

ذوالقعدة 1432 - محرم 1433

«If the debtor is in a difficulty, grant him time till it is easy for him to repay. But if ye remit it by way of charity, that is best for you if ye only knew.»

Surat Al Baqarah, 2:280 Holy Quran

مجلة عالم 'Alim

The Shari'ah Scholar's Journal



SHARI'AH SCHOLARS

Ehsan Waquar Ahmad

Mohammed Elgari

Ahmed Rufai Muhammed

Muhammad Zubair Usmani

ISLAMIC FINANCE STUDIES

Muhammad Ayub

Aly Khorshid

ISLAMIC LAW LAWYERS

Beata Paxford

ISLAMIC BELIEF & PRACTICES

Sayyid Muhammad Rizvi

ISLAMIC CULTURE

The Golden Age

THE WAQF FUND

Khalid Hamad

Central Bank of Bahrain Executive Director-Banking Supervision





The home for your business in Switzerland

- Relocation Services
- Visa, Work and Residence Permit
- Home Search Service
- Family Support
- Local Banking and Insurances
- Household Goods Moving
- Car Registration
- Furnished Offices Rental
- Conference Room Rental
- Accounting Services
- Secretarial Services
- Fiduciary Services
- Tax Consultancy
- Legal Domiciliation and Virtual Offices

WORLD TRADE CENTER LUGANO

CP 317 - Via Lugano, 13
CH 6982 Agno - Lugano
Switzerland

info@wtclugano.ch
tel: +41 (0)91 610 21 11
fax: +41 (0)91 610 21 01



www.wtclugano.ch

Editorial

Dear Readers,

It is with great pleasure that I announce the first issue of 'Alim- The Shari'ah Scholar Journal, a publication, issued in Switzerland, entirely focused on the figure of the Shari'ah Scholars, "the people who know", the guardians of orthodoxy in Islamic Finance.

As you all know, the direct input of Shari'ah Scholars provides the foundation of the Shari'ah advisory process. The judgments of these prominent players in Islamic Finance determine and settle the acceptability of products and services representing a key component of overall Shari'ah advisory process.

'Alim Journal is a publication dedicated to the scholarly study of Islamic Finance, Islam and Islamic World and will be spread in Europe as well as in the Islamic Countries.

Our aim is to provide a broad-based forum for Shari'ah Scholars, Islamic Bankers and Investors, International Law and Accounting Firms, Islamic Universities, Qur'anic Schools and Charitable Foundations, also covering most of the disciplines of Islamic Shari'ah (Qur'an, Hadith Studies and Fiqh) as well as Islamic Art and Culture. In close collaboration with Shari'ah Scholars, Islamic Regulatory Bodies, Shari'ah Consultancy Bodies, Central Banks, Qur'anic Schools etc., 'Alim- The Shari'ah Scholar Journal aims to disseminate worldwide a more informed and correct understanding on Islamic Finance as well as of Islam in all its deepest ethical meanings.

The Publisher
Alberto Di Gennaro



Alberto Di Gennaro
Chairman & Publisher



اتحاد المصارف العربية
Union of Arab Banks

The Pioneer of Arab Banking and Finance

Algeria • Oman • Palestine • Qatar • Saudi Arabia • Sudan • Somalia • Syria • Tunisia • Yemen
Bahrain • Egypt • Emirates • Iraq • Jordan • Kuwait • Lebanon • Libya • Morocco • Mauritania



Mr. Adnan Youssif
**Chairman of the Board of
The Union of Arab Banks**

**FORMER CHAIRMEN
OF THE UNION TO DATE**
Mr. Joseph Geagea (Lebanon)
From 12/3/1974 Till 5/5/1977
Mr. Bashir Zouhairi
(Common Banks)
From 6/5/1977 Till 25/11/1980
Mr. Labid AbdelKader
Al-Kara Gholi (Iraq)
From 26/11/1980 Till 25/11/1983
Mr. Anwar Al-Khalil (Lebanon)
From 28/5/1983 Till 30/4/1989
Mr. Naji Al-Soukhiry (Tunis)
From 1/5/1989 Till 30/4/1992
Mr. Mahmoud Abdel Azizi
(Egypt)
From 1/5/1992 Till 30/4/2001
Dr. Joseph Torbey (Lebanon)
From 1/5/2001 Till 2007
Mr. Adnan Youssif (Bahrain)
From 2007



