theory of the Islamic finance.

During current financial crises Islamic Banking proof its safety, stability and strong based, as all financial analysts unanimously agree that the Islamic Financial Industry in current financial crises was least effected.



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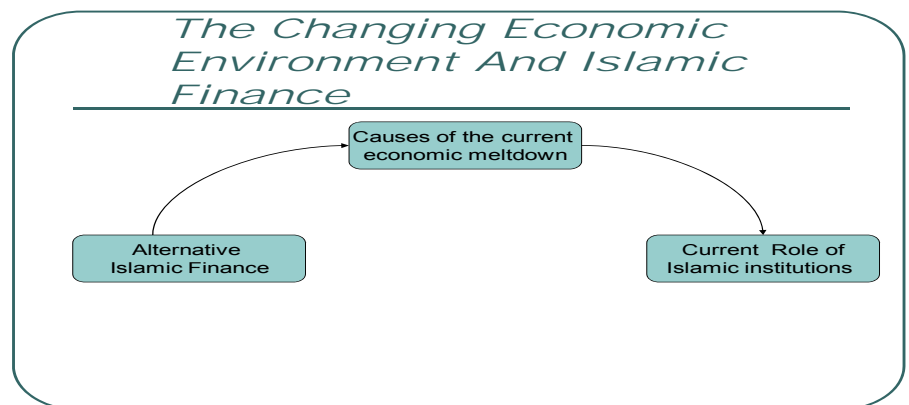


Umer Majid

Umer Majid is a strategy consultant in Islamic finance, a lecturer in finance and corporate strategy currently head of Islamic Finance at Halal Investments a Shariah advisory firm in the United Kingdom.

How Should Islamic Finance Evolve To Meet The Challenges Of A Changing Economic Environment.

By Dr. Umer Majid



The present discussion looks at the question in three ways outlined below.

(i) Causes of the current economic meltdown.

The current economic system is secularly driven dominated by the twin evils of debt finance and interest bearing transactions, notably condemned by all three monotheistic faiths. It has increasingly been argued by academics that the result of the dominant wealth creation process serves the interests of the elite. Dr Jha comments that increasingly wealth is concentrated with less than three percent of the world's population he contends that it is difficult to see how the current financial system can find a solution to the current crisis. The financial crisis generated by debt based banking policy and has let debt spiral out of control to the extent that in 2008 the former chancellor of the exchequer Alistair Darling commented, " *we were minutes away from the shutdown of the UK banking system*". Many great public servants of the past warned against debt Thomas Jefferson (1743-1826) stated.

"I place economy among the first and most important virtues, and public debt as the greatest of dangers. To preserve our independence, we must not let our rulers load us with perpetual debt."

From an Islamic perspective the vision of the prophet Muhammad (SAW) captures and accurately describes the current financial implosion, when he expressly

commented on the effects of interest bearing transactions on wider society (referred to as Riba in Arabic language) stating

“No matter how much Riba (Interest) there may be in the end it will lead to total poverty”. (Ibn Maja)

The global crash spearheaded by the collapse of several banking organisations such as Lehman brothers who were highly leveraged emanating from the US debt finance and speculation based upon risk shifting who's intricacies defy understanding have allowed greedy profit maximizing agents to exploit the aspirations of ordinary investors and the system of cheap credit has encouraged people to live above the means. Debt is now the major concern to most of the major industrialized economies. The austerity measures being imposed upon the populations include lower living standards, increased taxation, less opportunities with many businesses failing, and increased prices of basic every day items such as wheat and fuel. It was the philosopher Iqbal who scribed “It is better to be dead than live on a dependent existence” His contention was that humankind cannot unleash its true creative potential until we are all truly free from debt. Notably debt based transactions, a key cause of the current recession are generally non permissible transactions under the Shariah.

The prevalent economic system has been dominated by leverage many economists such as Metzer have argued that real wealth creation is minimized by the use of debt; he proposed an alternative system based upon equity rather than debt. Wealth Creation in Islam is based upon the Quranic directive for the purpose of addressing the imbalances in society, any Islamic finance model proposes to share the wealth for the well being of all citizens. A prime example of the imbalances of wealth can be cited from the 2006 UN report it illustrates how Interest payments are crippling African economies and the possible effects of relief of annual interest payments on some African economies debt. Notably if those same funds were used for investment, Africa could save 21 million children's lives and provide 90 million girls and women with basic education. With over US\$478.9 billion received from interest payments from developing nations. Clearly the world is becoming much poorer primarily because interest payments and leverage, for Countries and companies to meet these payments inevitably means the pushing up of prices of basic goods and services, adding inflationary pressures on economies. Since banking institutions earn money from debt it is not in their interest that society should repay those debts. From an Islamic perspective of course all interest bearing transactions are strictly forbidden by the prophet Muhammad (SAW) precisely for the welfare of society at large.

(ii) The current role of Islamic financial institutions.

During the current period we have seen Islamic finance turn into a “trillion dollar industry” this frontier has been established with explosive growth, because an industry in its infancy treads carefully, as a result the growth has been built up almost entirely on the back of imitation products in the retail and wholesale sector. This has been the subject of a

great deal of criticism.

Often what comes to mind is that Islamic financial markets are built upon conventional secular corporate strategy which is largely driven by profits and shareholder interests, more worryingly Islamic financial institutions are modeled upon and run by conventional bankers. Thus the Islamic finance experiment thus far has delivered products that are very much at odds with the Muslim value system, in that Islamic finance is predicated upon a divine mandate (the Shariah) and is driven primarily to address the imbalances in society it is logical therefore that any Islamic financial organization should be governed by the same Shariah values it seeks to deliver. Organizations that seek to offer optimum Shariah financial products can only effectively deliver them to the customer by implementing the architecture underpinned by an Islamic corporate strategy model, which can only be delivered under the fence of the Quran and Sunnah, sadly it must be pointed out thus far these institutions have not delivered upon this basic customer expectation. However as the explosive growth period draws to an end we have witnessed an overall acceptance of Islamic finance into the mainstream secular banking system, but in a demand lead era customers have not identified with Islamic financial organizations or their products this is evidenced by the disappointing take up of products. We have also on a much smaller scale witnessed Islamic financial institutions products show the same vulnerabilities as conventional products the many Sukuk defaults illustrate the point. It is worth pointing out that this mindset if not quickly addressed has the danger of causing irrevocable damage to the legitimacy of Islamic finance, for example we see Islamic institutions approving a Shariah product but in the event of a dispute happily referring judgment in a non Shariah court. Judge Morris J ruling on Beximico Pharmaceuticals V Shamil Bank of Bahrain quite rightly choose to ignore the principles of the Shariah and stated an English court was concerned with English law and stated it made non sense for a English judge to rule on matters of the Shariah. Clearly Islamic financial institutions need to re-think the current approach and go back to the basic notion of following the good practice and theory exemplified by the early classical scholars. Emotional energy focused upon delivering to the needs of the customer, who aspires to Islamic finance based upon there “faith driven needs.” Would go along way to re-build the trust of the customer.

(iii) Alternative Islamic Finance.

For an Islamic finance organization to be credible in the eyes of the customer it must display itself as an alternative ethically driven benevolent institution which satiates a persons “faith driven needs” in effect the organisations values must align to the customer who seeks to live under the divine mandate. (The Shariah) An Islamic finance institution must show how they can offer solutions to the current financial challenges that have befallen the current generations. Perhaps the following diagram points to some of the key challenges presented from the financial crisis and would help an Islamic financial institution come up with some practical solutions offered under the Shariah.

Challenge	Description	Risk & Consequences	Islamic Alternative
Leverage	<i>Borrowing for finance and investments purposes</i>	<i>Excess leverage leads to bankruptcy</i>	<i>Quarzi Hassana spearheaded and funded through benevolence given through Zakat a compulsory 2.5% tax, mandatory on every Muslim. The tax allows for collective responsibility to society note that it is not an excessive crippling tax</i>
Asset & Liability mismatch	<i>These is describes as the disparity between long run bank deposits and short term debts</i>	<i>Bank runs e.g. of this was with Northern Rock in 2007</i>	<i>Debt financing is very minimal and more controllable under a risk sharing model of finance</i>
Regulations failure	<i>Too much regulation allows organisations to over trade and operates without diligence e.g. FSA has over 6000 rules governing banking.</i>	<i>Excessive risk taking/risk shifting Key cause of 2008 financial crisis</i>	<i>All Islamic finance must be undertaken with mutual consent and total transparency under the regulation of the Shariah</i>
Fraud and Mistrust	<i>Misleading depositors about the reality of investments/extreme greed overlooking ethical considerations</i>	<i>The basis of the US Sub-Prime mortgage crisis</i>	<i>Divine injunctions under the Shariah process strictly legislates and would minimize fraud through strict Shariah screening immoral behavior and investments that favored the few</i>
Inflationary Monetary policy	<i>Uncontrolled printing of money with no real backing of assets Quantitative easing</i>	<i>Higher inflation/ lead to less wealth amongst people.</i>	<i>Paper money cannot be traded and would have to be backed by gold reserves hence severely restricting inflationary pressures</i>

Ultimately the companies that emerge as leaders, and enduringly successful will be those organizations that begin creating a strong Shariah based infrastructure as early as possible to define and embody in their activities a unique competitive position. Islamic finance cannot offer value to its customer if it has not got the correct infrastructure in place at the moment organizations are built upon an infrastructure that undermines the core principles they seek to deliver, which is potentially alien and quite often a customer making an enquiry about an Islamic product, leaves more confused than they walked in, because they expect “products underpinned with Islamic principles”. Islamic financial organisations should not pay” lip service” and undermine the spirit of the Shariah, and never compromise on the core principles that underpin and define your organization.

Islamic financial institutions strategy has largely been supply driven, an approach which was incorrect in the first place as

these organizations assumed and greatly underestimated and undervalued the role of the Islamic intelligent investor who's faith driven motives for demanding Islamic financial products make them demand orientated in today's globalised internet leveraged society, the banks assumptions were incorrect on many fronts most notably they have failed to target correctly the middle class investor. Arguably the period of imitation in Islamic finance has deeply instilled a period of uncertainty and confusion rather than ingrained confidence with its customers.

The most valuable commodity of any business is the trust placed by its customers no organization is bigger and more important than its bloodline, the customer.





الله أكبر

بسم الله الرحمن الرحيم
الحمد لله الذي هدانا لهذا
ما كنا لنهتدي لولا أن هدانا الله

الحمد لله الذي هدانا لهذا
ما كنا لنهتدي لولا أن هدانا الله
بسم الله الرحمن الرحيم





Mohammed Ali Elgari

He is a professor of Islamic Economics at King Abdul Aziz University. He is an expert at the Islamic Jurisprudence Academies of the Organisation of Islamic Countries and the Islamic World League. Dr. Elgari is a member of Shariah Boards of many Islamic banks and Takaful companies including that of Dow Jones, International Islamic Fund Market, Citi Islamic Investment bank, Merrill Lynch and Saudi American Bank.

Developing Shari'ah Scholarship for Islamic Finance

By Dr. Mohammed Ali Elgari

There is no dispute that the growth of Islamic finance in general and Islamic banking in particular came as a response to an increasing demand by the Muslim populace devoted believers who want to rid themselves of usurious transaction. To respond to such an increasing demand, banks and other financial institutions needed to offer Islamic banking products and programs. However, this, in turn, required two things:

The first is to know that exactly is an Islamic banking product, the second is to convince the Muslim populace, keen to have as pure as Islamic banking as possible, that these products are worthy of the description "Islamic". This is where the role of Shari'ah scholars begins.

The contribution of Shari'ah scholars to the development of Islamic banking is quite significant. Yet, for the last 30 years of so bankers relied immensely on only a small group of Shari'ah scholars to render these important two functions. This can't be sustained. With the never abating growth of Islamic finance, the need for Shari'ah scholarship is an ever increasing one as well.

Islamic banking, can't be accused for failing to meet demand with an ever increasing number of innovative products and services.

However, when it comes to Shari'ah scholarship, it has always been assumed that meeting the growing need is the job of other institution such as universities and Shari'ah colleges ...etc. Sadly, these institutions, while doing what they are suppose to do the way they function today will not result in graduating students who have what it takes to fill the gap in Shari'ah scholarship that is becoming now very critical.

The reason is but quite obvious. To be an effective contributor to the Shari'ah advisory in the realm of Islamic banking and finance, takes a whole lot more than simply being well qualified in jurisprudence and the academic discipline of Islamic law (Shari'ah). One need to be knowledgeable in finance and banking, well versed in positive law (common law in particular) and have some proficiency in the English language. As it stands today, I know of no academic institutions who offer such a interdisciplinary qualification.

We frequently hear from some observers the question: why only a small group of scholars dominate the field of Shari'ah advisory in banking. We can't deny that, nor dispute the fact that it is a problem.

Nevertheless, talking about it will not solve the problem. Something needs to be done. Each time the subject is raised we point fingers towards academic institutions.

We have to realize that academic institutions as they are set up today, will not

output scholars who are ready day one to carry on this responsibility. On the other band very few graduates are willing to gamble into the unknown by taking the route of trying to gain the essential for such a job.

What is to be done:

I have called many times on Islamic banks to adopt a program of apprenticeship. Apprenticeship is a well established professional improvement scheme in almost every profession. If every bank in cooperation with the members of its Shari'ah board adopted a program where certain number of potential" scholars are permitted to participate in the working of their Shari'ah board to the extent of being nonvoting members, we will be able to

groom a sufficient number of scholars in a relatively shorter time.

This is an effective and relatively non expensive way of doing something about the problem. Not only that it will make it possible to breed a new generation of scholars but also to reproduce the same culture which over the last 30 years was capable of producing such a phenomenal success.





Interview with Dr. Adnan Ahmed Yousif

President & Chief Executive of Al Baraka Banking Group

By Mahmood Rafique

Dear Mr Adnan Yousif

1: How the banking business is taking shape in 2012 with clouds of uncertainty are still hovering around in the Europe and some other major economies?

ADNAN AHMED YOUSIF: While we are half way through 2012, clouds of uncertainty continue to overhang the banking and financial services sector, the world over.

The European economy continues to be fragile. The banking sector continues to face a number of challenges under the influence of these macro issues. It is imperative that bankers, the world over, will have to find ways to grow profits and contain costs in a weak economy. We need to manage the fallout from the European sovereign debt crisis.

There are now a number of emerging dynamics that the banking sector needs to adapt to – notable amongst these is the emerging new era of regulatory evolution.

Social activism is another phenomenon that all sectors of the economy need to understand and adapt their business practices suitably.

Even while some of these challenges, such as the European sovereign debt crisis and U.S. political gridlock, may seem to move closer to resolution in the coming months; it is feared that the new wave of social activism, as seen demonstrably by efforts such as Occupy Wall Street and Bank Transfer Day, the results of the Presidential and General elections in France and Greece etc, may signal changes at the established salvation programs front.

But as we move ahead, I do believe that 2012 is promising better performance and results for the banks.

2: What have been the growth patterns of the Islamic finance and banking since the start of the 2012 and what are the projections for Islamic banking?

ADNAN AHMED YOUSIF: Islamic banking has always been innovative in terms of products and in adapting its business models to changes in the economy. This is something related to its philosophical nature and not only to flexibility in business dynamics. We have seen this throughout the history of Islamic banking. If you go back deep in the history 1400 years ago, you would see that the model has started in a way similar to today's investment banking (sukuk , al zubbair ibn Al Awam). The model has changed drastically to now become a full fledged industry covering almost every financial need in the economy. We can now see the model having modern investment banking, commercial banking, retail, takaful and insurance, finance companies, trade, investment funds, development banks, housing banks etc., If you go into details, looking at the business models of each and every banking type from the above categories, you can see that how the industry was always able to come up with added value that has a direct impact on its size and growth. Given the current environment, whereby, uncertainty is the master of the hour. I do not see this changing despite the dramatic developments throughout the world including the Arab Spring and a like socio-political changes in many of the Arab

countries, Euro zone crises and even in the other side of the Atlantic where we see a very active movement i.e. Occupy Wall Street in the heart of today's financial system leading country. There is no magic behind this growth pattern, it is simply because the model has solid base from which the practice is derived. The number of the Institutions that adhere to the Islamic system have had increased by 5 times than it was just 30 years ago . Different sources are talking now about the size of more than US\$ 1 trillions in terms of assets under management - representing almost 1/3 of the Arab world banking system and 1% of the global banking system.

Now would be the opportune time to consider establishing Islamic sovereign wealth funds ISWF to champion the growing internationalization of the industry. The ISWF will further facilitate businesses across OIC markets seeking to transform to Shari'a compliant system and also help deepen the Islamic capital market, in our view. The growth of the Industry will further get enhanced by the forthcoming establishment of the MEGA bank, which was announced in Khartoum last month.

3: It is said that there is a bumpy road ahead for the Islamic banking means despite the growth there are many challenges, what are your views?

ADNAN AHMED YOUSIF: The crisis continues to hit hard globally, with almost all sectors in all markets of the world economy, having been impacted directly in one way or another. The economic turbulence has affected everyone. The financial services sector in general, including Islamic Finance is now facing regulatory and practice-related reforms. The focus is increasingly shifted to good governance and this new wave of regulatory reforms, aimed at upholding best practices, is directed in this direction. Hence, now there is greater pressure on financial institutions offering Islamic financial services to galvanize their risk exposures and governance capabilities. Islamic financial services sector has to compulsorily develop and adopt. As the Islamic financial sector continues to evolve, challenges on operational and management fronts continue to throng the institutions. Questions and issues relating to best practices in risk management and effective risk functions have surfaced.

Moreover, the complexity of Shari'a compliant debt and equity instruments has evolved integrated risk management strategies, in order to protect their businesses and stakeholders. There is more awareness than ever now apart from scrutiny by national regulators and industry standard-setters to safeguard the interest of investors and customers.

Today, many Islamic and traditional financial institutions are reviewing their risk management functions and models. Senior Management, Shari 'a Supervisory Board members, and Boards of Directors, are more actively engaged in the risk management decision-making process than ever before.

We are increasingly looking forward to the regulatory harmonization of standards and Shari 'a fatwas. This is indeed inevitable and synergy in market and practice is what all stakeholders will be looking for.

Let us not forget that globalisation and changes in technology, product offerings, process, and the nature of business transactions create new types of challenges and risk

as well. Risk drivers in Islamic Finance starts with conventional known types of risks, as well as the unique Shari'a compliance risk – collectively they shape the operations of the Islamic financial services sector. Shari'a compliance is a fundamental prerequisite factor for developing any risk management strategy for an Islamic financial institution, whether in sourcing of funds or use of funds. The Management of these institutions will have to ensure compliance to Shari'a principles in every aspect of the operations and management of their assets.

Need of the hour today is to develop risk management strategies that address the entire spectrum of risks, including industry specific such as Shari'a compliance, competition, community development, strategic, reporting, and operational. Investment of organisational energies in this area is a must.

Recent events, whether affecting conventional or Islamic Finance, have revealed that there are still deficiencies in the management of risk.

While we discuss all this, it is important for us to remember that the Islamic financial services industry, though growing exponentially, still has a long way to go – and to be able to achieve scale and its set responsibility towards society in playing a major role to help stakeholders succeed financially and thereby ensure long term economic growth. The main challenges which the industry needs collectively to work on can be summarized in the following:

- Most of the Islamic Banks are under-capitalized, with less than \$13bn assets. Therefore capital needs to be increased to competitive levels to maintain operational safety, and assets need to be increased to meet profitability targets. Industry should continue its quest to boost international competitiveness and to build a sustainably profitable business model based upon these tenets.
- Regional capital capacities need to be strengthened e.g. the MENA region which is currently holding more than \$400 billion, accounts for almost 15% of the total banking assets in the region. More capital resources should be committed to it to help build capacities.
- Improvement of the legislative, regulatory, tax and legal environment in the markets where the industry operates.
- Infrastructure institutions need to cope with the growing needs of the Islamic Banks and Markets dynamics. Some of these institutions have actually remained committed to the development of the industry as per their mandate but the majority have in a way or another shifted their focus away from this objective.

4: How Al Baraka Banking Group, being the largest Islamic banking group in the world, is performing in Bahrain and its global operations?

ADNAN AHMED YOUSIF: I am pleased that despite all this turbulence, we have kept our heads high and achieved decent results.

I am quite sure that you have heard positive comments or read many reports on our Group's performance, but I must say that the most commendable one is what I recently heard from a business journalist who has stated that the excellent performance of the Group does not merely reflect a sign of sound management or business model, but it does point out strongly that the confidence in the Group's future performance has actually increased. I believe we just need to remain committed to our business model which is based on diversity, depth and commitment to the highest professional and ethical standards.

The financial and operational results achieved in first quarter of 2012 reflects the keenness of the Group to grow steadily and efficiently, despite growing regional and global challenges around us, and growing regulatory, technical and human requirements. We were able to keep pace with all these challenges and requirements, committed to the highest professional and ethical values and principles, thanks to the implementation of strategies and programs that were applied under the supervision of the Board of Directors of the Group, supported by strong technical, financial and human resources owned and long experience of our banking units in the markets where they operate.

We are determined to continue to invest our substantial financial resources and expertise and the wide geographic network of the Group's subsidiary units towards maximizing the returns to our shareholders and the investors in the Group by implementing business strategies based on improving the quality of our products and services, offering more innovative products, expanding the branch network of the Group subsidiary units in thirteen countries, strengthening the relationship with our partners, investors and customers and entering new markets, as well as modernizing and developing the human, operational, regulatory and technical infrastructures at the Group and subsidiary banking units levels.

The subsidiary units of the Group in Turkey, Egypt, and South Africa have resumed expansion by opening new branches in the first quarter of the year and they intend to open 50 branches as part of their plan to aggregate a total of 500 branches during the coming three years, and this will have direct and positive impact on growing their deposit base and financing portfolios.

We are very pleased to see the contribution of all our banking units in the growth of profits of the Group, which reflects the sound financial positions enjoyed by these units, although there is political transformation in some of the countries where our Units operate, which clearly influenced the financial and economic activity. Aside, noteworthy is that the cooperation between the Group's units in trade financing activities for MENA countries have increased, which contributed to the emergence of the Group as a key player in promoting trade and investment between these countries.

We have also taken during the first quarter of 2012 strategic and systemic steps to strengthen the rules and practices of social responsibility and compliance within Al Baraka Banking Group and its banking units, where we intend to implement



many distinctive programs during the next phase, which of course, will be in line with the new identity of the Group.

In accordance with our new strategy, we have many plans and initiatives that we intend to implement during 2012 that will enhance the standing of ABG in international markets. These will include launching new innovative products and services in the markets. All of these plans will be implemented successfully,, Allah willing, considering that we are the only Islamic banking group that has such diversity of geographical presence and excellent knowledge of the markets.

5: What are your expansion plans, in the GCC, Asia and other geographic locations?

ADNAN AHMED YOUSIF: Al Baraka Banking Group is today a leading and fully-integrated Islamic financial services provider to our corporate, SME and individual clients in 15 countries which are served through more than 400 branches. We are planning to open 50 more branches bringing our branch net-work to 450.

We will continue our expansion in all markets as planned through various means including but not limited to capital support to the established units, seizing new opportunities especially in the Far East, Mediterranean and Europe.

6: As you also head the Union of Arab Banks, how the banking segment in the Arab region is performing, projections towards the end of the year. Please also give the details of total assets, growth year on year basis?

ADNAN AHMED YOUSIF: The most important and crucial change we need to see today in the Arab region is the creation of a civil community that respects and protects all elements of society in the framework of equality amongst all, in terms of rights and duties. No change will be complete with this.

The Arab world is facing multi challenges. There is a crying need to establish over 50 million jobs within the next ten years to accommodate the young generation into the labor market.

Keeping this as our most important goal, we have to also aim to achieve economic growth and advancement, better living standards, and enhancing the social security networks for the

weaker segments of society – from both an economic and social perspective. We need to have the will to take the right path in order to provide better opportunities for the uprising youth, who has nowadays gained vast capabilities through the high paced with which technology is evolving and the widespread Inter communications technology solutions due to efficient interaction & cooperation with capable and advanced countries in transferring some of its abundant expertise in this matter.

The painful process of change has to be endured to ensure there is no recession and more trouble. Some countries have achieved over the course of three to four decades what others have failed to accomplishing a whole century, reaching distinguished positions and leading them to become financial, touristic and media hubs.

The Union of Arab Banks commenced the current year by discussing the Challenges of the Arab Economic Security in its Arab Banking Conference in Abu Dhabi, and UAB is now resorting to Germany, as the main carrier for concerns of Europe in the hardest economic crisis, to open the discussion and dialogue regarding the change in the Arab region an attempt to answer the big question: what is next?

On a more positive note, the Middle East's financial industry is one of the few in the world that has experienced continuous growth since the financial crisis. Indeed Arab banks show no sign of ceasing their rapid expansion. Thanks to the steadier and more cautious pace of Middle East's financial industry, the region's banks escaped, for the most part, unscathed from the global financial crisis. However, that is not to say the region was invincible to the downturn. Several Arab banks have experienced a decline in profits since 2008.

In terms of a single market, Saudi Arabia continues to boast the largest financial sector of the region. Saudi's sector alone makes up almost 30% of the top 100 total capital. The Kingdom is home to not only one, but two of the most profitable Arab banks. However, Saudi faces some competition for its place as number one (financial sector size) as the UAE has become a serious contender. The UAE's banks now contribute to 23.3% of total Tier 1 capital, which is only approximately 4% less than Saudi Arabia's banks.

GCC's banks remain major contributors to regional industry growth, having 58 banks listed in the top 100. Emirates NBD ranked first (growth of 11.3%) in the top 10 banks by assets followed by eight other GCC based banks with Arab Bank, Jordan the only non-GCC bank on the list.

7: Bahrain as the main regional centre of the Islamic banking?

ADNAN AHMED YOUSIF: As we all know that Bahrain has long been considered a strategic trading post between East and West. Its history goes back more than 4,000 years, when the Dilmun civilisation lay at the heart of the world's trade routes.

In modern times, Bahrain was the first nation in the Gulf to discover oil – and the first to recognise the need to diversify

its economy. Today, Bahrain's proximity to major oil producers and affluent markets has contributed to its successful development as an acknowledged international banking and financial centre of excellence.

This is evidenced by the remarkable presence of local, regional and major global financial institutions, all of which have taken advantage of the many opportunities for banking business that exist in the Kingdom. The country thus plays host to over 300 financial institutions undertaking various banking activities and represents a unique blend of local, regional and international names, as well as offering a diversity of financial services and products. Bahrain has also emerged as the world's premier Islamic financial centre, with 27 Islamic banks and 11 Islamic insurance (takaful) companies operating from the Kingdom.

Bahrain's growing reputation as a centre of financial excellence is reflected by the steady increase of financial institutions registered in the Kingdom, which has been paralleled by substantial and steady balance sheet growth despite the current International Financial crisis. A review of the sector was conducted in March 2006 by the International Monetary Fund Financial Sector Assessment Programme (FSAP) which yielded positive results and concluded that Bahrain's prudential regulations were modern and effective. Bahrain was the first country in the region to implement regulations specifically for the Islamic Banking sector and the

first to start sovereign sukuks in 2001. All this has helped enhancing the reputation of Bahrain as a highly respected global leader in Islamic banking. The country now hosts some 50 Islamic Initiatives. The government is proactively encouraging the sector to strengthen its practices. The government has opened the door for almost most of today's infrastructure institutions such as the Accounting and Auditing organizations for the Islamic Financial Institutions AAOIFI, the general Council for Islamic Banks, the Islamic Rating agency, the liquidity management center.

8: When ABG will be relocating to its new headquarters?

ADNAN AHMED YOUSIF: The construction work is progressing well as per the plan, and we are targeting to relocate in the new premises by the fourth quarter of 2013 inshallah.



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Abdullah Hasan

Abdullah Hasan graduated with an Imam Diploma, BA and Ijaza Aliyah in Islamic Studies from the European College for Islamic Studies (Wales). He holds a diploma in Arabic from Zarqa Private University (Jordan) and studied with some of the Scholars of Jordan including Shaykh Ahmad Hawwa [son of the late Scholar Syed Hawwa , Syria], and Jamal Ud Din Basha.

The Why, What and How of Maqasid

By Abdullah Hasan

‘A person’s lack of knowledge of a particular subject is not necessarily proof of its non existence’ (‘adamul ‘ilmi bi shay laysa dalilan ‘ala ‘adam wujudihi); this phrase embodies one of the most important principles I benefited from one of my teachers some ten years ago. It taught me how to approach knowledge and the people of knowledge in general. One of the problems I have observed amongst some ‘students of knowledge’ is that they are very quick to dismiss scholars and issues just because they may have no prior knowledge of it or are apprehensive of certain people who champion a given issue.

The theory of *Maqasid* is one of those subjects on which some people I have encountered have displayed this crisis. Someone asked me why there are so many ‘scholars’ misguiding the youth with *Maqasid al-Shari’ah*. Apparently scholars of the *Salaf* did not speak about *Maqasid* and we should be following the Qur’an and Sunnah rather than talking about *Maqasid* all the time. I pointed out to this particular individual that great *Mujtahids* (scholars) such as Ibn Taymiyyah, ‘Izz al-Din ibn ‘Abd al-Salam, Ibn al-Qayyim al-Jawziyyah, al-Juwayni (Imam al Haramain), al-Ghazzali, al-Amidi, Waliullah Dehlawi, al-Shatibi (named as the father of the *Maqasid* theory) have all contributed extensively in this field. I clarified that all these scholars were following the *Qur’an* and *Sunnah* and that they were in a position to write and speak about the science of *Maqasid* which is a specialist (in general) branch under *Usul al Fiqh*.

Of course there have been, for example, some people from a certain *foundation* who have misused this subject and there may be others who may do the same. However, this could be said in regards to other disciplines in the *Shari’ah* such as ‘*Ilm ul Tafseer*, ‘*Ilm ul Hadith*, ‘*Ilm ul Fiqh* etc. And there have been in our history those who have misused these disciplines to suit their own whims and desires. But, this does not mean that scholars should not be writing about *Maqasid*! It also does not imply that those who write about *Maqasid* are not following the *Qur’an* and *Sunnah*. It became very clear that the person was not acquainted with the basics of the *Shari’ah* even to make that statement.

The reason why individuals fall in this trap of denying everything they’re not familiar with is because of the lack of understanding of the above dictum “a person’s lack of knowledge of a particular subject is not necessarily proof of its non existence’. If we have this understanding then we may save ourselves from a lot of embarrassment and awkwardness.

Although it is a specialist branch of *Usul al Fiqh*, nevertheless, a rudimentary understanding of *Maqasid*, in my opinion, is needed from students and callers to Islam to better understand the *Shari’ah* and apply it in their da’wa activities. At the end of this post I will identify some books on this subject in the English language for people to read. Before that, allow me to explain on a general level what *Maqasid* is.

Maqasid al-Shari'ah explains the wisdoms behind divine laws. They are also a group of divine intents (objectives) upon which the *Shari'ah* is based such as the intents of justice, freedom, equality etc.

Reviewing the *Shari'ah* and the corpus of laws that come with it we observe that *Maqasid al-Shari'ah* seeks to answer the philosophical questions of Why, What and How. In other words:

- Why is giving charity (Zakah) one of Islam's principle pillars?
- Why is fasting during the month of Ramadan a pillar of Islam?
- Why is drinking alcohol forbidden in Islam?
- Why is drugs (weed, cocaine etc) forbidden in Islam?
- Why is extra marital relationship forbidden in Islam?

Why is the punishment for adultery, rape etc so severe in Islam?

Once we place the question of why before a particular ruling (of course this applies to issues relating to mu'amalat because 'ibadat are *t'abbudi* or *tawqifi* without going into details) it invariably leads us to ask the following questions such as:

- What will happen to an individual or a society if charity (Zakah) is not distributed?
- What are the spiritual consequences of abstaining to fast in Ramadan?
- What are the psychological and physical problems of drinking?
- What are the psychological, social and physical consequences of consuming intoxicants?
- What are the psychological, social and spiritual effects of extra marital relationships?

What are the effects of adultery in the family? What are the individual and social effects of rape?

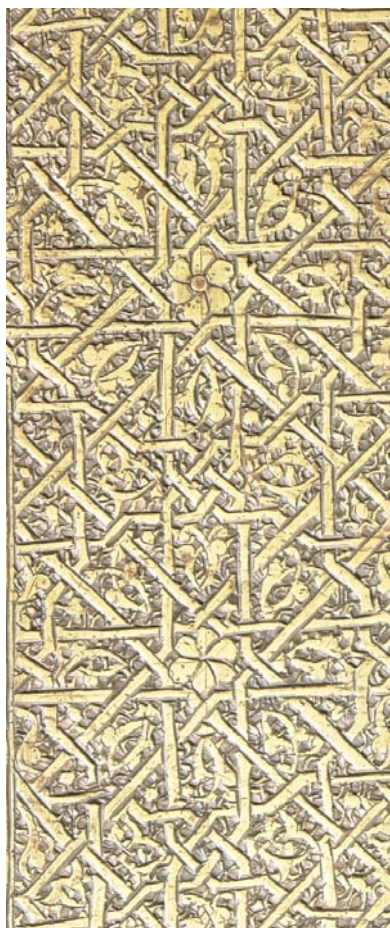
And finally, in order to apply the most suitable mechanisms and laws to procure benefit and avert any harm leads us to ask the following questions such as:

- How do we distribute charity (Zakah) to people (and to whom do we give charity) which is fair and just?
- How does one make sure that the fast is done properly and reaps the best results?
- How does ruler or a government best tackle drinking in the society (what measure can be placed to eradicate the problem)?
- How should a government best tackle the problems of drugs in the society?
- How should people satisfy their sexual desires which are not displeasing to his/her Lord?

How should a government best tackle the crisis of adultery and rape in the society?

The "Shari'ah is based on wisdom and achieving people's welfare in this life and the afterlife. Shari'ah is all about justice, mercy, wisdom, and good. Thus, any ruling that replaces justice with injustice, mercy with its opposite, common good with mischief, or wisdom with nonsense, is a ruling that does not belong to the Shari'ah, even if it is claimed to be so according to some interpretations." (Ibn al Qayyim, 'Ilam al Muwaqqi'n). Therefore, if one surveys the corpus of laws in the Shari'ah, one will recognise that the laws are placed to either achieve benefit or ward off harm from people and society. And this is done (or may be understood) by asking, for example, the questions of **why** does the *Shari'ah* have strict rules that must be implemented, **what** are the consequences of not following these commandments, and **how** does the *Shari'ah* best affect these rules and commandments on people and society?





Saiful Azhar Rosly

obtained undergraduate and master degrees in economics from Northern Illinois University, DeKalb, USA and Ph.D in economics from Universiti Kebangsaan Malaysia (UKM).

He has taught courses such as Islamic economics, Islamic banking and finance, Islamic financial system, Islamic banking system and operation, risk management for Islamic financial institutions, Islamic capital market, money and banking, economic development, history of economic thought, managerial economics, intermediate microeconomics, macroeconomics and principles of economics.

Investments - The Need for Purify Returns

By Prof. Dr. Saiful Azhar Rosly

Introduction

Purification process usually involves the application of Shariah principles in determining the permissibility of share trading. It deals with the valuation of stocks along Shariah guidelines. In this way, it does not concern determining the market values of stocks. However it does not mean that the Shariah is negligence of performance parameters. The purification process is only the beginning of Shariah compliance. Equally important is the wealth creation aspects of stock investment.

In the earlier days, the names like filtration, cleansing and screening process were used to achieve similar objectives. The Securities Commission has played a noble role in setting up the Shariah criteria for listed stocks. In June 1997 the Commission published a list of stocks consistent with the Shariah criteria. Later, by 26th October 2001, 79% of the stocks (i.e. 642) listed in the KLSE were found to comply with Shariah values. Over time, the Commission oversees the purification process by actively pursuing a system of addition and deletion of stocks to ensure full compliance.

The question now is the purification factor market driven? Who needs purification? Assuming that the purification process is market-driven, the issue can be examined from two sides, namely:

1. Demand side : Retail and institutional investors
2. Supply side : Issuing companies (IPOs) and investors (secondary trading).

It is quite obvious that the people wanting to purchase and sell Shariah stocks constitutes the Muslim individuals as well as companies running business under an Islamic label, such as Islamic banks, takaful, Islamic unit trusts and asset management companies. They wanted to make sure that stocks bought and sold are permissible (halal) for fear when God's Law is violated; punishment in the Hereafter is inevitable.

This paper looks at the need for purification from two perspectives. First it deals with the legal factor, namely the Shariah value (hukm shari') attached to the act of buying and selling stocks. Secondly, it examines the ethical factor that ventures into the metaphysical dimension of the self and the factors affecting it. The self is the centerpiece of human motivation. Thus, what compels an investor to purchase Shariah stocks has a lot to do with the self and its objectives.

THE LEGAL FACTOR: The role of 'Aqd (contract)

The need for purification can be made more revealing when decisions of issuers and investors are further investigated. The issue can be more sensitive on the demand side, since investors are particular on what they buy. They are concern whether the profits earned from the investments are halal. The supply side factor however, is relatively silent unless issuers are keen to capture Islamic investors such as the recent PLUS initial public offers.

What is at stake here is a fundamental question, namely the nature of the contract ('Aqd) applied in trading Shariah stocks. Human actions in the Shariah can be

categorized into five, namely:

1. Wajib (obligatory)
2. Sunnat (commendable)
3. Makruh (reprehensible)
4. Mubah (permissible)
5. Haram (prohibited)

In defining human actions, the contractual relationship between man and God (hablumminallah) as well as among man (hablumminnana) is a crucial element to observe. As an example, the consumption of interest as *riba*, is prohibited (haram) as it both violated the rights of God and the rights of man. In a legal perspective, the contract of an interest-bearing loan is invalid (*bathil*). The act of lending and borrowing in this respect is not recognized by both God and society. When this happens the act of lending and borrowing with *riba* will not be rewarded but punishable in the hereafter.

The same applies in Shariah stock trading. If an investor desires to observe the Shariah, he or she must first ask whether the act of sale and purchase of stocks is valid (*sah*) in the eyes of God. It is here, the 'Aqd factor is most critical. If the 'Aqd is void (*bathil*), then the act of stock trading is punishable. Like wise if the 'Aqd is valid (*sahih*), then people who purchase or sell stocks will receive rewards (*thawab*) from God.

The 'Aqd (contract) for stock trading apparently has not received commendable attention compared with the Shariah criteria of the Securities Commission. In the latter, it seems that the subject matter is the stock (i.e. the financial asset) rather than the contract applied in the sale and purchase of that financial asset. It is thus important to explore what exactly is the nature of contract ('Aqd) applied in Shariah stock trading. The 'Aqd helps determine the *Hukm Shari'* of shariah stock trading. That is whether the actions of stock trading is accepted or rejected by God is defined by the validity of the 'Aqd. Therefore pinning on the Islamicity of the stocks alone may not suffice in determining the Shariah value (*hukm*) on the sale and purchase of stocks.

Contract of Al-Bay' (sale and purchase of asset/property)

There are four main principles of 'Aqd (contract), namely:

1. Agents of contract (*tharafa'il aqdi*)
2. Objective of contract (*maudu'ul aqdi*)
3. Object of contract (*mahallul aqdi*)
4. Offer and acceptance (*ijab & qabul*)

To secure legitimacy, the contract must be free from the following elements

- a. Interest (*riba*): contractual increase over capital loan
- b. Gambling (*maisir*): speculative or aleatory contracts in which obligations and benefits accruing to participating parties are not fully defined at the time when the contract became effective leading to either winning or losing arising from mere chance instead of work and effort.
- c. Ambiguities (*Gharar*): uncertainties that exists in

contracts involving contracting parties and the subject matter, which leads to disputes and unjustified gain

- d. Intoxicants (*qamar*): consumption of alcoholic beverages, which can impair the intellect ('*aql*) leading to irrational behavior.
- e. Consumption of pork
- f. Illicit sex (*zina*) : sexual relation outside marriage which annihilate the sanctity of the family system (*nasl*).