From right, Joseph Torbey Chairman of the Executive
Committee of UAB,
Fouad Shaker, Secretary General of UAB,
Riad Salame, Governor of Central Bank of Lebanon

UNION OF ARAB BANKS

Its first founders wanted it an organization which gathers Arab banks, in order to safeguard their interests, and to constitute a principal pillar in supporting economic growth and development in the arab region... The Union of Arab Banks was established for that purpose.

FORMATION

The Union of Arab Banks was formed on March 13, 1974, during a meeting which was shared by an elite group of Arab banks and management leaders under the umbrella of the Arab Administrative Development Organization. The meeting reached a conclusion to establish an Arab organization working within the framework of the unions emanated from the League of Arab States.

OBJECTIVES AND MISSION STATEMENT

The ultimate objectives of UAB are to consolidate relations and foster cooperation between its members, to coordinate their activities, and to emphasize their Arab identity to secure common interests. This besides the development of the banking and financial sector in the Arab countries, and enhancing the role of the Arab banking and financial institutions in supporting the social and economic development in the Arab region.

HEADQUARTERS AND REGIONAL OFFICES

The Union's headquarters is located in Beirut, republic of Lebanon and has three major regional offices in Egypt, Sudan and Jordan. This besides a network of strategies relations with major banking and financial institutions in other Arab countries where the Union provides various types of services for domestic banking sectors.