The two principles of risk-taking (*al-bay'*) and profit-loss sharing (*Shirkat*) are a given in all contractual obligation. For that reason, the Shariah prohibits interest and gambling. In Islamic law, two popular the legal maxims (*Qawaid Fiqiah*) highlight the constructive role of risk-taking in wealth creation :

1. No rewards without risks - "*Al-Ghormi bil Ghonm*"
2. Profits must be accompanied with liability "*Al-Kharaj bil Daman*"

A systematic understanding of stocks in Islam can best be acquired by looking at the nature of contract and transaction each party, namely the seller and buyer of stocks have both participated in. If focus is given on stock purification, the trading of stocks in Islam essentially involves the contract of sale (*al-bay'*) since what is taking place is the exchange of financial assets (i.e. Shariah stocks) for money. A share certificate is an evidence of one's ownership of a company, namely ownership of assets. Although the ownership is only fractional but it gives the owners the right to participate in profit making, such as determining company policy by way of appointing company directors. The contract of *al-bay'* seems fitting since a share certificate is seen to represent assets or property (*al-mal mutaqawim*) inputted into the production process. In the contract of *al-bay'* this is called the subject matter or *mahallul 'aqdi*.

But the ability to participate, say in the election of the board of directors seems to indicate that a person who purchases and owns common stocks, is not comparable to an ordinary consumer or merchant who respectively purchase tangible goods for consumption or trading purposes. So, using the contract of *al-bay'* may not be an accurate one, to say the least.

Contract of Partnership (Shirkatul 'Inan)

Investment in stocks can also be understood by way of applying profit-loss sharing principle. When a company issues a common share it does so to obtain risk or equity capital from the public. Investors who took up these shares are willing to assume the risk of losing his capital in a hope to obtain higher returns. Investment in stocks is therefore a profit-loss sharing activity, which Islam rightly enjoins. The contracts of profit-loss sharing ('*Uqud al-Ishtirak*) in Islam shall consists of two, namely:

1. *Al-Qirad* or *Al-Mudarabah* (Trustee Partnership)
2. *Al-Shirkah* or *Al-Musyarakah* (General Partnership)

In Shariah stocks trading, the contract of *Musyarakah* seems more suitable since it (i.e. *musyarakah*) deals with a

partnership of capital. This is because both issuer and investors injected capital input into the business. The contract of Shirkatul 'Inan) unequal partnership of capital is thus relevant here. In short, the contract of Shariah stock trading can be summarized as follows:

Contract of Shirkatul 'Inan

1. Agents of contract : Issuer and investors (IPO)
2. Objective of contact: Profit and loss sharing
3. Object of contract:
 - a. Capital : Provision of cash or physical assets by both parties
 - b. Labor : Provision of work and effort by both parties
4. Offer and acceptance : as mutually agreed based on the above terms and conditions.

However, the nature of stock trading assumes that the investors are practically sleeping partners as they do not directly participate in the running of business. The contract cannot assume a Mudarabah relationship given that it (i.e. Mudarabah) only allows one party to contribute capital while the other providing the management role. All Muslim jurists require that partners put both work and effort into the business. Otherwise the contract becomes null and void (AAOIFI 1999).

Further research on the nature of Islamic stock trading and the applicable contracts is crucial. It looks like the contract (if any) assimilates both Musyarakah and Mudarabah features. A hybrid contract is a likely possibility but this needs a playing field at the fuqaha level. Meanwhile Muslim investors are rest assure by the Securities Commission that their act of buying and selling of shares are valid (sah) and thus, acceptable by God Almighty as good deeds ('amal saleh)

THE MORAL FACTOR

Muslim investors desire to know whether the act of buying and selling of Shariah stocks is valid or not valid. The purification process played an important role in putting Shariah legitimacy of Shariah stock trading. The question again, is why Muslims are concern with the haram and halal? If the contract of stock trading is invalid, the act of buying and selling of stocks is therefore a sin and brings along with it a sense of regret, helplessness and loss. In wealth creation, Muslims certainly do not desire these unwarranted stress and grief as opposed to happiness and tranquility.

It seems that an ethical explanation is in order to ascertain the desire for Shariah legitimacy (i.e. the legal factor) via the purification process. The above methods of Shariah screening constitute Islam's way of purifying the soul (tazkiyah an-nafs). These methods are means by which an individual can attain purification of the self. In Islam purification began from within. This is among the central theme of the Quran. That is, the individual strives to purify himself in a way ordained by the Creator. Purifying oneself is the final objective in life achievable by way of submitting one's desires to the Will of God, as embodied in the Shariah. In the end, man shall achieve happiness when the self returns to its true nature.

Submitting one's desire to Shariah values requires a driving catalyst that both motivates and excites the individual to do it with conviction. This is because submitting one's desire to a particular value system needs convincing. Temptations to realize gains through falsehood such as fraud and corruption are overwhelming when less effort is required to obtain them. Income derived from riba and gambling is immoral as both constitute unlawful gains since no equivalent counter value ('iwad) is evident from the surplus made. Likewise, allowing ambiguities (gharar) in contractual obligations is against to mutual and cooperative values.

Islam as Al-Din means submission. In fact one of the meanings of Din or the Arabic root word DYN, is indebtedness. It is this notion of indebtedness that gives deeper meaning to the reason for human economic existence in Islam. Why is man indebted to God, and what is he supposed to do under such a situation of indebtedness? Logically, when a person is in debt he is supposed to settle it. In Islam man is indebted to God, his Creator and Provider, for bringing him into existence and maintaining him in his existence as man once did not exist, and now he does.

On this point, the Quran states, "Man, We did create from a quintessence of clay. Then We placed him as a drop of sperm in a place of rest, firmly fixed. Then We made the sperm into a clot of congealed blood; then out of that clot We made a lump; then We made out of that lump bones and clothed the bones with fresh; then We developed out of it another creature. So blessed be God, the Best to create". (Al-Mu'minun {23}:12-14).

How is man supposed to repay the debt? God is in no dire need of anything as He is the Creator and Sustainer, but the debt than man owes God must be paid. In Islam, paying or returning the debts means to give himself up in service, or khidmah, to his Lord and Master, to abase himself before Him - and so the rightly guided man sincerely and consciously enslaves himself for the sake of God in order to fulfill His Commands and Prohibitions and Ordinances, and thus to live out the dictates of His Law.

Now it is becomes clear that the meaning of man's existence is related to his indebtedness to God and his subsequent enslavement to His law. Man himself is the object of the debt. In fact the Covenant that man sealed with God in the Primordial stage of life i.e. when He says, 'Am I not your Lord', and man's true self testifying, answered: Yea!", requires man to manifest the Covenant (Al-Mithaq) through his submission in absolute true willingness.

The question now is, how can these meanings of indebtedness via the theory of Al-Mithaq be of significance in explaining the need for purification? The answer lies in the Islamic conception of the self. The Self in the Quran has been mentioned in different levels of man inner experience such as:

1. Human spirit (Ruh)
2. Soul (Nafs)
3. Intellect ('Aql)
4. Heart (Qalb).

Naquib Al-Attas provides a coherent exposition how these different modes of the self is seen as a unity:

"Thus when it (i.e. the human soul) is involved in intellection and apprehension it is called 'intellect'; when it governs the body it is called 'soul'; when it is engaged in receiving intuitive illumination it is called 'heart' and it reverts to its own world of abstract entities it is called 'spirit'. Indeed, it is a reality always engaged in manifesting itself in all these states".

The self was once pure and clean. Muslims believe in this fact (see Al-A'raf :175). The covenant that man i.e. the self sealed with God in the primordial life, implied that the self is indebted to the Creator. Man i.e. the self pays the debt by way of submitting his desires to God's Will as embodied in the Shariah when man is born into the physical world.

Man in Islam is the highest creation of God because he is bestowed by the Creator the power of intellect ('aql) with which he is able to differentiate right from wrong. At the same time, man is composed of forgetfulness (nisyan) and despite having testified to the truth of the covenant he sealed with God, he forgets (nasiya) to fulfill his duty and his purpose. Forgetfulness is the cause of man's disobedience and this blameworthy nature inclines him towards injustice (zulm) and ignorance (jahl).

Thus, in life (al-dunya) the self is inflicted with disturbances that do not allow it to fully submit to the law of Allah as promised. In this manner, the self is surrounded with impurities that further clouded his/her remembrance of the Al-Mithaq. This impurities caused the self to lose touch with God and lost the sense of the purpose of existence . Here the self will fall in grief (shawqawa). The Quran mentioned this very clearly:

"Verily by the declining day, man is in loss (khusrin), except those who believe and do good works, and exhort one another to truth, exhort one another to endurance" (Al-Asr 1-3)

However, when the self strives hard to free it self from the impurities (i.e. abstaining from God's prohibitions), by way of submitting itself to God's commandment, it will again experience the happiness (saada) it used to enjoy in the primordial stage of life. In this way, it cleansing of the self is achievable when the self struggle through life, enjoining the good and avoiding the bad ('amal ma'afuh nahi mungkar)

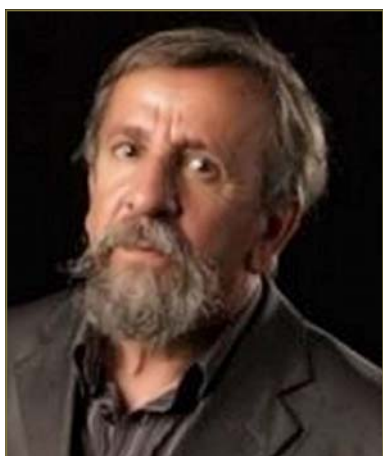
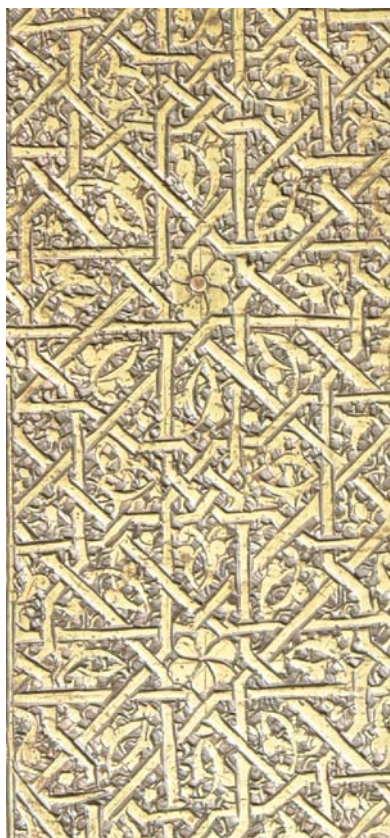
Likewise, investments in Shariah stocks is one aspect of man's submission to the Will of God. In wealth creation, a believer is expected to avoid the prohibitions and pursue the alternative means recommended by God. When man is able to pursue wealth creation in this way, he or she will see that justice is put in place. From the moral and ethical angle, man will be at ease with himself/herself. This is the level of nafs muthmainnah (the contented soul) (see figure below).

Conclusion

In explaining the need for purification of stocks listed in the KLSE bourse, this paper looks two factors affecting the investors, namely the legal and ethical factors. The legal

factor explains why there is a need to spell out the real nature of 'aqd (contract) of stock trading. If the 'aqad is valid (sah), then the actions of buying and selling stocks will receive God's blessing and therefore rewarded both in this world and the hereafter. If the 'aqd is void (bathil), investors have committed a sin and therefore punishable. This desire to secure Shariah legitimacy (i.e. the legal factor) is driven by the ethical factor, namely the desire to purify one's self by way of obeying the law of God (Shariah). It is an act of submission or enslavement to God as He has given man life and sustenance. The concept of indebtedness is fundamental to further understand why Muslims desire to purchase stocks that fully complied with Shariah principles.





Sami A. Aldeeb Abu Sahlieh

Christian of Palestinian origin. Swiss citizen. Doctor of laws. Habilitated to direct researches (HDR). Professor of universities (CNU-France). Expert in Arab and Islamic Law. Responsible for Arab and Islamic Law in the Swiss Institute of Comparative Law (1980-2009). Visiting professor in the universities of Strasbourg, Aix-en-Provence, Cergy-Pontoise, Grenoble, Lugano, Palermo and Trento. Translator of the Koran into French.

Comparison between Islamic and Western concept of law and its impact on minorities

By Prof. Sami A. Aldeeb Abu Sahlieh

Roughly speaking, there are one billion Muslims in the whole world, living in more than fifty Muslim countries. A fifth of these Muslims are Arab. In the Muslim countries also live non-Muslim minorities. On the other side, in many non-Muslim countries, there are Muslim minorities. Muslims in Western Europe number between 15 and 20 million. Exact figures are unknown because census takers in most European countries do not collect data on religious persuasion.

The purpose of my text is to show the difference between the Islamic and Western concept of law and the impact of this difference on non-Muslim minorities in the Muslim countries and on Muslim minorities in non-Muslim countries.

Chapter I. Concept of the law

1) Islamic concept of the law

There are three concepts of the law. The first one considers the law as emanating of God. The second considers it as emanating from the social contract through democracy; law in this case is the expression of the sovereignty of the people. The third considers it as a donation from the chief of the state as the sole sovereign; here the law is the result of dictatorship; nobody has the right to change it and those who disobey are beheaded. Generally speaking the first and the third concept of law are similar and have the same consequences. We have them among Jews and Muslims.

For the Jewish believer, the Bible imposes itself as a legal code to follow at all times and in all places. One reads:

- *You must diligently observe everything that I command you; do not add to it or take anything from it (Deuteronomy 13:1).*
- *The revealed things belong to us and to our children forever, to observe all the words of this law (Deuteronomy 29:28).*
- *It is a statute forever throughout your generations in all your settlements (Leviticus 23:14).*

Quoting these verses, Maimonides (died 1204) writes, "It is clearly stated in the Torah that it contains the Law which stands for ever, that may not be changed, and nothing may be taken from it or added to it". According to Maimonides, if one pretends the opposite, "he shall die by hanging". This punishment is also foreseen for anyone who "uproots any of our verbal traditions or says that God had charged him to interpret the Law in such and such a way, he is a false prophet and is to be hanged even though he give a sign".

One finds this same concept among Muslims for whom the Quran, - literal word of God -, and the Tradition of Muhammad (Sunnah) - gathered in different compilations -

constitute the first two sources of all law. From these two sources, classic Muslim jurists developed a legal system called *shari'ah* (literally: the way). All Muslims must submit. The Quran says in this respect:

Those who do not rule in accordance with God's revelations are disbelievers ... unjust, ... wicked (5:44, 45, 47).

No believing man or believing woman, if God and His messenger issue any command, has any choice regarding that command. Anyone who disobeys God and His messenger has gone far astray (33:36).

Muhammad Mitwalli Al-Sha'rawi (died 1998), religious leader and Egyptian politician, explained that revelation is called upon to decide equivocal questions, thus freeing mankind of the anguish of solving a difficult case by discussion, or by exhaustive repetition of experiences. The Muslim does not have to look outside Islam for solutions to any problem, since Islam offers absolute eternal and good solutions. He adds:

If I were the person responsible for this country or the person charged to apply God's law, I would give a delay of one year to anyone who rejects Islam, granting him the right to say that he is no longer a Muslim. Then I would dispense to him of the application of Islamic law, condemning him to death as apostate.

This thread is not rhetoric. As we will see in the last chapter, those who reject Islamic law or try to present a liberal interpretation of its sources, are persecuted and some of them are killed. The obligation to apply Islamic law, with the fatal consequence in case of refusal, may cover unlimited fields, even those very controversial. To give an unexpected example, Jad-al-Haq, the Sheikh of Al-Azhar (died 1996) declared in a fatwa (religious decision) issued in 1994:

If a region stops, of common agreement, to practice male and female circumcision, the chief of the state declares war against that region because circumcision is a part of the ritual of Islam and its specificities. This means that male and female circumcision are obligatory.

This fatwa indicates clearly that even a group has no right to decide differently from what Islamic law decides.

To be a Muslim implies the acceptance of the application of the Islamic law. There is a link between religion and law. If you refuse the application of the Islamic law, you stop being Muslim. And the more norms you have in a religion, the less the individual and the group are free to choose their way of life. The Quran was aware of the difficulty it is creating by introducing new norms. We read in 5:101:

O you who believe, do not ask about matters which, if revealed to you prematurely, would hurt you. If you ask about them in light of the Quran, they will become obvious to you. God has deliberately overlooked them. God is Forgiver, Clement.

This concept of the law as a result of revelation is reflected in different Islamic declarations on human rights. Thus, one promulgated in 1981, by the Islamic Council of Europe (whose seat is in London), affirmed repeatedly that human rights are founded on divine will. The first passage of the preamble states, "For fourteen centuries, Islam defined, by divine law, human rights, in their entirety as well as in their implications". The preamble adds:

- *Strong of our faith in the fact that God is the sovereign master of all things in this immediate life as in the ultimate life...*

- *Strong of our conviction that human intelligence is incapable to elaborate a better way in view to assure service of life without God's guidance and revelation:*

We, Muslims, ... we proclaim this Declaration of Human Rights made in the name of Islam, as one can understand them of the very noble Quran and the very pure prophetic Tradition (Sunnah).

Therefore, these rights present themselves as eternal rights that cannot be suppressed or rectified, abrogated or invalidated. These rights have been defined by the Creator -to him the praise! - and no human creature has the right to either invalidate or attack them.

The Judeo-Muslim concept could not resist time and modernization. Indeed, nearly all Constitutions of Arab countries affirm that Islam is the religion of the State and that Islamic law is a main source, or even the main source of the law. Nevertheless, Islamic law now concerns only family law and inheritance, and penal law in some countries such as Saudi Arabia and Iran. Laws imported mainly from the West, to start with the Constitution itself, the judicial system, the civil law, the commercial law and the penal law, govern other legal domains. In this regard, the Muslim world lives today in a situation of schizophrenia, between religious ideals and a desire to acquire an independence from divinity. This situation creates internal violent conflict between three main trends:

- *There are those that extol a return to Islamic law as part of their faith, with some adaptation to the present situation through a circumstantial interpretation to save appearances.*
- *The second trend is constituted by those who, guided by a sense of realities, prefer the status quo, considering Islamic law unable to manage a modern society.*
- *The third trend would like to evacuate the remaining Islamic norms applied today, which are contrary to a modern perspective of human rights, notably with regard to women's and non-Muslims' rights.*

2) Western Concept of the law

The Judeo-Islamic concept of the law as emanating from God, supreme sovereign legislator, is different from the concept of the law in the Christianised Western countries, concept based on the idea of the people's sovereignty that decides the laws that govern it, in the public interest (*res publica*). These laws are voted and amended by the people. People vote according to their material interest and their moral values, perhaps religious. But these interests and values can change and they have to submit to the verdict of the majority. This concept is the result of a fierce struggle to separate the church from the state. But it has also its seeds in Christ's attitude towards law. Contrary to the Ancient Testament and to the Quran, the Gospel remains mainly a moral book. Jesus was not a jurist; he never exercised a political function. He refused to deal with the law even when it is prescribed in the Torah. Two events illustrate this attitude:

- *Someone in the crowd said to Jesus: "Teacher, tell my brother to divide the family inheritance with me". Jesus answered him: "Friend, who set me to be a judge or arbitrator over you?" And he said to them: "Take care! Be on your guard against all kinds of greed; for one's life does*



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not consist in the abundance of possessions" (Luke 12:13-15).

- *The scribes and the Pharisees brought a woman who had been caught in adultery; and making her stand before all of them, they said to him: "Teacher, this woman was caught in the very act of committing adultery. Now in the law Moses commanded us to stone such women. Now what do you say?" Jesus said to them: "Let anyone among you who is without sin be the first to throw a stone at her". When they heard it, they went away, one by one, beginning with the elders; and Jesus was left alone with the woman standing before him. Jesus said to her: "Woman, where are they? Has no one condemned you?" She said: "No one sir". And Jesus said: "Neither do I condemn you. Go your way, and from now on do not sin again" (John 8:3-11).*

We can here compare the attitude of Jesus with that of Muhammad. Concerning inheritance, Jesus refused to give a decision, preferring moral to arithmetic. His attitude is completely different from that adopted by the Quran which goes into details fixing the quotas of every person in the family.

Concerning adultery, Muhammad was confronted with a similar case. Jews brought to him a man and a woman who committed adultery. He asked them what the Bible provides for such an act. They said, "Stoning" (Leviticus 20:10; Deuteronomy 22:22-24), adding that as they could not apply this norm against the rich, they changed it by blacking the faces of the sinners with coal and beating them. Muhammad refused the changing of the norm decided by the Jewish community and stoned the man and the woman as provided by the Bible. To justify his decision, he recited the Quranic verse: "Those who do not rule in accordance with God's revelations are the wicked" (5:47). Jesus in this case is a moralist, Muhammad is a zealot.

As there are no legal norms in the Gospel, it was easy for the Christianised countries to create their own laws, first as a decision of a dictator, and later as a popular, democratic decision. It is interesting here to mention the definition of the law given in the 2nd century by the Roman Jurisconsult Gaius: "Law is what the people prescribes and establishes" (*Lex est quod populus iubet atque constituit*). This definition sounds modern.

The Western concept of the law is now reflected in the international human rights instruments. If we take the Universal Declaration of Human Rights, we notice that it is proclaimed by the General Assembly. No mention of God in it. He was intentionally excluded.

From what we have shown, we can conclude that, on the legal level, it is wrong to speak about "Judeo-Christian culture". We have rather to say: "Judeo-Islamic culture", as opposed to the "Romano-Christian culture".

Chapter II. Islamic law and non-Muslim minorities

Muslims consider that the law emanates from God, but God may have promulgated different laws for different groups in various periods.

According to the Quranic perception, before Muhammad, God sent different prophets to transmit his law to humanity. Muhammad is the last of these prophets and his message constitutes the achievement of the previous messages. All

the humanity must therefore rally to his message and must follow it.

Muhammad endeavoured in his life to achieve this project. He entered into discussions with Jews and Christians so that they recognize him, invoking the fact that their sacred books foresee a saviour's arrival. But these two groups refused, saying that their books do not mention the name of Muhammad. This one retorted then that they had falsified their books to make his name disappear and accused them of being unfaithful to their prophets: the Jews believing in the Gibts and the Taghouts and adoring Moses, their high priests and Ozayr, and Christians adoring God, Jesus and Mary. Muhammad had in the end to accept that his spiritual mission was not shared by the other faith communities, attributing their rejection to divine will:

Had God willed, He could have made you one community. But He thus puts you to the test through the revelations He has given each of you. You shall compete in righteousness. To God is your final destiny - all of you. Then He will inform you of everything you had disputed (5:48; to also see 2:145; 11:118; 16:93 and 42:8).

He recommends to his Companions to adopt a correct attitude with the People of the Book, urging this group to reach a common understanding with the Muslims:

Do not argue with the people of the scripture (Jews, Christians, and Muslims) except in the nicest possible manner - unless they transgress - and say, "We believe in what was revealed to us and in what was revealed to you, and our god and your god is one and the same; to Him we are submitters" (29:46; also see 3:64; 16:125).

This theological debate determines non-Muslim legal status, mainly controlled by four verses:

You shall fight back against those who do not believe in God, nor in the Last Day, nor do they prohibit what God and His messenger have prohibited, nor do they abide by the religion of truth-among those who received the scripture - until they pay the due tax, willingly or unwillingly (9:29).

Surely, those who believe, those who are Jewish, the Christians, and the Sabians; anyone who believes in God, and believes in the Last Day, and leads a righteous life, will receive their recompense from their Lord. They have nothing to fear, nor will they grieve. Covenant with Israel (2:62).

Surely, those who believe, those who are Jewish, the Sabians, and the Christians; any of them who believe in God and believe in the Last Day, and lead a righteous life, have nothing to fear, nor will they grieve (5:69).

Those who believe, those who are Jewish, the Sabians, the Christians, the Zoroastrians, and the idol worshipers, God is the One who will judge among them on the Day of Resurrection. God witnesses all things (22:17).

The classic jurists understood from these verses that the People of the Book (Jews, Christians, Sabians, and Zoroastrians, to whom one could add Samaritans) have the right to live within the Land of Islam in spite of theological divergences that separate them from Muslims. Certainly, the hope was to one day see them become Muslim, but the Quran rejects recourse to force to convert them: "There shall be no compulsion in religion" (2:256). The cohabitation between Muslims and People of the Book is not on equal terms, but of dominant to dominated. The People of the

Book have to pay a tribute, in a state of humiliation (9:29), and to submit to discriminatory norms, notably concerning family law. So for example Muslims may take in marriage women of the People of the Book, but these are not allowed to take Muslim women (2:221; 5:5; 60:10). The People of the Book are called *dhimmis*, protected of Muslims, but these people should be closely observed because of their faith and regarded with constant distrust, even though they may have strong relationship ties:

O you who believe, do not take Jews and Christians as allies; these are allies of one another. Those among you who ally themselves with these belong with them. God does not guide the transgressors (5:51; to also see 3:28, 9:8 and 23).

One must not exclude reports based on justice, except for a case of hostility:

God does not enjoin you from befriending those who do not fight you because of religion, and do not evict you from your homes. You may befriend them and be equitable toward them. God loves the equitable. God enjoins you only from befriending those who fight you because of religion, evict you from your homes, and band together with others to banish you. You shall not befriend them. Those who befriend them are the transgressors (60:8-9).

To solve contradictions that exist between the tolerant verses and those less tolerant, classic jurists resort to the theory of abrogation: a verse on a particular topic is abrogated by a later verse concerning the same topic. However, classic jurists could not resolve conflicting passages by context or date. Some considered all tolerant verses of the Quran concerning the non-Muslims abrogated by the so-called verse of the sword:

Once the Sacred Months are past, you may kill the idol worshipers when you encounter them, punish them, and resist every move they make. If they repent and observe the prayers and give the obligatory alms, you shall let them go. God is Forgiver, Most Merciful (9:5).

Whatever the relationship between Muslims and other religious communities, numerous persons converted to Islam over time. Those that remained faithful to their faith could benefit by certain legislative and judicial autonomy, notably concerning family law. The Muslim State was then more a collector of tax than an administrator of society, with Jews and Christians involved in administration more than the less trained Bedouin who come to occupy their countries. This is why Muslim authorities retained both Christians and Jews as government officials during the course of their administration. The Quran states in this respect:

We have sent down the Torah, containing guidance and light. Ruling in accordance with it were the Jewish prophets, as well as the rabbis and the priests, as dictated to them in God's scripture, and as witnessed by them. Therefore, do not reverence human beings; you shall reverence me instead. And do not trade away my revelations for a cheap price. Those who do not rule in accordance with God's revelations are the disbelievers ... Subsequent to them, we sent Jesus, the son of Mary, confirming the previous scripture, the Torah. We gave him the Gospel, containing guidance and light, and confirming the previous scriptures, the Torah, and augmenting its guidance and light, and to enlighten the righteous. The People of the Gospel shall rule in accordance with God's revelations therein. Those who do not rule in

accordance with God's revelations are the wicked (5:44 and 46).

This multi-confessional legal system persists up to today in some Arab countries with more or less no change, but on the whole, the approach tends to lead to unification. So in both Jordan and Syria, the non-Muslim religious communities apply their religious laws concerning family law, with the exception of inheritance, and have their own religious courts, whereas Egypt suppressed these religious courts.

We can then say that in the state as established by Muhammad, religion remains the principle criteria of division. There are the Muslims who form the *ummah* qualified by the Quran as "the best community ever raised among the peoples" (3:110). Besides this main group, there are the groups who have revealed books: they can stay in the country, keep their belief, have their laws and jurisdictions, but have to accept restricted rights and to pay tribute. This tolerance did not apply to those among them that lived in Arabia. Muhammad, on his deathbed, called Omar (died 644), the future 2nd caliph, and told him, "Two religions must not coexist in the Arabian Peninsula". Recalling this narrative, Mawerdi writes that non-Muslims were not admitted to stay in the Hijaz more than three days. Their same cadavers would not be buried there and, "if it took place, they will be exhumed and transferred elsewhere, because burial equalled staying for ever". Classic Muslim jurists did not settle the geographical limits in which this norm had to apply. Today Saudi Arabia alone invokes this norm to restrict the freedom of worship for non-Muslims.

What about polytheists, those who do not have revealed books? It seems that Muhammad, in the beginning, wanted to make some concessions to them. One passage of the Quran, recorded by Al-Tabari, recognized three of their divinities: Al-Lat, Al-Uzzah and Manat. But, facing his Companions that saw in this concession a breach to monotheism, Muhammad denounced this passage as revealed by Satan (i.e.: the source of Salman Rushdie's Satanic Verses). Although this passage disappeared from the Quran, traces remain that confirm a provocative polemic (53:19-23). Muhammad admitted the possibility of a pact with polytheists (9:3-4). But it was also denounced (9:7-11) and polytheists were summoned, in conformity with the verse of the sword (9:5), either to convert or undergo war until death.

Muslims are convinced that one day all humanity will become Muslim, thus extending the realm of Islam to the entire world. Conversion to Islam is encouraged by different means. In the same time, conversion from Islam (apostasy) was prohibited. In this field we have contradictory norms in the Quran and the Sunnah. The Quran says, "There shall be no compulsion in religion" (2:256). It does not foresee a precise punishment against an apostate although it speaks repeatedly using the term *kufr* (disbelief), or the term *riddah* (abjuration). Only punishments in the next life are foreseen, if one excepts verse 9:74, that speaks of "painful retribution in this life and in the Hereafter", without making specifications. Narratives of Muhammad are more explicit:

One that changes his religion, kill him.

It is not permitted to attempt to the life of the Muslim except in the three following cases: disbelief after faith, adultery after marriage and homicide without motive.

Mawerdi defines as follows apostates:

Those that being legally Muslim, either of birth, or following conversion, quit the faith, and the two categories are, to the point of view of apostasy, on the same line.

On the basis of Quranic verses and Narratives of Muhammad, classic jurists foresee the death penalty for an apostate, after having granted him a delay of reflection for three days. If apostasy concerns a woman, some jurists recommend putting her in jail until her death, or her return to Islam. It is necessary to add measures of civil order: the marriage of the apostate is dissolved, his children are removed, his inheritance is opened and he is deprived of inheritance rights. Collective apostasy relates to war. The fate reserved for apostates is thus worse than that reserved for an enemy, no truce being permitted for apostates.





Muhammad M. I. Ghali
(b. 1976)

Dr. Muhammad M. Ghali is currently assistant professor of Islamic studies at Leiden University, Institute for Religious Studies. He studied Islamic Studies in English at al-Azhar University in Egypt and got his bachelor with Cum laude in 1999. In 2002, he got his Master degree in Islamic studies also with cum laude from Leiden University. In February 2008, he got his PhD degree from the same university. His PhD dissertation was on "Islam and Disability: Perspectives in Islamic Theology and Islamic Jurisprudence".

Al Salat

By Dr. Muhammad M. I. Ghali

Prayer

Muslim scholars speak of two distinct sets of acts for worship. One is usually gone through when the performer is either sitting, reclining or standing. This has been called "du'a" (prayer), the verb being "da'a" (He called). Another set of devotional acts is that which is accompanied by certain physical movements and prescribed recitations from the Glorious Quran. Such a co-ordinated performance of bowings, prostrations, and recitations is given the name salat (prayers).

Prayers are partly obligatory and partly optional. The obligatory prayers have to be performed at fixed times, five times every day.

Ablution

Ablution, or purification, is a prerequisite for the performance of valid prayers. It may be defined as cleansing from material or spiritual pollution.

The conditions for the validity of ablution are :

1. Belief (i.e. being a believer).
2. Being in control of one's faculties.
3. Having attained majority.
4. Ability to use a purifying agent.
5. Availability of a purifying agent.
6. Covering by ablution of all the designated parts.
7. The absence of any pollution which renders it null and void, e.g. the absence of menstruation or a post-natal bleeding in women.
8. Intention.
9. Correct order of ceremonies.

Ablution may be categorised in three ways:

- a) Minor Ablution (wudu).
- b) Major Ablution (ghusl).
- c) Dry Ablution (tayammum).

a) Minor Ablution :

The four parts of minor ablution are :

- 1) Washing the face.
- 2) Washing the hands up to the elbows.
- 3) Washing the feet up to the ankles.
- 4) Rubbing of the head.

b) Major Ablution :

Major ablution is secured by washing the whole body .It is obligatory after sexual intercourse and after the menstrual period in women.

c) Dry Ablution:

Dry ablution consists of wiping the face and the hands up to the elbows on dry clean earth or sand. The worshipper has to beat the earth with his two hands twice, once for wiping the face, and the second time for the hands up to the elbows.

The conditions for a valid dry ablution are:

- 1) Rubbing.
- 2) The availability of clean earth, and the absence of water.
- 3) Covering of all the designated parts. Clean earth may include clean dust, or sand, or rock, for one of the Traditions of the Prophet affirms that "All the earth has been given me as a place for prayers (Prostration) and as a purifier "

Invalidity of Ablution :

Ablution is no longer valid when any uncleanness is emitted from either of the two openings. An uncleanness may include blood, or bloody saliva, vomiting or a major uncleanness (sexual intercourse).

Ablution, whether minor, major or dry, has been enjoined on believers in the sixth verse of the fifth Chapter of the Quran.

"O ye who believe, when ye rise up for prayers., wash your faces, and your hands up to the elbows, and lightly rub your heads and wash your feet up to the ankles. And if ye are unclean, purify yourselves. And if ye are sick or on a journey, or one of you cometh from the closet, or ye have had contact with women, and ye find no water, then go to clean high ground and rub your faces and your hands with some of it. Allah would not place a burden on you, but He would purify you and would perfect His grace upon you, that ye may give thanks"

Thus ablution, being a divine injunction makes the cleansing process five times a day a necessary stage of purification before prayers. In the words of one of the traditions of the Prophet : *"The key to prayers is purification"*.

Five Prayers

Prayers were instituted when the Prophet (Prayers and God's Peace be upon him) ascended to Heaven after the night journey from the Meccan Mosque to the mosque in Jerusalem, as has been described in the Quran.

"Glorified be He who carried His servant by night from the Inviolable Mosque to the Far Mosque the neighbourhood whereof we have blessed, that we might show him Our signs I Lo! He, only He, is' the Hearer, the one who sees".

This was one year before the Hijra from Macca to Madina. Divine injunctions for prayers have been made to the believers through the Prophet *"Tell my servants who believe to establish prayers. And enjoin prayers upon thy people, and be constant therein"*. The Prophet has also strongly recommended the regular performance of prayers. Many of the traditions specifically deal with this, and the final words he uttered during his last hours on this earth were, *"Keep prayers ! Keep prayers ! You will ever keep your solidarity so long as you all pray Keep prayers ! Keep prayers !"* It is also stated in another tradition that whosoever deliberately omits his prayers because he does not recognize them as a legal duty is to be regarded as an unbeliever. Deliberate omission of prayers constitutes the difference between belief and

unbelief. A boy or a girl is asked to pray at the age of seven, and is punished for not performing prayers at ten *"Tell your children to pray when they are seven and punish them for omission (of prayers) at ten"*

The conditions for valid prayers are

- 1) Purity of body, garments, and place.
- 2) Covering the private parts.
- 3) Facing the qibla (direction of prayer).
- 4) Intention.
- 5) Correct order of the ceremonies.
- 6) Humility.

The set times for prayers are at dawn, noon, the afternoon, after sunset, and in the early part of the night.

a) Dawn Prayers (Fajr):

These are two rak'as and the time for performing them is from dawn until sunrise. Recitations from the Qur'an are recited in both bowings. The second raka'a includes the "standing prayer" (Qunut) before bowing or before the first prostration "sujud". One final sitting ends these prayers.

b) Noon Prayers (Zuhr):

These consist of four rak'as to be performed any time after mid-day up to mid-afternoon. Recitations from the Qur'an are in a low voice. The prayers here include two sittings.

c) Afternoon Prayers (Asr):

These four rak'as have to be performed between mid-afternoon and sunset. Recitations from the Quran are in a low voice ; and the number of sittings is two.

d) Sunset Prayers (Maghrib) :

"Sunset" prayers are three rak'as to be performed just after sunset until twilight. Recitations from the Quran are aloud in the first two rak'as ending with the first sitting, but the recitations are in low voice in the third rak'a ending with a second sitting.

e) Night Prayers (Isha) :

These are four rak as, to be performed from twilight until before dawn. Recitations here, as in the Sunset Prayers, are aloud in the first two rak'as (which end with the first sitting), and in a low voice in the remaining two rak as (which end with the second sitting).

In this, as well as in the preceding three prayers -the third and the fourth rak as have the Fath'ia (the Opening Chapter of the Qur'an) as the only passage recited.

The five prayers have to be performed at the set times by the believer wherever he may be ; but by preference they should be performed in a congregation. The prayers need not be held in a mosque, but may be celebrated in a dwelling-house or any other place, so long as it is clean. Congregational prayers are valid if the congregation is at least two, one of them being the imam (leader) and the other standing slightly behind him to the right.

Omitted prayers have to be made yip, so long as the cause is either forgetfulness or sleep.

Additional prayers are frequently recommended, especially during the night.

The distribution of the rak'as over the five prayers throughout the day is given in the following table

Witr	After	Obligatory (Fard)	Before	Name of prayers
	-	2 with Qunut (standing prayer)	2	1.Fajr (Dawn prayers)
	2 or 4 or 2	4	2 or 4 or 2	2.Zuhr a) (Noon prayers) b) jum'a (Friday Prayers)
	-	2 or 4	2 or 4	3.Asr (Afternoon Prayers)
	2	3	-	4- Maghrib (Sunset Prayers)
3 or more	2	4	2	5- Isha (Night Prayers)

The rak a (or bowing) consists of seven movements with their appropriate recitations:

- 1) The recitation of "Allah Akbar" (Allah is the Greatest) with the hands open on each side of the face.
- 2) The recitation of the Fatiha (opening chapter of the Quran), followed in the first two rak'as by another passage or passages, while standing up right.
- 3) Bowing from the hips, the hands placed on the knees.
- 4) Straightening up.
- 5) Sliding to the knees and the first prostration with face to the ground.
- 6) Sitting back on the heels.
- 7) A second prostration.

In a more detailed form, these movements are as Follows:

- 1) The hands are open on each side of the face with the palms facing the front, very near (or touching) the lobes of the ears. Then the worshipper says : Allah Akbar". while standing, the hands are usually folded right over left against the front of the body.
- 2) The Fatiha is recited, followed by one short chapter (or sura), or a passage (several verses) from a long chapter. Next to the Fatiha the chapter of "Oneness" is probably the most -often recited.
- 3) Saying "Allah Akbar" (Allah is the Greatest), the worshipper bows down from the hips, with the head and back parallel to the ground. The hands hold the knees and the worshipper repeats three times, "Glory to my God the Great".
- 4) Straightening up after ruku (bowing) comes next.

Returning to the upright position, the worshipper says : "Allah hears those who praise Him" followed by "Our God, to thee be praise".

- 5) First prostration :Then saying "Allah Akbar", the believer prostrates himself on his knees with the forehead, the nose, and the palms of the hands resting on the ground.

Then "Glory to my God, the Highest" is repeated three times?

- 6) First Sitting The head is raised from the first prostration, and the worshipper sits on his heels, with one foot up and the other flat. The back is erect and the hands are in a resting position on the knees.
- 7) Second Prostration : Again saying : "Allah Akbar" (Allah is the Greatest) another prostration is performed and "Glory to my God, the Highest" is repeated again three times. With the end of the second prostration, the worshipper says "Allah Akbar". The observances from the Fatiha to the second sitting (Julus) inclusive, constitute a rak'a.

The Fatiha runs as follows:

- 1) Praise be to Allah, Lord of the worlds.
- 2) The Beneficent, the Merciful.
- 3) Owner of the Day of Judgement.
- 4) Thee (alone) we worship, thee (alone) we ask for help.
- 5) Show us the straight path.
- 6) The path of those on whom thou hast bestowed Thy grace.
- 7) Not (the path) of those who earn Thine anger nor of those who go astray. (Amen).

Two other short chapters are recited after the Fatiha in the first two rak'as, one in each:-

- a) al-Tawhid (The Oneness) :

- 1) Say: He is Allah, the One.



- 2) Allah, the Sustainer of life.
- 3) He begetheth not nor was begotten.
- 4) And there is none comparable unto Him.

b) Al-Nasr (The Victory):

- 1) when Allah's succour and triumph cometh.
- 2) And thou seest mankind entering the religion of Allah in troops.
- 3) Then hymn the praises of Thy God, and seek forgiveness of Him. Lo ! He is ever ready to accept repentance.

c) Al-Tashahhud:

- 1) (Bearing witness) is recited in the second, third, or fourth rak'a'.
- 2) Peace be on thee, O Prophet, and the mercy of Allah and His blessings.
- 3) Peace be on us and the righteous servants of Allah.
- 4) I bear witness that there is no god except Allah
- 5) And I bear witness that Muhammad is His servant and messenger.

In The second sitting of the final rak'a of all obligatory and optional prayers, the following remaining portion of the Tashahhud is also recited :-

- 6) O Allah, assuage Muhammad and the followers of Muhammad
- 7) As thou didst assuage Ibrahim and the followers of Ibrahim.
- 8) And bless Muhammad and the followers of Muhammad
- 9) As Thou didst bless Ibrahim and the followers of Ibrahim in the worlds.
- 10) Surely, Thou art the Praised, the Glorious.

Then follows an optional recitation of the following prayer from the Quran:

"Our God ! Cause not our hearts to stray after thou hast guided us, and bestow upon us mercy from thy Presence, Lo! Thou, only Thou art the Bestower."

The formal part of the prayers is completed by turning the head first to the right, and then to the left, saying in each case "Peace be upon you and the mercy of Allah".

Congregational Prayers:

- a) The five prayers are preferably performed in a `mosque. For each of these Prayers a call to prayer "Adhdu'n!" is made by the "mu'adhdhin" (caller). The leader of the congregation conducts the prayers. He stands in front, the remainder forming straight lines behind him, all standing shoulder to shoulder and foot to foot. When the congregation is ready to begin the prayers, the mu'adhdhin" calls the iqama (a short Adhan) signalling that the prayers are ready to commence. Certain conditions have to be fulfilled before a person could be chosen to lead the prayers. An "Imam" usually should be a male believer in full control of his faculties who is efficient at the recital of the Quran.

The ("muqtadi" or "ma'mum") follower of the leader in prayers should so discipline his movements as to follow the leaders closely. The follower is also under the obligation to correct the leader during his recitation of the Quran if anything escapes the leader's memory.

b) Friday Prayers:

"Jum'a" or Friday prayers are weekly congregational prayers performed at noon. They consist of two rak'as instead of the usual four on week days, the recitation from the Quran by the leader is aloud. Friday prayers were instituted in the first year of the Hijra by the Prophet in the mosque of Banu Salem Ibn Owf on the 16th of Rabi Al-Awwal.

They are considered obligatory for every believer, who is neither sick nor at a journey. A sermon should precede the prayers, and the congregation should not be less than four, including the Imam.

The Quran orders the suspension of work during Friday prayers'. *"O ye who believe when the call is heard for prayers on Friday, hasten to remembrance of Allah and leave your trading"*.

Other Prayers:

a) Feast Prayers :

On the first morning of each of the two feasts: the Feast of the Breaking of the Fast (I'd al-Fitr) and the feast of the sacrifice (I'd al-adha), congregational prayers are held. They are performed just after sunrise and they consist only of two rak'as. Although these are similar to Friday prayers they are different in that in the first rak'a before the Fatiha seven "takbirat" (Allah is great) are said, as well as five "takbirat" in the second rak'a.

b) Curtailed prayers:

are enjoined on the believers. "When ye journey about the earth, it is no sin for you to curtail your prayers if you fear that those who disbelieve may attack you"

- c) Other prayers have been reported as being the Prophet's practice on different occasions, the most worthy of these to be mentioned here being prayers for a dead person. This is a form of prayer without bowing or prostration, and the prayers here being, in fact, a form of du'a.

THE MEANING OF PRAYERS

- 1) Prayers are a form of worship, the expression both of praise and of supplication. Those who hymn the praise of the Giver and Sustainer of life in prayers realize that it was not mere coincidence that prayers were established when Muhammad was nearest to Allah. The tradition of the ascension reports that during that night five prayers were enjoined and that these five prayers equalled fifty in worth and reward. For the believer, prayer provide the opportunity for the glorification of the Giver of all good and of all Mercy of His grace and His bounty. Convinced of the wonderful glories of the Creator, the human being yearns for more of His mercy. Most of all he requests guidance to the straight path. For this his only means is obedience, it is not blind obedience, but obedience with vision that transcends the physical limitations of human nature.

- 2) With praise and supplication the believer achieves a deep sense of satisfaction, derived from the fact that the Bestower of Life and Death is so near that he can be in His presence any time of day or night. In this prayers are a normal vital act by which the little island of our personality suddenly discovers its situation in a larger whole of life. This may explain the prophetic address to Bilal, when the Prophet directed him to call for prayers at a time of distress, *"Let us now have comfort in pray"* It was also this deep sense of relief that made the Prophet at times stay so long in one bowing or a single prostration that some of his followers suspected that the prophet might have forgotten that he was praying. It was also this realization of one's nearness to Allah through prayers that minor discomforts in prayers were actually a source of pleasure. Authentic traditions report that the Prophet used to pray so often on winter nights that his feet became swollen Asked why he exerted him self so tirelessly in prayers, he answered *"Am I not a thankful servant?"*

Again, this pleasure derived from prayers and the easy access to His Presence illustrate a unique characteristic of Muslim worship. It is the fact that "each human being is his own priest". The only time taken to prepare oneself for this spiritual journey is usually the time for the performance of ablution.

- 3) The heart of prayers is humility. The Quran says: *"Successful indeed are the believers who are humble in their prayer "* Like every devotional act, prayers have their ceremonies starting with ablution but these ceremonies do not form the basic experience in praying. what really counts is the devotional state of the worshipper. *"Their flesh and their blood reach not Allah, but the devotion from you reached Him".*

On the authority of Muadh Ibn Jabal, it is reported that the Prophet said : *"It is not one sixth nor one tenth of a man's devotion which is acceptable to Allah, but only such portion thereof as he offers with understanding and true devotional spirit"*

Praise and supplication can only properly be offered to the Creator with a deep sense of humility. It is humility that is engendered by the insistence of Islam on the clear line of demarcation between what is human and what is Divine. One of the practices of the early Muslims to achieve this was to concentrate fully on recitations from the Quran in prayers. That may be one of the reasons why they recited so much of the Quran while praying. Some of them did actually recite hundreds of verses in one rak'a.

- 4) However paradoxical it might appear, from this sense of humility is derived a feeling of human dignity, dignity in seeing through forms and creatures the visible Hand of God. This seems to be a common feature in all religions, and it appears to be the only significant explanation of the spirit of martyrdom in the history of religions. At a time when life and death are equated, it is easy to choose life in death. With humility, there is a real sense of freedom from fear of anything and everything save Allah's anger and it is this freedom from fear that is basic

to any real sense of human dignity.

- 5) The physical movements in prayers are also important. With the sense of humility implied by making some of the noblest parts of human body touch the ground, these movements are also directed to a single spot, which is central to Muslim worship as a whole. All worshippers face the (qibla) of prayer in Macca and this, by itself, is a unifying factor in a religion whose two basic pillars are Oneness and unity Oneness of Allah, and the unity of both Prophethood and of the human race as a whole.
- 6) There is perhaps nothing more indicative of the sense of equality that Islam insists on than the sight of a Muslim congregation at prayers. Discrimination, racial and social, does not exist and no agency has done this more effectively than the mosque. Distinction of race and nationality exist in Islam only for purposes of identification, but they do not lead to discrimination. The institution of prayers had been from its very beginning one of the means of welding all the different tribal and social sections of the Madinese community together. The Muadhdhin was Bilal, the Abyssinian. This sense of equality in the face of Allah is the proper mechanism for engendering a social consciousness that takes its strength from human brotherhood, and brotherhood paves the way for real love.
- 7) From the Fatiha which is to be recited in every rak'a of prayers the following concepts are worthy of note:
- 1) The universe is of a complex system.
 - 2) Man is not the centre of the universe.
 - 3) This life is one stage in man's journey to eternity.
 - 4) Nobody and nothing beside Allah is worthy of worship.
 - 5) Nobody and nothing beside Allah can give us real help.
 - 6) There is only one straight path, that of the believers, all other paths lead nowhere.
 - 7) The straight path is that of a long line of Prophets and messengers.
 - 8) Knowledge and disobedience do not lead to the straight path.
 - 9) Mythology cannot be a substitute for true religion.

Tashahhud:

The bearing witness or "Tashahhud" also contains certain affirmations:

- 1) Allah is the source of good, and everything good goes to him.
 - 2) Peace falls upon real belief.
 - 3) The unity of believers.
 - 4) The unity of Prophethood from Ibrahim to Muhammad.
 - 5) The Oneness of Allah, Muhammad being His messenger and servant.
- "And enjoin upon the people prayers, and be constant therein. We ask not of thee a provision : We provide for thee. And the sequel is for righteousness".*





Ghâzî al-Tawbah

Islamic writer and researcher

Qur'an Teaches People about Allah

By Dr. Ghâzî al-Tawbah

The Qur'ân presents us with an approach to teaching the essential tenets of faith that has the ability to strengthen a person's character and contribute in a positive way to the person's emotional and mental development. Exploring the Qur'ân's approach to teaching these beliefs can help us in conveying the essence of our faith in the best possible way.

A Muslim's belief is established upon six essential tenets: belief in Allah, His angels, His scriptures, His messengers, the Day of Judgment, and Divine Decree.

These beliefs were set forth in the famous hadîth where the angel Gabriel came to the Prophet Muhammad (peace be upon him) and asked him: "What is belief?" to which the Prophet replied: "It is to believe in Allah, His angels, His scriptures, his Messengers, the Last Day, and Divine Decree."

This hadîth is the basis upon which the beliefs of a Muslim are built, and we will take it as the framework for our discussion.

Belief in Allah

The Qur'ân speaks about Allah in a most distinctive and effective way. Instead of a dry discourse, it tells us about Allah through a depiction of His actions in the created world. It speaks about the creation of the human being, the formation of the heavens and the Earth, day and night, the Sun, the Moon and the stars. It also talks about His attributes – like His omnipotence, knowledge, mercy, hearing, and sight – in the context of discussing the signs in creation and matters of the seen and unseen.

This approach has a positive effect on a believer's psychological development. To clarify this, we will look at just one example – how the Qur'ân discusses the creation of the human being

The Qur'ân tells us that Allah created the human being from clay: "We created the human being from a quintessence of clay." [*Sûrah al-Mu'minûn*: 12]

We are also told how Allah appointed the human being to be a vicegerent on Earth, and that when He informed the angels of this, they asked him why this creation deserves such a status

Behold, when your Lord said to the angels: "I will create a vicegerent on earth." They said: "Will You place therein one who will make mischief therein and shed blood?- while we celebrate Your praises and glorify Your holy name?" He said: "I know what you know not." [*Sûrah al-Baqarah*: 30]

We are then told how the angels were commanded to bow before Adam: "We created you, then We fashioned you. Then we said to the angels: 'Prostrate to Adam.' They all did so except for Satan. He was not among those who prostrated." [*Sûrah al-Ahzâb*: 11]

Allah tells us how he created for Adam a mate: "And among His signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your (hearts): verily in this are signs for those who reflect." [Sûrah Rûm: 21]

The Qur'ân speaks about how Allah blessed the human being with the gifts of hearing, sight, and a discerning heart: "He it is Who hath created for you ears and eyes and hearts. Small thanks you give!" [Sûrah al-Mu'minûn: 78]

"Say (unto them, O Muhammad): He it is who gave you being, and has assigned unto you ears and eyes and hearts. Small thanks you give!" [Sûrah al-Mulk: 23]

"And Allah brought you forth from the wombs of your mothers knowing nothing, and gave you hearing and sight and hearts that perhaps you might give thanks." [Sûrah al-Nahl: 78]

The Qur'ân tells us that Allah submitted what is in the Earth and the sea to the human being, and even brought the Sun and Moon into the service of human welfare:

"And He has constrained the night and the day and the Sun and the Moon to be of service unto you, and the stars are made subservient by His command. Lo! Herein indeed are portents for people who have sense. And whatsoever He has created for you in the earth of diverse hues, lo! therein is indeed a portent for people who take heed. And He it is Who constrained the sea to be of service that you eat from it fresh meat and bring forth from it ornaments which you wear. And you see the ships plowing it that you may seek of His bounty and that perhaps you may give thanks." [Sûrah al-Nahl: 12-14]

When a Muslim considers these truths about his creation and contemplates on how different he is from the inert matter from which he came, his heart and mind naturally turn to the glorification of Allah. When a Muslim considers how he has been chosen from among all creation to be vicegerent on Earth, and how Allah has honored him by having the angels prostrate before Adam, he naturally glorifies Allah and thanks Him for the immensity of that honor. When the Muslim regards his hearing, sight, and discerning heart as being Allah's gifts, and the act that we have mates to give us comfort, this inspires the Muslim with love for Allah. The Muslim, furthermore, hopes from Allah to continue to provide these blessings.

When the Muslim considers how Allah has placed even the motions of the Earth, the Sun, and the Moon in his service – when he considers how Allah has allowed us to cultivate the Earth and to sail the seas and reap its many bounties – this inspires the Muslim to glorify Allah even more and to place his hopes in Allah all the more strongly.

Belief in the Angels

The Qur'ân takes an equally unique approach to discussing each of the other articles of faith, one that enriches the hearts and minds of the believers. These matters of belief are always presented in the context of tangible events that

demonstrate Allah's omnipotence, mercy, and might.

With respect to the angels, we are told that they were created from light. Some of them bear the throne, and constantly glorify Allah. We are told that they witness the believers in their prayers, that they attend the Friday prayers with the human beings.

We are informed that there is an angel who is the custodian of the Fire, that there is an angel of death who takes forth our souls when we die. We are told that angels are always tending to humanity and protecting them by Allah's command.

When a Muslim reads about these matters in the Qur'ân and the authentic Sunnah, and is sure in his belief, this inspires the Muslim to glorify Allah even more. Moreover, the believer feels love for the angels, since he knows that they are always seeking our forgiveness, that they witness our prayers. Our love for Allah grows as well when we consider that it is He who brought these magnificent creations of light into being and has them remain in our presence protecting us.

Belief in the Scriptures

The Qur'ân mentions by name some of the scriptures that Allah has revealed to humanity. There are the scrolls that were revealed to Abraham, the Torah which was revealed to Moses, the Psalms of David, the Gospel that was revealed to Jesus, and the Qur'ân which was revealed to Muhammad – peace be upon all of the messengers.

The Qur'ân praises the earlier scriptures in a number of its verses. It also describes itself in the best of terms, affirming itself as a light and a powerful source of guidance.

There can be no doubt that belief in the scriptures as presented in the Qur'ân and Sunnah bolsters the believer's reverence and love for Allah, since it is Allah who revealed those scriptures and through them guided humanity to what is good for them in this world and the next. It is Allah who lighted our way.

Belief in the Messengers

The Qur'ân and Sunnah tell us that Allah sent prophets and messengers to many different nations and peoples. The stories of a number of these prophets are given to us in great detail. We are told about their lives, their missions, their miracles, and the challenges that they faced. We learn about how they were rejected by their people and how Allah saved them and made them triumph over those who opposed them. There is scarcely a chapter of the Qur'ân that does not mention something about one of the prophets.

This approach to teaching the Muslims' belief in Allah's prophets and messengers plays a vital role in developing the character of the believers. The messengers were sent by Allah to be living examples of how to lead a righteous life. Muslims seek to inculcate into their personalities the exemplary mode of conduct and the impeccable behavior of the messengers. In turn, this leads to a greater reverence for

Allah who sent those messengers to be our guides.

The stories of the prophets instill in us the qualities of hope and optimism. We look forward to Allah's help in our righteous endeavors, no matter how much hardship we might face. This is because we read how the prophets, after shouldering great responsibilities and facing enormous obstacles, were always helped by Allah in the end.

The reader of these stories develops a strong sense of kinship for the prophets and identifies with them. By walking in their footsteps, the believer is protected from succumbing to feelings of alienation with respect to his or her faith.

Belief in the Last Day

The Qur'ân, along with the Sunnah, provides us with considerable details about the Last Day. Starting individual's final day on Earth, we are taught about the intoxication of death and being placed in our graves. Then the sacred texts speak about the resurrection, the gathering of the people for the judgment, and then the ultimate destinations of Heaven and Hell.

It is clear from the texts that the reason these matters are mentioned in such detail is to inspire in the believers the fear of Allah's punishment and the hope for His reward.

Belief in Divine Decree

Everything that happens in Creation takes place in accordance with Allah's knowledge and power. It is all recorded in the sacred tablet before the creation of the heavens and the Earth. These beliefs, presented in their simplicity, inspire trust in Allah.

Conclusion

The Qur'ân and Sunnah always speak about matters faith in the context of the tangible world and human life. They do not offer dry discourses on faith. They do not present intellectual abstractions or delve into philosophical explorations. The sacred texts do not pose intellectual exercises to prove Allah's existence, like Muslim theologians were later to do.

This simple, straightforward approach to faith is one that is practical and relevant to the people. It is an approach that fortifies belief and strengthens character.







Islam: Its Meaning And Significance

By Dr. Adnan Khan

Islam is often referred to as Muhammadanism by Western orientalists. But it is wrong to use these two terms as synonyms. Western orientalists have committed this mistake because they are used to call a religion after the name of its founder, Buddhism, Christianity, Zoroastrianism, etc. So in dealing With Islam, they applied the same principle of the religion propagated by Prophet Muhammad and began calling it Muhammadanism. In fact, the name of the religion, as stated in the Quran, is Islam ; and the name given to those who follow it is a Muslim. So that far from the religion being named after its founder, the latter is himself called a Muslim. All the Prophets of Allah are spoken of in the Quran as being Muslims, and the religions they taught as Islam, the only difference between them and Muhammad being that they were the teachers of that religion among different nations in different times whereas the latter was its last exponent and his message is for all the peoples of the world and for all times to come. One of the most striking characteristics of Islam is that it enjoins upon its followers to believe in all the revealed religions of the world and in all the Prophets as the Prophets of Allah.

Muslims do not worship Muhammad who, according to their religion, was a Prophet divinely inspired, but a mortal man. The Quran says

"Muhammad is only (a man) charged with a mission before whom there have been others who received heavenly missions and died."

Never had Muhammad claimed to be the founder of a new religion, his mission was to restore the earlier religion to their pristine purity. The Quran states :

"Say : We believe in Allah and in that which has been revealed to us, and in that which was revealed to Ibrahim, and Ismael and Isaac and Jacob and the tribes, and in that which was given to the Prophets from their Lord, we do not make any distinction between any of them and to Him do we submit".

Islamic Law embodied in the Quran and the Traditions of the Prophet cover every sphere of human life. Islam deals not only with the ways of devotion, the forms of worship of the Divine Being, the means which make man attain communion with Allah, but also, and in greater detail, with the problem of the world around us. It deals with the relations between man and man ; with his social and political life ; with the institutions of marriage, divorce and inheritance ; with the problems concerning the division of wealth and the relations of labour and capital, the administration of justice, military organization, peace and war, finance, debts and contracts with rules for the service of humanity and with hundred and one similar questions, the proper understanding which enables man to lead a happy and contented life. It lays down rules not only for individual progress, but also for the advancement of society, of nations, and of humanity as a whole.

The chief characteristic of Islam as a world religion is its simplicity, its explicitness and its highly realistic attitude towards human problems, leaning neither towards excessive optimism nor excessive pessimism, but enjoining moderation and a well balanced way of life .

Adnan Khan

Writer and journalist

Another characteristic of Islam is that in order to achieve its objective one must "enjoin good upon people and forbid them from committing wrong". Alone among the religions of the world Islam made a reality of international brotherhood in which geographical, national and racial frontiers have no place, a brotherhood founded on a common ideal and a view of life.

Islam offers the most rational solution of world social problems by ensuring to the worker the reward of his work, great or small, in accordance with the merit of the work, and also by allotting to the poor a share in the wealth of the rich. Thus while the rights of property are maintained in their fullest sense, an arrangement is made for equalising conditions by taking a part of the wealth of the rich and distributing it among the poor according to the principle of "Zakat", and also by a more or less equal division of property among heirs on the death of an owner.

In Islam there is no monasticism nor any priesthood. Muhammad said

"The retirement that becometh my followers is to live in the world and yet to sit in the corner of a mosque in the expectation of prayers".

Muslims do not believe that any priest, pastor or saint can intervene or mediate between the individual worshipper and his Creator, nor can anyone grant indulgence or absolution from sins.

Muslims believe in the immortality of the soul, and the accountability for human actions in another existence. If a bad Muslim amends and reforms by sincere repentance, Allah will forgive his sins. Allahs says

"But whoever repents after his wrongdoing and reforms, Allah will turn to him mercifully. Surely Allah is Forgiving, Merciful".

Islam does not promise salvation to Muslims alone, but gives equal hope to the righteous and Allah-fearing of all religions. The Quran states

"Whether Muslim, Jew, Christian or Sabian, whosoever believes in Allah and in the Last Day and does good to others, verily he shall find his recompense with his Lord. For him there shall be no terror, neither any torment or suffering".

Islam is against aggression, sanction is given for war only in self-defence. It orders

"Fight in the way of Allah against those who attack you, but begin not hostilities. Verily Allah loveth not the aggressors".

The Quran also says :

: "And if they (the enemies) incline towards peace, incline thou also to it, and trust in Allah".

There is no ground for the oft-repeated allegation that Islam is intolerant and was propagated by the sword. The Quran states clearly

"There is no compulsion in religion".

It was when its liberty and particularly its right of freedom of

worship was threatened that Islam seized the sword in self-defence and held it in self-defence as it will ever do. But Islam never interfered with the dogmas of any moral faith. According to the Muslim Laws of War, those of the conquered peoples who embraced Islam became the equals of the conquerors in all respects ; and those who chose to keep their religion had to pay a tribute (called jizyah), but after that enjoyed full liberty of conscience, and were secured and protected in their occupations. In civil employment they could even become ministers of state. Non-Muslims serving in the army were exempted from payment of this tax, and could even hold high command. This tax has been much misrepresented ; it was not, as is usually stated, a tax on non-Muslims as a penalty for refusal to accept the faith of Islam ; it was paid in return for the protection given to them by the Muslim army to which they were not compulsorily conscripted like the Muslims. Non-Muslims were exempted from payment of Zakat which was compulsory for Muslims.

Islam forbids drinking, gambling, usury and all forms of vice. It introduced far-reaching changes in the social structure of the period : Muhammad said,

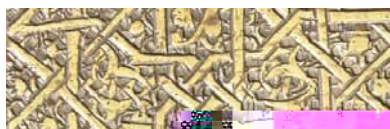
"Henceforth, usury is prohibited. The debtor shall return only the principal ; and the beginning will be made with the loans of my uncle Abbas, son of Abdul Muttalib" and "Henceforth the vengeance of blood is forbidden and all blood feuds abolished commencing with the murder of my cousin Ibn Rabi'a, son of Al-Harith, son of Abdul Muttalib".

So back as the seventh century of the Christian era, Islam abolished the horrible practice of female infanticide prevalent among the pagan Arabs, gave clear directions leading to the restriction of polygamy, restrained the unlimited rights exercised by men over their wives, and gave woman both spiritual and material equality with man.

Islam teaches that all men are equal before Allah. There is no colour or race prejudice, and no distinction between Arab and non-Arab goodness is the only criterion of worth. Muslims are not broken up by caste restrictions based on occupation or wealth, or by barriers against intermarriage. The Hajj (pilgrimage to Mecca) is not a pilgrimage in the ordinary sense. It is not a visit to a place of sanctity to which miracles and superstitions are attached. It is a commemoration of a great event in the spiritual life of Ibrahim. It is a symbol of the journey of life, and an annual reenactment of the principles of equality and brotherhood. There, the rich and the poor alike appear in the congregation for worship and in the sacred precincts of the Ka'aba clad in a simple unembroidered, unstitched, white garment, with bare head and either bare foot or with an unstitched sandal.

Islam accepts the doctrines of accountability for human actions in another existence and belief in a future life. The Quran, like other sacred books, gives vivid word-pictures regarding the joys of Paradise and the sufferings of Hell.





The Right Guided Caliphs

Meaning of the Word 'Caliph'

The word 'Caliph' is the English form of the Arabic word 'Khalifa,' which is short for **Khalifatu Rasulil-lah**. The latter expression means **Successor to the Messenger of God**, the Holy Prophet Muhammad (peace be on him). The title 'Khalifatu Rasulil-lah' was first used for Abu Bakr, who was elected head of the Muslim community after the death of the Prophet.

The Significance of the Caliphate

The mission of Prophet Muhammad (peace be on him), like that of the earlier messengers of God, was to call people to the worship of and submission to the One True God. In practice, submission to God means to obey His injunctions as given in the Holy Qur'an and as exemplified by Sunnah (the practice of the Prophet). As successor to the Prophet, the Caliph was the head of the Muslim community and his primary responsibility was to continue in the path of the Prophet. Since religion was perfected and the door of Divine revelation was closed at the death of the Prophet, the Caliph was to make all laws in accordance with the Qur'an and the Sunnah. He was a ruler over Muslims but not their sovereign since sovereignty belongs to God alone. He was to be obeyed as long as he obeyed God. He was responsible for creating and maintaining conditions under which it would be easy for Muslims to live according to Islamic principles, and to see that justice was done to all. Abu Bakr, at the time he accepted the Caliphate, stated his position thus:

"The weak among you shall be strong with me until their rights have been vindicated; and the strong among you shall be weak with me until, if the Lord wills, I have taken what is due from them... Obey me as long as I obey God and His Messenger. When I disobey Him and His Prophet, then obey me not."

The Rightly-Guided Caliphs (Al-Khulafa-ur-Rashidun)

Those Caliphs who truly followed in the Prophet's foot steps are called '*The Rightly-Guided Caliphs*' (Al-Khulafa-ur Rashidun in Arabic). They are the first four Caliphs: Abu Bakr, 'Umar, Uthmân and Alee. All four were among the earliest and closest Companions of the Prophet (peace be on him). They lived simple and righteous lives and strove hard for the religion of God. Their justice was impartial, their treatment of others was kind and merciful, and they were one with the people - the first among equals. After these four, the later Caliphs assumed the manners of kings and emperors and the true spirit of equality of ruler and ruled diminished to a considerable extent in the political life of Muslims.

It should be clearly understood that the mission of Prophet Muhammad (peace be on him), and hence that of the Rightly-Guided Caliphs, was not political, social or economic reform, although such reforms were a logical consequence of the success of this mission, nor the unity of a nation and the establishment of an empire, although the nation did unite and vast areas came under one administration, nor the spread of a civilization or culture, although many civilizations and cultures

developed, but only to deliver the message of God to all the peoples of the world and to invite them to submit to Him, while being the foremost among those who submitted.

What About the Present?

The primary responsibility of an Islamic government is still the same as it was in the days of the early Caliphs: to make all laws in accordance with the Qur'an and the Sunnah, to make positive efforts to create and maintain conditions under which it will be possible and easy for Muslims to live an Islamic life, to secure impartial and speedy justice for all, and to strive hard in the path of God. Any government which is committed to such a policy is truly following the message delivered by the Prophet (peace be on him).

The First Caliph, Abu Bakr (632-634 A.C.)

"If I were to take a friend other than my Lord, I would take Abu Bakr as a friend." (Hadith)

- *Election to the Caliphate*

The Prophet's closest Companion, Abu Bakr, was not present when the Holy Prophet (peace be on him) breathed his last in the apartment of his beloved wife of later years, 'Aaishah, Abu Bakr's daughter. When he came to know of the Prophet's passing, Abu Bakr hurried to the house of sorrow.

"How blessed was your life and how beatific is your death," he whispered as he kissed the cheek of his beloved friend and master who now was no more.

When Abu Bakr came out of the Prophet's apartment and broke the news, disbelief and dismay gripped the community of Muslims in Medina. Muhammad (peace be on him) had been the leader, the guide and the bearer of Divine revelation through whom they had been brought from idolatry and barbarism into the way of God. How could he die? Even Umar, one of the bravest and strongest of the Prophet's Companions, lost his composure and drew his sword and threatened to kill anyone who said that the Prophet was dead. Abu Bakr gently pushed him aside, ascended the steps of the lectern in the mosque and addressed the people, saying

"O people, verily whoever worshipped Muhammad, behold! Muhammad is indeed dead. But whoever worships God, behold! God is Alive and will never die."

And then he concluded with a verse from the Qur'an:

"And Muhammad is but a Messenger. Many Messengers have gone before him; if then he dies or is killed, will you turn back upon your heels?" (3:144)

On hearing these words, the people were consoled. Despondency gave place to confidence and tranquility. This critical moment had passed. But the Muslim community was now faced with an extremely serious problem: that of choosing a leader. After some discussion among the Companions of the Prophet who had assembled in order to select a leader, it became apparent that no one was better suited for this responsibility than Abu Bakr. A portion of the speech the First Caliph gave after his election has already

been quoted in the introduction.

- *Abu Bakr's Life*

Abu Bakr ('The Owner of Camels') was not his real name. He acquired this name later in life because of his great interest in raising camels. His real name was Abdul Ka'aba ('Slave of Ka'aba'), which Muhammad (peace be on him) later changed to Abdullah ('Slave of God'). The Prophet also gave him the title of 'Siddiq' - **'The Testifier to the Truth.'**

Abu Bakr was a fairly wealthy merchant, and before he embraced Islam, was a respected citizen of Mecca. He was three years younger than Muhammad (peace be on him) and some natural affinity drew them together from earliest childhood. He remained the closest Companion of the Prophet all through the Prophet's life. When Muhammad first invited his closest friends and relatives to Islam, Abu Bakr was among the earliest to accept it. He also persuaded Uthmân and Bilal to accept Islam. In the early days of the Prophet's mission, when the handful of Muslims were subjected to relentless persecution and torture, Abu Bakr bore his full share of hardship. Finally when God's permission came to emigrate from Mecca, he was the one chosen by the Prophet to accompany him on the dangerous journey to Medina. In the numerous battles which took place during the life of the Prophet, Abu Bakr was always by his side. Once, he brought all his belongings to the Prophet, who was raising money for the defense of Medina. The Prophet asked **"Abu Bakr, what did you leave for your family?"** The reply came: **"God and His Prophet."**

Even before Islam, Abu Bakr was known to be a man of upright character and amiable and compassionate nature. All through his life he was sensitive to human suffering and kind to the poor and helpless. Even though he was wealthy, he lived very simply and spent his money for charity, for freeing slaves and for the cause of Islam. He often spent part of the night in supplication and prayer. He shared with his family a cheerful and affectionate home life.

- *Abu-Bakr's Caliphate*

Such, then, was the man upon whom the burden of leadership fell at the most sensitive period in the history of the Muslims.

As the news of the Prophet's death spread, a number of tribes rebelled and refused to pay Zakat (poor-due), saying that this was due only to the Prophet (peace be on him). At the same time a number of impostors claimed that the prophethood had passed to them after Muhammad and they raised the standard of revolt. To add to all this, two powerful empires, the Eastern Roman and the Persian, also threatened the new-born Islamic state at Medina.

Under these circumstances, many Companions of the Prophet, including Umar, advised Abu Bakr to make concessions to the Zakat evaders, at least for a time. The new Caliph disagreed. He insisted that the Divine Law cannot be divided, that there is no distinction between the obligations of Zakat and Salat (prayer), and that any compromise with the injunctions of God would eventually erode the foundations of Islam. Umar and others were quick

to realize their error of judgment. The revolting tribes attacked Medina but the Muslims were prepared. Abu Bakr himself led the charge, forcing them to retreat. He then made a relentless war on the false claimants to prophethood, most of whom submitted and again professed Islam.

The threat from the Roman Empire had actually arisen earlier, during the Prophet's lifetime. The Prophet had organized an army under the command of Usama, the son of a freed slave. The army had not gone far when the Prophet had fallen ill so they stopped. After the death of the Prophet the question was raised whether the army should be sent again or should remain for the defence of Medina. Again Abu Bakr showed a firm determination. He said, **"I shall send Usama's army on its way as ordered by the Prophet, even if I am left alone."**

The final instructions he gave to Usama prescribed a code of conduct in war which remains unsurpassed to this day. Part of his instructions to the Muslim army were:

"Do not be deserters, nor be guilty of disobedience. Do not kill an old man, a woman or a child. Do not injure date palms and do not cut down fruit trees. Do not slaughter any sheep or cows or camels except for food. You will encounter persons who spend their lives in monasteries. Leave them alone and do not molest them."

Khalid bin Waleed had been chosen by the Prophet (peace be on him) on several occasions to lead Muslim armies. A man of supreme courage and a born leader, his military genius came to full flower during the Caliphate of Abu Bakr. Throughout Abu Bakr's reign Khalid led his troops from one victory to another against the attacking Romans.

Another contribution of Abu Bakr to the cause of Islam was the collection and compilation of the verses of the Qur'an.

Abu Bakr died on 21 Jamadi-al Akhir, 13 A.H. (23 August 634 A.C.), at the age of sixty-three, and was buried by the side of the Holy Prophet (peace be on him). His Caliphate had been of a mere twenty-seven months duration. In this brief span, however, Abu Bakr had managed, by the Grace of God, to strengthen and consolidate his community and the state, and to secure the Muslims against the perils which had threatened their existence.

The Second Caliph, Umar (634-644 A.C.)

"Allah has placed truth upon Umar's tongue and heart." (Hadith)

- *'Umar's Life*

During his last illness Abu Bakr had conferred with his people, particularly the more eminent among them. After this meeting they chose 'Umar as his successor. 'Umar was born into a respected Quraish family thirteen years after the birth of Muhammad (peace be on him). Umar's family was known for its extensive knowledge of genealogy. When he grew up, 'Umar was proficient in this branch of knowledge as well as in swordsmanship, wrestling and the art of speaking. He also learned to read and write while still a child, a very

rare thing in Mecca at that time. 'Umar earned his living as a merchant. His trade took him to many foreign lands and he met all kinds of people. This experience gave him an insight into the affairs and problems of men. 'Umar's personality was dynamic, self-assertive, frank and straight forward. He always spoke whatever was in his mind even if it displeased others.

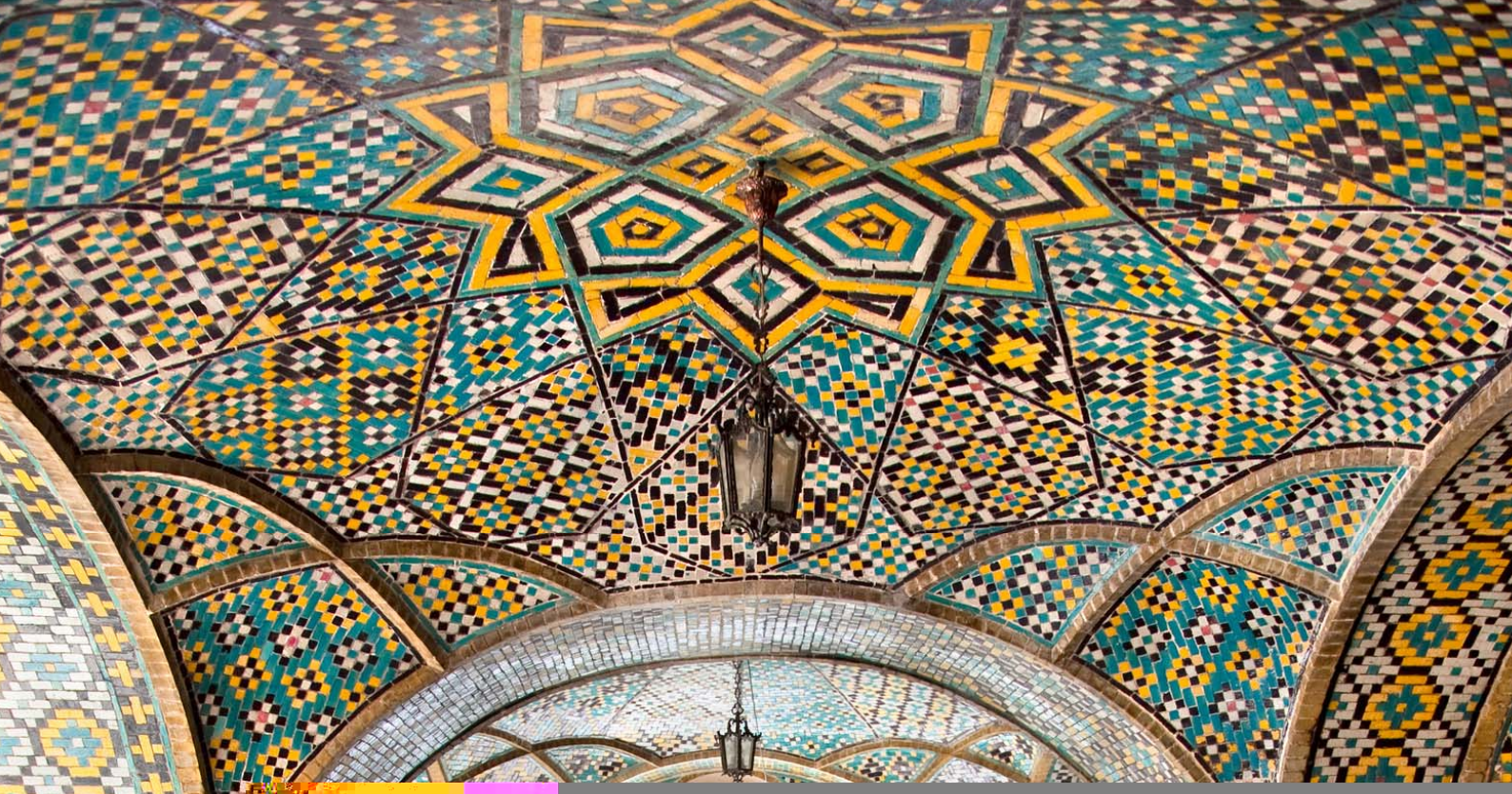
'Umar was twenty-seven when the Prophet (peace be on him) proclaimed his mission. The ideas Muhammad was preaching enraged him as much as they did the other notables of Mecca. He was just as bitter against anyone accepting Islam as others among the Quraish. When his slave-girl accepted Islam he beat her until he himself was exhausted and told her, **"I have stopped because I am tired, not out of pity for you."** The story of his embracing Islam is an interesting one. One day, full of anger against the Prophet, he drew his sword and set out to kill him. A friend met him on the way. When 'Umar told him what he planned to do, his friend informed him that 'Umar's own sister, Fatima, and her husband had also accepted Islam. 'Umar went straight to his sister's house where he found her reading from pages of the Qur'an. He fell upon her and beat her mercilessly. Bruised and bleeding, she told her brother, **"Umar, you can do what you like, but you cannot turn our hearts away from Islam."** These words produced a strange effect upon 'Umar. What was this faith that made even weak women so strong of heart? He asked his sister to show him what she had been reading; he was at once moved to the core by the words of the Qur'an and immediately grasped their truth. He went straight to the house where the Prophet was staying and vowed allegiance to him.

Umar made no secret of his acceptance of Islam. He gathered the Muslims and offered prayers at the Ka'aba. This boldness and devotion of an influential citizen of Mecca raised the morale of the small community of Muslims. Nonetheless 'Umar was also subjected to privations, and when permission for emigration to Medina came, he also left Mecca. The soundness of 'Umar's judgment, his devotion to the Prophet (peace be on him), his outspokenness and uprightness won for him a trust and confidence from the Prophet which was second only to that given to Abu Bakr. The Prophet gave him the title **'Farooq'** which means the **'Separator of Truth from False hood.'** During the Caliphate of Abu Bakr, 'Umar was his closest assistant and adviser. When Abu Bakr died, all the people of Medina swore allegiance to 'Umar, and on 23 Jamadi-al-Akhir, 13 A.H., he was proclaimed Caliph.

- *'Umar's Caliphate*

After taking charge of his office, 'Umar spoke to the Muslims of Medina:

"...O people, you have some rights on me which you can always claim. One of your rights is that if anyone of you comes to me with a claim, he should leave satisfied. Another of your rights is that you can demand that I take nothing unjustly from the revenues of the State. You can also demand that... I fortify your frontiers and do not put you into danger. It is also your right that if you go to battle I



should look after your families as a father would while you are away. "O people, remain conscious of God, forgive me my faults and help me in my task. Assist me in enforcing what is good and forbidding what is evil. Advise me regarding the obligations that have been imposed upon me by God..."

The most notable feature of 'Umar's Caliphate was the vast expansion of Islam. Apart from Arabia, Egypt, Iraq, Palestine and Iran also came under the protection of the Islamic government. But the greatness of 'Umar himself lies in the quAleety of his rule. He gave a practical meaning to the Qur'anic injunction:

"O you who believe, stand out firmly for justice as witnesses to God, even as against yourselves, or your parents, or your kin, and whether it concerns rich or poor, for God can best protect both." (4:135)

Once a woman brought a claim against the Caliph 'Umar. When 'Umar appeared on trial before the judge, the judge stood up as a sign of respect toward him. 'Umar reprimanded him, saying, **"This is the first act of injustice you did to this woman!"**

He insisted that his appointed governors live simple lives, keep no guard at their doors and be accessible to the people at all times, and he himself set the example for them. Many times foreign envoys and messengers sent to him by his generals found him resting under a palm tree or praying in the mosque among the people, and it was difficult for them to distinguish which man was the Caliph. He spent many a watchful night going about the streets of Medina to see whether anyone needed help or assistance. The general social and moral tone of the Muslim society at that time is well-illustrated by the words of an Egyptian who was sent to spy on the Muslims during their Egyptian campaign. He reported:

"I have seen a people, every one of whom loves death more than he loves life. They cultivate humility rather than pride. None is given to material ambitions. Their mode of living is simple... Their commander is their equal. They make no distinction between superior and inferior, between master and slave. When the time of prayer approaches, none remains behind..."

'Umar gave his government an administrative structure. Departments of treasury, army and public revenues were established. Regular salaries were set up for soldiers. A population census was held. Elaborate land surveys were conducted to assess equitable taxes. New cities were founded. The areas which came under his rule were divided into provinces and governors were appointed. New roads were laid, canals were dug and wayside hotels were built. Provision was made for the support of the poor and the needy from public funds. He defined, by precept and by example, the rights and privileges of non-Muslims, an example of which is the following contract with the Christians of Jerusalem:

"This is the protection which the servant of God, 'Umar, the Ruler of the Believers has granted to the people of Eiliya

[Jerusalem]. The protection is for their lives and properties, their churches and crosses, their sick and healthy and for all their coreligionists. Their churches shall not be used for habitation, nor shall they be demolished, nor shall any injury be done to them or to their compounds, or to their crosses, nor shall their properties be injured in any way. There shall be no compulsion for these people in the matter of religion, nor shall any of them suffer any injury on account of religion... Whatever is written herein is under the covenant of God and the responsibility of His Messenger, of the Caliphs and of the believers, and shall hold good as long as they pay Jizya [the tax for their defense] imposed on them."

Those non-Muslims who took part in defense together with the Muslims were exempted from paying Jizya, and when the Muslims had to retreat from a city whose non-Muslim citizens had paid this tax for their defense, the tax was returned to the non-Muslims. The old, the poor and the disabled of Muslims and non-Muslims Aleeke were provided for from the public treasury and from the Zakat funds.

- *'Umar's Death*

In 23 A.H., when Umar returned to Medina from Hajj, he raised his hands and prayed,

"O God! I am advanced in years, my bones are weary, my powers are declining, and the people for whom I am responsible have spread far and wide. Summon me back to Thyself, my lord!" Some time later, when 'Umar went to the mosque to lead a prayer, a Magian named Abu Lulu Feroze, who had a grudge against 'Umar on a personal matter, attacked him with a dagger and stabbed him several times. Umar reeled and fell to the ground. When he learned that the assassin was a Magian, he said, **"Thank God he is not a Muslim."**

'Umar died in the first week of Muharram, 24 A.H., and was buried by the side of the Holy Prophet (peace be on him).

The Third Caliph, Uthmân (644-656 A.C.)

"Every Prophet has an assistant, and my assistant will be Uthmân." (Hadith)

- *Uthmân's Election*

When 'Umar fell under the assassin's dagger, before he died the people asked him to nominate his successor. 'Umar appointed a committee consisting of six of the ten companions of the Prophet (peace be on him) about whom the Prophet had said, *"They are the people of Heaven"* - Alee, Uthmân, Abdul Rahman, Sa'ad, Al-Zubayr and Talha - to select the next Caliph from among themselves. He also outlined the procedure to be followed if any differences of opinion should arise. Abdul Rahman withdrew his name. He was then authorized by the committee to nominate the Caliph. After two days of discussion among the candidates and after the opinions of the Muslims in Medina had been ascertained, the choice was finally limited to Uthmân and Alee. Abdul Rahman came to the mosque together with other Muslims, and after a brief speech and questioning of the two men, swore allegiance to Uthmân. All those present

did the same, and Uthmân became the third Caliph of Islam in the month of Muharram, 24 A.H.

- *Uthmân's Life*

Uthmân bin Affan was born seven years after the Holy Prophet (peace be on him). He belonged to the Omayyad branch of the Quraish tribe. He learned to read and write at an early age, and as a young man became a successful merchant. Even before Islam Uthmân had been noted for his truthfulness and integrity. He and Abu Bakr were close friends, and it was Abu Bakr who brought him to Islam when he was thirty-four years of age. Some years later he married the Prophet's second daughter, Ruqayya. In spite of his wealth and position, his relatives subjected him to torture because he had embraced Islam, and he was forced to emigrate to Abyssinia. Some time later he returned to Mecca but soon migrated to Medina with the other Muslims. In Medina his business again began to flourish and he regained his former prosperity. Uthmân's generosity had no limits. On various occasions he spent a great portion of his wealth for the welfare of the Muslims, for charity and for equipping the Muslim armies. That is why he came to be known as '**Ghani**' meaning '**Generous**.'

Uthmân's wife, Ruqayya was seriously ill just before the Battle of Badr and he was excused by the Prophet (peace be on him) from participating in the battle. The illness Ruqayya proved fatal, leaving Uthmân deeply grieved. The Prophet was moved and offered Uthmân the hand of another of his daughters, Kulthum. Because he had the high privilege of having two daughters of the Prophet as wives Uthmân was known as '**The Possessor of the Two Lights**.'

Uthmân participated in the Battles of Uhud and the Trench. After the encounter of the Trench, the Prophet (peace be on him) determined to perform Hajj and sent Uthmân as his emissary to the Quraish in Mecca, who detained him. The episode ended in a treaty with the Meccans known as the Treaty of Hudaibiya.

The portrait we have of Uthmân is of an unassuming, honest, mild, generous and very kindly man, noted especially for his modesty and his piety. He often spent part of the night in prayer, fasted every second or third day, performed hajj every year, and looked after the needy of the whole community. In spite of his wealth, he lived very simply and slept on bare sand in the courtyard of the Prophet's mosque. Uthmân knew the Qur'an from memory and had an intimate knowledge of the context and circumstances relating to each verse.

- *Uthmân's Caliphate*

During Uthmân's rule the characteristics of Abu Bakr's and Umar's Caliphates - impartial justice for all, mild and humane policies, striving in the path of God, and the expansion of Islam - continued. Uthmân's realm extended in the west to Morocco, in the east to Afghanistan, and in the north to Armenia and Azerbaijan. During his Caliphate a navy was organized, administrative divisions of the state were revised, and many public projects were expanded and completed. Uthmân sent prominent Companions of the Prophet (peace

be on him) as his personal deputies to various provinces to scrutinize the conduct of officials and the condition of the people.

Uthmân's most notable contribution to the religion of God was the compilation of a complete and authoritative text of the Qur'an. A large number of copies of this text were made and distributed all over the Muslim world.

Uthmân ruled for twelve years. The first six years were marked by internal peace and tranquility, but during the second half of his Caliphate a rebellion arose. The Jews and the Magians, taking advantage of dissatisfaction among the people, began conspiring against Uthmân, and by publicly airing their complaints and grievances, gained so much sympathy that it became difficult to distinguish friend from foe.

It may seem surprising that a ruler of such vast territories, whose armies were matchless, was unable to deal with these rebels. If Uthmân had wished, the rebellion could have been crushed at the very moment it began. But he was reluctant to be the first to shed the blood of Muslims, however rebellious they might be. He preferred to reason with them, to persuade them with kindness and generosity. He well remembered hearing the Prophet (peace be on him) say, "*Once the sword is unsheathed among my followers, it will not be sheathed until the Last Day.*"

The rebels demanded that he abdicate and some of the Companions advised him to do so. He would gladly have followed this course of action, but again he was bound by a solemn pledge he had given to the Prophet. "*Perhaps God will clothe you with a shirt, Uthmân*" the Prophet had told him once, "*and if the people want you to take it off, do not take it off for them.*" Uthmân said to a well-wisher on a day when his house was surrounded by the rebels, "**God's Messenger made a covenant with me and I shall show endurance in adhering to it.**"

After a long siege, the rebels broke into Uthmân's house and murdered him. When the first assassin's sword struck Uthmân, he was reciting the verse,

"Verily, God sufficeth thee; He is the All-Hearing, the All-Knowing" (2:137)

Uthmân breathed his last on the afternoon of Friday, 17 Dhul Hijja, 35 A.H. (June. (656 A.C.). He was eighty-four years old. The power of the rebels was so great that Uthmân's body lay unburied until Saturday night when he was buried in his blood-stained clothes, the shroud which befits all martyrs in the cause of God.

The Fourth Caliph, Alee (656-661 A.C.)

"You [Alee] are my brother in this world and the next." (Hadith)

- *Alee's Election*

After Uthmân's martyrdom, the office of the Caliphate remained unfilled for two or three days. Many people insisted that Alee should take up the office, but he was embarrassed by the fact that the people who pressed him

hardest were the rebels, and he therefore declined at first. When the notable Companions of the Prophet (peace be on him) urged him, however, he finally agreed.

- *Alee's Life*

Alee bin Abi TALEEB was the first cousin of the Prophet (peace be on him). More than that, he had grown up in the Prophet's own household, later married his youngest daughter, Fatima, and remained in closest association with him for nearly thirty years.

Alee was ten years old when the Divine Message came to Muhammad (peace be on him). One night he saw the Prophet and his wife Khadijah bowing and prostrating. He asked the Prophet about the meaning of their actions. The Prophet told him that they were praying to God Most High and that Alee too should accept Islam. Alee said that he would first like to ask his father about it. He spent a sleepless night, and in the morning he went to the Prophet and said, *"When God created me He did not consult my father, so why should I consult my father in order to serve God?"* and he accepted the truth of Muhammad's message.

When the Divine command came, **"And warn thy nearest relatives"** (26:214), Muhammad (peace be on him) invited his relatives for a meal. After it was finished, he addressed them and asked, *"Who will join me in the cause of God?"* There was utter silence for a while, and then Alee stood up. **"I am the youngest of all present here,"** he said, **"My eyes trouble me because they are sore and my legs are thin and weak, but I shall join you and help you in whatever way I can."** The assembly broke up in derisive laughter. But during the difficult wars in Mecca, Alee stood by these words and faced all the hardships to which the Muslims were subjected. He slept in the bed of the Prophet when the Quraish planned to murder Muhammad. It was he to whom the Prophet entrusted, when he left Mecca, the valuables which had been given to him for safekeeping, to be returned to their owners.

Apart from the expedition of Tabuk, Alee fought in all the early battles of Islam with great distinction, particularly in the expedition of Khaybar. It is said that in the Battle of Uhud he received more than sixteen wounds.

The Prophet (peace be on him) loved Alee dearly and called him by many fond names. Once the Prophet found him sleeping in the dust. He brushed off Alee's clothes and said fondly, **"Wake up, Abu Turab (Father of Dust)."** The Prophet also gave him the title of **'Asadullah' ('Lion of Allah')**.

Alee's humility, austerity, piety, deep knowledge of the Qur'an and his sagacity gave him great distinction among the Prophet's Companions. Abu Bakr, 'Umar and Uthmân consulted him frequently during their Caliphates. Many times 'Umar had made him his vice-regent at Medina when he was away. Alee was also a great scholar of Arabic literature and pioneered in the field of grammar and rhetoric. His speeches, sermons and letters served for generations afterward as models of literary expression. Many of his wise and epigrammatic sayings have been preserved. Alee thus had a rich and versatile personality. In spite of these attainments

he remained a modest and humble man. Once during his caliphate when he was going about the marketplace, a man stood up in respect and followed him. **"Do not do it,"** said Alee. **"Such manners are a temptation for a ruler and a disgrace for the ruled."**

Alee and his household lived extremely simple and austere lives. Sometimes they even went hungry themselves because of Ali's great generosity, and none who asked for help was ever turned away from his door. His plain, austere style of living did not change even when he was ruler over a vast domain.

- *Alee's Caliphate*

As mentioned previously, Alee accepted the caliphate very reluctantly. Uthmân's murder and the events surrounding it were a symptom, and also became a cause, of civil strife on a large scale. Alee felt that the tragic situation was mainly due to inept governors. He therefore dismissed all the governors who had been appointed by Uthmân and appointed new ones. All the governors excepting Muawiya, the governor of Syria, submitted to his orders. Muawiya declined to obey until Uthmân's blood was avenged. The Prophet's widow 'Aishah also took the position that Alee should first bring the murderers to trial. Due to the chaotic conditions during the last days of Uthmân it was very difficult to establish the identity of the murderers, and Alee refused to punish anyone whose guilt was not lawfully proved. Thus a battle between the army of Alee and the supporters of 'Aishah took place. 'Aishah later realized her error of judgment and never forgave herself for it.

The situation in Hijaz (the part of Arabia in which Mecca and Medina are located) became so troubled that Alee moved his capital to Iraq. Muawiya now openly rebelled against Alee and a fierce battle was fought between their armies. This battle was inconclusive, and Alee had to accept the de facto government of Muawiya in Syria.

However, even though the era of Ali's caliphate was marred by civil strife, he nevertheless introduced a number of reforms, particularly in the levying and collecting of revenues.

It was the fortieth year of Hijra. A fanatical group called Kharijites, consisting of people who had broken away from Alee due to his compromise with Muawiya, claimed that neither Alee, the Caliph, nor Muawiya, the ruler of Syria, nor Amr bin al-Aas, the ruler of Egypt, were worthy of rule. In fact, they went so far as to say that the true caliphate came to an end with 'Umar and that Muslims should live without any ruler over them except God. They vowed to kill all three rulers, and assassins were dispatched in three directions.

The assassins who were deputed to kill Muawiya and Amr did not succeed and were captured and executed, but Ibn-e-Muljim, the assassin who was commissioned to kill Alee, accomplished his task. One morning when Alee was absorbed in prayer in a mosque, Ibn-e-Muljim stabbed him with a poisoned sword. On the 20th of Ramadan, 40 A.H., died the last of the Rightly Guided Caliphs of Islam. May God Most High be pleased with them and grant to them His

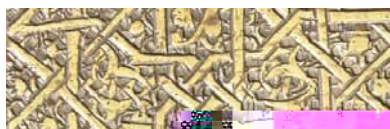
eternal reward.

Conclusion

With the death of Alee, the first and most notable phase in the history of Muslim peoples came to an end. All through this period it had been the Book of God and the practices of His Messenger - that is, the Qur'an and the Sunnah - which had guided the leaders and the led, set the standards of their moral conduct and inspired their actions. It was the time when the ruler and the ruled, the rich and the poor, the powerful and the weak, were uniformly subject to the Divine Law. It was an epoch of freedom and equality, of God-consciousness and humility, of social justice which recognized no privileges, and of an impartial law which accepted no pressure groups or vested interests.

After Alee, Muawiya assumed the caliphate and thereafter the caliphate became hereditary, passing from one king to another.





THE MOSQUES OF EGYPT -THE EVOLUTION OF MUSLIM ARCHITECTURE IN EGYPT

1.THE ORTHODOX KHALIFS PERIOD:

down to the beginning of the Tulunid period, 20-254 H. (640-868 A.D.): Age has had its effect on the monuments of this period in Egypt, Fustat, the first Arab city in Egypt, being in ruins. The same destruction befell al-'Askar, founded by the 'Abbasids, in 133 H. (750), and although the Mosque of 'Amr ibn al-'As has undergone great alterations and enlargements until it has lost its original shape, leaving only the site on which it was built, yet we know that two architectural innovations of great importance appeared in it; the first being the four sawami (towers), built at the corners of the mosque in 53 H. (672/73) by Maslama ibn Mukhallad, Governor of Egypt, by order of Mu'awiya, the first Umayyad Khalif. These sawami were copied from the towers which once stood at the corners of the old temple enclosure (temenos) at Damascus, and they formed a model for the minarets that were built later on in Egypt, many of which still exist, in a great variety of beautiful shapes. The other feature is the hollow mihrab, built in the mosque by Qurra ibn Sharik Governor of Egypt, during the reign of al-Walid ibn 'Abd al-Malik, in 93 H. (712), which was copied from that made by 'Umar ibn 'Abd al-'Aziz in the Mosque of Madina in 88 H. (706/7).

2.THE TULUNID PERIOD 254 - 292 H. (868-905 A.D.):

Ahmad ibn Tulun founded the Tulunid dynasty in Egypt, in 254 H. (868), after he had spent his youth at Samarra, near the birthplace of the art of the 'Abbasids. Among the monuments which remain from this epoch, is his great mosque, which is the masterpiece of the Tulunid period, on account of its vast area, simple planning, and its chaste and restrained decoration. Although all the motifs employed came from Samarra, and its original minaret was possibly like that of the Mosque of Samarra, yet it took the scheme of its faades and the style of its windows from the Mosque of 'Amr, as it was when rebuilt and enlarged in 212 H. The Tulunids did not rule for a long period, for the 'Abbasids regained their sovereignty over Egypt in 292 H. (905), and soon took revenge by removing all traces of their work in Egypt. The artistic and architectural movement consequently slowed down, and we cannot find any trace of its recovery until the Ikhshids took power from 324 H. (935) down to 358 H. (969).

3.THE FATIMID PERIOD, 358 - 567 H. (969-1171 A.D.): Towards the end of the Ikhshid period, the Fatimids were casting an eye upon Egypt, and were aiming to

make it the seat of a strong Khalifate, where they hoped to establish a new era and convert it to a Shi'a State. In 358 H. (969), Gohar as-Saqalli, Commander of al-Mu'izz li-Din Allah, the fourth Fatimid Khalif, invaded Egypt, marked out the plan of the city of Cairo and founded the first Fatimid mosque, al-Azhar. This period was associated with some architectural innovations, such as the use of dressed stone for the first time, in the faades of mosques, instead of brick, as well as the decoration of the faades with various motifs, carved in the stone, previous faades having been of a simple character, as may be observed in the Mosques of 'Amr and Ibn Tulun. Domes were small and simple in this period, both internally and externally. Their external ribbing was seen for the first time in the dome of as-Saiyida 'Atika, founded at the beginning of the VI century H. (beginning of the XII century A.D.). Dome supports (or pendentives) began to develop towards the system of multiple tiers of stalactites; thus beginning with a simple squinch as in the Mosque of al-Hakim, then two tiers of niches as in the dome of Shaykh Yunis and the two domes of al-Ga'fari and 'Atika, and so on. The pride of Fatimid architecture, however, was apparent in its attractive and beautiful ornament. Decorated Kufic inscriptions and stucco ornament attained a high standard in their beautiful motifs, good distribution and varied designs. They were most highly developed in mihrabs, and they formed borders for arches and windows. The cleverness of the Egyptian craftsman was not confined to stucco decoration alone, for he also excelled in the art of carving in wood; thus doors minbars, movable mihrabs and wooden tie-beams, bear witness to his great skill, and all show the high level of craftsmanship attained in this period.

4.THE AIYUBID PERIOD, 567 - 648 H. (1171-1250 A.D.):

The Aiyubids took over the government of Egypt in 567 H. (1171), and established a ruling dynasty in it. From the start, their rule proved to be one of fierce fighting with the Crusaders. Their attention was therefore directed towards the construction of military buildings. Thus they founded the Citadel, and extended the walls of Cairo. Their preoccupation with wars therefore explains the scarcity of religious buildings due to them. They also endeavoured to overcome the Shi'a rite of the Fatimids by founding colleges to teach the principles of the four Muslim rites. None of these colleges has survived except remains of the Kamiliya Madrasa, built in 622 H. (1225), which consisted of two iwans facing each other, and remains of the Salahiya Madrasa, founded by as-Salih Negm ad-Din Aiyub in 640 H. (1242), which was reserved for teaching the said four rites. This madrasa was not of the cruciform plan type; it was in fact composed of two madrasas, each of which contained two iwans, facing each other. Stalactite pendentives supporting large domes begin to appear, with an increase in the number of the tiers of niches. Only two minarets of this period still exist. These are the minarets of the Salahiya Madrasa and the Zawiyat al-Hunud; they are considered good examples of the minarets built towards the end of the seventh century H. (end of 13th century A.D.). Stucco decoration and fine geometrical woodwork continued to progress in this period. Naskhi inscriptions also came into use and evolved, side by

side with Kufic inscriptions.

5.THE MAMLUK PERIOD, 648 - 923 H. (1250-1517 A.D.):

When al-Malik as-Salih Negm ad-Din al-Aiyubi ascended the throne of Egypt towards the end of the Aiyubid dynasty, he purchased a great number of Turkish Mamluks, and accommodated them at the Citadel of Rawda, which he had founded on the Island of Rawda in 638 H. They were thus called the Bahrite Mamluks, and they were greatly favoured by him, and were given the opportunity to occupy high posts in the state, until they attained the rank of Amir. They consequently gained much authority, until one of them, 'Izz ad-Din Aybak at-Turkumani, succeeded in ascending the throne of Egypt in 648 H. (1250). This was the beginning of Mamluk rule in Egypt, which continued down to 923 H. (1517), i.e. for 275 years. During 136 years of this period, 648 -784 H. (1250 - 1382), the Bahrite Mamluks were in power. They were succeeded by the Circassian Mamluks, who ruled from 784 to 923 H. (1382 - 1517), i.e. 139 years. During the whole of this long period, the Mamluk Sultans rivalled each other in the construction of mosques, schools, mausoleums, sabils, palaces and wikalas. The greatness of this period was displayed in their buildings, which attract the admiration of all who see them. Muslim architecture in Egypt began to establish itself in this period, gaining a special individuality, and laying down its own standards and characteristics, which were adopted and followed by architects and artists. This fact is clearly shown in the mosque plans, the dignified faades and in the huge and beautiful portals. Side by side with stability, we find a steady progress in stucco work, and a variation in its decoration. This may be seen in the buildings of the second half of the seventh century. H. (13th century A.D.). Marble however has displaced stucco, and we find that mihrabs and dadoes are made with marble of different colours and in beautiful designs, distinguished by careful craftsmanship and harmony of colour. All this was accompanied by a development in woodwork and decoration, e.g. in ivory inlay work, ebony and zarnashan, side by side with fine carving on minbars, doors and windows. Turned work, as well, made great strides. The design of wooden ceilings underwent a great development, the richness of which was increased by their beautiful gilded decoration. Progress in metal work is evident in the copper plated doors, which show skill in the engraving, piercing and inlaying of copper. The Mamluk period is justified in claiming superiority over other periods, as regards domes and minarets. Domes were built of stone instead of brick, their substructure took various forms, and faience was introduced for decorating their durms. The decoration of the external surface of domes varied from ribbing to chevrons, until they reached a high standard in the days of the Circassian Mamluks, when they were ornamented with geometrical and arabesque designs. Minarets kept pace with domes. Thus we see them rising gloriously to a great height, and attracting attention by their beauty. The upper caps of some of them were covered with tiles of faience, i.e. the minarets of the Khanqa of Baybars al-Gashankir and the Mosque of an-Nasir Muhammad at the Citadel. Sometimes the middle storey was decorated with marble inlay, i.e. in the minarets of the

Mosques of Barquq and the Qadi-Yahya. Their decoration increased in variety and richness towards the end of the Circassian Mamluk period. The cruciform plan madrasas were evolved in the Mamluk period. They are composed of an open sahn, surrounded by four iwans. Mausoleums for the founders were annexed to nearly all these madrasas, while sabils and kuttabs were annexed to some only. Towards the end of the Circassian Mamluk period, madrasas were built of a smaller size, compared with those of the Bahrite Mamluk period, while their sahns were covered with highly decorated wooden roofs.

6.THE OTTOMAN PERIOD, 923 - 1220 H. (1517-1805 A.D.) :

As soon as Mamluk rule came to an end, owing to the victory of Sultan Selim in 923 H. (1517), Muslim architecture experienced a crisis, ceasing to progress and deteriorating in quality, lacking the presence and touch of clever craftsmen and artists, for these were collected by Sultan Selim and sent to Constantinople. This fact resulted in the loss of the features which characterised Muslim architecture in Egypt. Moreover, it underwent Byzantine influence, brought in by the new conqueror. The Ottoman period has however left us a number of mosques related, to a certain extent, to those of Constantinople. The first example of these mosques is that of Sulayman Pasha, founded at the Citadel in 935 H. (1528). This was followed by the Mosque of Sinan Pasha at Bulaq and those of Malika Safiya and Abu adh-Dhahab, each of which comprises a large plain dome, covering the mosque, and a cylindrical minaret ending with a conical top, except that the minaret of the Mosque of Muhammad Abu adh-Dhahab is unlike any of the Turkish minarets of that period. Besides that, we find that some of the mosques built during this

period had adopted many features from Mamluk architecture, in their minarets, their faades and in their internal details, such as coloured marble dadoes and richly decorated ceilings, etc., as may be observed in Mamluk mosques. An innovation, however, appears in the Ottoman period, viz: the lining of internal walls with tiles of faience with floral designs and the domes with plain green tiles.

7.MUHAMMAD 'ALI PERIOD, 1220 - 1265 H. (1805- 1848 A.D.):

The mosques that were founded during the rule of Muhammad 'Ali al-Kabir, were affected by both Ottoman and Mamluk influences. He founded his great mosque at the Citadel, based on the Mosque of Sultan Ahmad at Constantinople, which overlooks Cairo with its domes and minarets, a symbol of majesty and power.

8.THE MODERN PERIOD:

We have chosen to denote under this name, the period from the death of Muhammad 'Ali down to the present day. It has no special characteristics of its own. Most of its mosques are entirely covered by ceilings, with top lights (shukhshaikha) in the centre. The roofs are supported upon marble columns, while the faades and minarets are inspired, in their details, by the mosques of the Mamluk period and others.







Muhammad Ayub

Director Research & Training at Riphah Center of Islamic Business (RCIB), Riphah International University. Mr. Muhammad Ayub is a globally renowned scholar-teacher-trainer in Islamic banking and finance. His book 'Islamic Banking and Finance: Theory and Practice' was published by the State Bank of Pakistan in December 2002.

His encyclopedic work, "Understanding Islamic Finance" published by John Wiley & Sons in October, 2007 is serving as a text book on the subject and as a guide for researchers, financial engineers and practitioners.

Glossary on Islamic Banking

By Dr. Muhammad Ayub

Amanah (أمانة):

It refers to deposits in trust. A person can hold a property in trust for another, sometimes by express contract and sometimes by implication of a contract. *Amanah* entails absence of liability for loss except in breach of duty. Current Accounts are regarded as *Amanah* (trust).

If the bank gets authority to use Current Accounts funds in his business, *Amanah* transforms into a loan. As every loan has to be repaid, banks are liable to repay full amount of the Current Accounts.

Arbun (عربون):

Down payment; a nonrefundable deposit paid by a buyer retaining a right to confirm or cancel the sale.

Al-'Aariyah (العارية) (Gratuitous loan of non-fungible objects)

Al-'Aariyah means loan of a particular piece of property, the substance of which is not consumed by its use, without anything taken in exchange. In other words, it is the gift of usufruct of a property or commodity that is not consumed on use. It is different from *Qard* that is the loan of fungible objects which are consumed on use and in which the similar and not the same commodity has to be returned. It is also a virtuous act like *Qard*. The borrowed commodity is treated as liability of the borrower who is bound to return it to its owner.

Bai' Muajjal (بيع مؤجل):

Literally it means a credit sale. Technically, a financing technique adopted by Islamic banks that takes the form of *Murabaha Muajjal*. It is a contract in which the seller earns a profit margin on his purchase price and allows the buyer to pay the price of the commodity at a future date in a lump sum or in installments. He has to expressly mention cost of the commodity and the margin of profit is mutually agreed. The price fixed for the commodity in such a transaction can be the same as the spot price or higher or lower than the spot price.

Bai' Salam (بيع سلم):

Salam means a contract in which advance payment is made for goods to be delivered later on. The seller undertakes to supply some specific goods to the buyer at a future date in exchange of an advance price fully paid at the time of contract. According to normal rules of the *Shariah*, no sale can be effected unless the goods are in existence at the time of the bargain, but *Salam* sale forms an exception given by the Holy

Prophet (SAW) himself to the general rule provided the goods are defined and the date of delivery is fixed. It is necessary that the quality of the commodity intended to be purchased is fully specified leaving no ambiguity leading to dispute. The objects of this sale are goods and cannot be gold, silver or currencies because these are regarded as monetary values exchange of which is covered under rules of *Bai al Sarf*, i.e. mutual exchange is hand to hand without delay. Barring this, *Bai'Salam* covers almost everything which is capable of being definitely described as to quantity, quality and workmanship.

Bai' bil Wafa (بَيْع بِالْوَفَا):

Sale with a right in the seller, having the effect of a condition, to repurchase (redeem) the property by refunding the purchase price. According to majority of *Fuqaha* it is not permissible.

Daman (ضمان):

(1) Contract of guarantee, security or collateral; (2) Responsibility of entrepreneur/manager of a business; one of two basic relationships toward property, entailing bearing the risk of its loss; compare *Amanah*.

Dayn or Debt (دَيْن):

A *Dayn* comes into existence as a result of any other contract or credit transaction. It is incurred either by way of rent or sale or purchase or in any other way which leaves it as a debt to another. *Duyun* (debts) ought to be returned without any profit since they are advanced to help the needy and meet their demands and, therefore, the lender should not impose on the borrower more than what he had given on credit.

Falah (فلاح):

Falah means to thrive, to become happy or to have luck and success. Technically it implies success both in this world and in the Akhirah (Hereafter). The Falah presumes belief in one God, the apostlehood of Prophet Muhammad (Peace be upon him), Akhirah and conformity to the Shariah in behaviour.

Fiqh (الفقه):

Islamic law. The science of the Shariah. It is an important source of Islamic economics.

Gharar (غَرَر):

It means any element of absolute or excessive uncertainty in any business or a contract about the subject of contract or its price, or mere speculative risk. It leads to undue loss to a party and unjustified enrichment of other, which is prohibited.

Al Ghunm bil Ghurm (الْغُنْمُ بِالْغُرْم):

This provides the rationale and the principle of profit sharing in Shirkah arrangements. Earning profit is legitimized only by engaging in an economic venture, risk sharing and thereby contributing to the economy.

Hadith (see Sunnah) (حَدِيث):

Halal (حَلَال):

Anything permitted by the Shariah.

Haram (حَرَام):

Anything prohibited by the Shariah.

Hawalah (حوالة):

Literally, it means transfer; legally, it is an agreement by which a debtor is freed from a debt by another becoming responsible for it, or the transfer of a claim of a debt by shifting the responsibility from one person to another – contract of assignment of debt. It also refers to the document by which the transfer takes place.

Hibah (هبة):

Hibah means Gift.

Ijab (إيجاب):

Offer, in a contract; see also qabul.

Ijarah (إجارة):

Letting on lease. Sale of a definite usufruct of any asset in exchange of definite reward. It refers to a contract of land leased at a fixed rent payable in cash and also to a mode of financing adopted by Islamic banks. It is an arrangement under which the Islamic banks lease equipments, buildings or other facilities to a client, against an agreed rental.

Ijarah-wal-Iqtina' (إجارة والاقتناع):

A mode of financing, by way of Hire-purchase, adopted by Islamic banks. It is a contract under which the Islamic bank finances equipment, building or other facilities for the client against an agreed rental together with a unilateral undertaking by the bank or the client that at the end of the lease period, the ownership in the asset would be transferred to the lessee. The undertaking or the promise does not become an integral part of the lease contract to make it conditional. The rental as well as the purchase price are fixed in such a manner that the bank gets back its principal sum alongwith with some profit, which is usually determined in advance.

Ijtihad (إجتihad):

It refers to an endeavor of a qualified jurist to derive or formulate a rule of law to determine the true ruling of the divine law in a matter on which the revelation is not explicit or certain, on the basis of Nass or evidence found in the Holy Qur'an and the Sunnah. Express injunctions have no room for Ijtihad. Implied injunctions can be interpreted in different ways by way of inference from the accepted principles of the Shariah.

'Illah (علة):

It is the attribute of an event that entails a particular Divine ruling in all cases possessing that attribute. 'Illah is the basis for applying analogy for determining permissibility or otherwise of any act or transaction.

Ijma' (إجماع):

Consensus of all or majority of the leading qualified jurists on a certain Shariah matter in a certain age.

'Inah (عينة):

(A kind of Bai) (): Double sale by which the borrower and the lender sell and then resell an object between them, once for cash and once for a higher price on credit, with the net result of a loan with interest.

(عنان): 'Inan (A type of Shrikah)

It is a form of partnership in which each partner contributes capital and has a right to work for the business, not necessarily equally.

(إستحسان): Istihsan

It is a doctrine of Islamic law that allows exception to strict legal reasoning, or guiding choice among possible legal outcomes, when considerations of human welfare so demand.

(إسراف): Israf

It refers to immoderateness, exaggeration and waste and covers spending on lawful objects but exceeding moderation in quantity or quality; spending on superfluous objects while necessities are unmet; spending on objects which are incompatible with the economic standard of the majority of the population. See also Tabzir

(إستصناع): Istisna'a

It is a contractual agreement for manufacturing goods and commodities, allowing cash payment in advance and future delivery or a future payment and future delivery. A manufacturer or builder agrees to produce or build a well described good or building at a given price on a given date in the future. Price can be paid in installments, step by step as agreed between the parties. Istisna'a can be used for providing the facility of financing the manufacture or construction of houses, plants, projects, and building of bridges, roads and highways.

(جهل - جهالة): Jahl or Jahala

Ignorance, lack of knowledge; indefiniteness in a contract, sometime leading to Gharar.

(جعالة): Jua'alah or Ji'alah

Literally, Joalah constitutes wages, pay, stipend or reward. Legally, it is a contract for performing a given task against a prescribed fee in a given period. A similar contract is 'Ujrah' in which any work is done against stipulated wage or fee.

كالي بالكالي: Kali bil-Kali

The term Kali refers to something delayed; appears in a maxim forbidding the sale of al-Kali bil-Kali i.e. the exchange of a delayed counter value for another delayed counter value.

(Suretyship): Al- Kafalah

Literally, Kafalah means responsibility, amenability or suretyship, Legally in Kafalah a third party become surety for the payment of debt. It is a pledge given to a creditor that the debtor will pay the debt, fine etc. Suretyship in Islamic law is the creation of an additional liability with regard to the claim, not to the debt or the assumption only of a liability and not of the debt.

الخيار بالضمان: Kharaj bi-al-Daman

Gain accompanies liability for loss; a Hadith forming a legal maxim and a basic principle – see also Al- Ghunm bil Ghurm.

(خيار): Khiyar

Option or a power to annul or cancel a contract.

Khiyar al-Majlis (خيار المجلس):

Option of the contracting session; the power to annul a contract possessed by both contracting parties as long as they do not separate.

Khiyar al-Shart (خيار الشارط):

A right, stipulated by one or both of the parties to a contract, to cancel the contract for any reason for a fixed period of time.

Mal-e-Mutaqawam (المال المتقوم):

Things the use of which is lawful under the Shariah; or wealth that has a commercial value. Legal tenders of modern age that carry monetary value are included in Mal-e-Mutaqawam. It is possible that certain wealth has no commercial value for Muslims (non Mutaqawam) but is valuable for non-Muslims. Examples are wine and pork.

Maisir (ميسر):

An ancient Arabian game of chance played with arrows without heads and feathering, for stakes of slaughtered and quartered camels. It came to be identified with all types of hazard and gambling.

Mithli (Fungible goods) (مثلي):

Goods that can be returned in kind, i.e. gold for gold, silver for silver, US \$ for US \$, wheat for wheat, etc.

Mubah (مباح):

Object that is lawful (i.e. something which is permissible to use or trade in).

Mudarabah (مضاربة):

A form of partnership where one party provides the funds while the other provides expertise and management. The latter is referred to as the Mudarib. Any profits accrued are shared between the two parties on a pre-agreed basis, while loss is borne by the provider(s) of the capital.

Murabaha (مرا بحة):

Literally it means a sale on mutually agreed profit. Technically, it is a contract of sale in which the seller declares his cost and the profit. This has been adopted by Islamic banks as a mode of financing. As a financing technique, it can involve a request by the client to the bank to purchase a certain item for him. The bank does that for a definite profit over the cost which is stipulated in advance.

Musawamah

Musawamah is a general kind of sale in which price of the commodity to be traded is bargained between seller and the purchaser without any reference to the price paid or cost incurred by the former.

Musharakah

Musharakah means a relationship established under a contract by the mutual consent of the parties for sharing of profits and losses in the joint business. It is an agreement under which the Islamic bank provides funds which are mixed with the funds of the business enterprise and others. All providers of capital are entitled to participate in management, but not necessarily required to do so. The profit is distributed among the partners in pre-agreed ratios, while the loss is borne by every partner strictly in proportion to respective capital contributions.

Al- Rahn (الرهن):

Pledge, Collateral; legally, Rahn means to pledge or lodge a real or corporeal property of material value, in accordance with the law, as security, for a debt or pecuniary obligation so as to make it possible for the creditor to recover the debt or some portion of the goods or property. In the pre-Islamic contracts, Rahn implied a type of earnest money which was lodged as a guarantee and material evidence or proof of a contract, especially when there was no scribe available to put it into writing. The institution of earnest money was not accepted in Islamic law and the common Islamic doctrine recognized Rahn only as a security for the payment of a debt.

Salaf or Loan / Debt (سلف):

The word *Salaf* literally means a loan which draws forth no profit for the creditor. In wider sense, it includes loans for specified periods, i.e. short, intermediate and long-term loans. *Salaf* is another name of *Salam* as well wherein price of the commodity is paid in advance while the commodity or the counter value is supplied in future; thus the contract creates a liability for the seller. Amount given as *Salaf* cannot be called back, unlike *Qard*, before it is due. (see *Qard*)

Al-Sarf (الصرف):

Basically, in pre-Islamic times it was exchange of gold for gold, silver for silver and gold for silver or vice versa. In Islamic law such exchange is regarded as 'sale of price for price' (*Bai al Thaman bil Thaman*), and each price is consideration of the other. It also means sale of monetary value for monetary value – currency exchange.

Shariah (شريعة):

The term *Shariah* refers to divine guidance as given by the Holy Qur'an and the *Sunnah* of the Prophet Muhammad (PBUH) and embodies all aspects of the Islamic faith, including beliefs and practice.

Shirkah (شركة):

A contract between two or more persons who launch a business or financial enterprise to make profits. In the conventional books of *Fiqh*, the partnership business has been discussed under the option of *Shirkah* that, broadly, may include both *Musharakah* and *Mudarabah*.

Sunnah (السنة):

Custom, habit or way of life. Technically, it refers to the utterances of the Prophet Muhammad (PBUH) other than the Holy Quran known as *Hadith*, or his personal acts, or sayings of others, tacitly approved by the Prophet.

Tabarru' (تبرُّع):

It is a donation/gift the purpose of which is not commercial but is seeking the pleasure of Allah. Any benefit that is given by a person to other without getting anything in exchange is called *Tabarru'*. Gracious repayment of debt, absolutely at lender's own discretion and without any prior condition or inducement for reward, is also covered under *Tabarru'*. Repaying a loan in excess of principal and without a pre-condition is commendable and compatible with the *Sunnah* of the Holy Prophet (peace be upon him). But, it is matter of individual discretion and cannot be adopted as a system because this would mean that loan would necessarily yield a profit. If such reward takes the form of a system, it would be considered *Riba*.

Tabzir (تبذير):

Spending wastefully on objects which have been explicitly prohibited by the *Shariah* irrespective of the quantum of expenditure. See also *Israf*.

Ujrah (أجرة):

See Jua'alah.

Wakalah (وكالة):

A contract of agency in which one person appoints someone else to perform a certain task on his behalf, usually against a certain fee.



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Headquarter
SWITZERLAND
World Trade Center - via Lugano, 13
6982 Agno (Lugano) - P.O. Box 317

Representative Office
BAHRAIN
Bahrain Financial Harbour-West Tower , Level 22
P.O. Box 20705 – Manama
Tel. + 973 1750 2933 – Fax . + 973 1750 2934

Chairman & Publisher
Alberto Di Gennaro

Editor in Chief
Mahmood Rafique

Creative Director
Sara Lugnani

Art, Fashion, Events Director
Nada Ramzi

Editorial contributors
Talha Kapadia, Umer Majid, Mohamed Ali Elgari,
Adnan Yousif, Abdullah Hasan, Saiful Azhar Rosly,
Sami A. Aldeeb Abu Sahlieh, Muhammad M. I. Ghali,
Ghâzî al-Tawbah, Adnan Khan, Muhammad Ayub

Photographer
Michael Jennings

Production Manager
Khaled Aljeeri

Design & Layout
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