MEMBERSHIP AND OFFICES

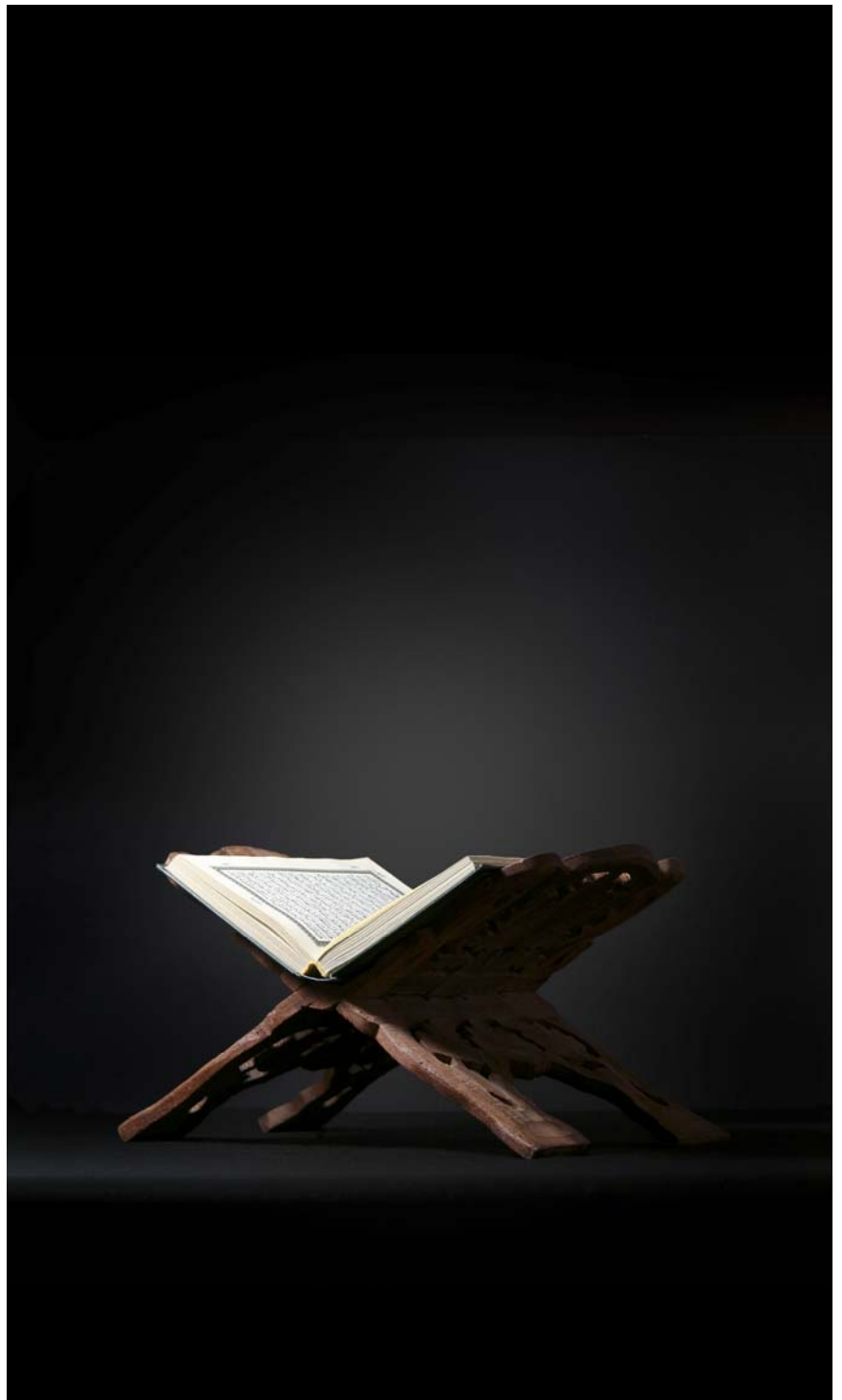
The Union of Arab Banks comprises today more than (300) Arab financial and banking institutions representing the major and biggest Arab banks. This makes the Union the largest banking and financial consortium in the region and the true representative of the Arab banking community. The members of the Union consists of two categories: The First category combines active members and includes all Arab banking, financial, and investment institutions and joint Arab foreign banking institutions. And the second category combines observer members and includes Arab central banks, Arab banking associations and joint Arab-Foreign financial institutions in which the Arab share is less than 51% but more than 25%.

LEBANON

P.O. Box: 11-2416 Riad El-Solh
1107 2110
Fax: +961.1.861664 - 867925
Tel: +961.1.785711/2/3 - 863460
Email: uab@uabonline.org
Homepage: www.uabonline.org

Contents

AlimJournal 1 | 2011



1	Editorial
4	Contents
	Shari'ah Scholars
6	Ehsan Waquar Ahmad
	Shariah Non-Compliance: a Reputational Risk for Islamic Financial Institutions
10	Mohamed Ali Elgari
	Islamic Vs Conventional Finance and Banking: is the difference real or fanciful?
14	Ahmed Rufai Mohammed
	The Sources of Islamic Legislation and The Complete Recognition of The Independence of Thought in Islam
20	Muhammad Zubair Usmani
	The concept of Musharakah
	Cover Interview
24	Khalid Hamad
	The Waqf Fund



Contents

	Islamic Finance Studies
30	Aly Khorshid The Global Financial Crisis Islamic system may have some answers
38	Muhammad Ayub The role of Shari'ah Scholars in IFIs today and in the Future
40	Salman Ahmed Shaikh Islamic Credit Cards: A Necessity or Luxury
	Islamic Law Lawyers
42	Beata Paxford Shari'ah Boards
	Islamic Belief & Practices
44	Sayyid Muhammad Rizvi Al-Fajr As-Sadiq: A New Perspective
	Islamic Culture
50	The Golden Age



Ehsan Waquar Ahmad

Shari'ah Advisor at UBL AMEEN Bank
Mufti Ehsan Waquar Ahmad holds Takhassus fil Fiqh (Mufti) from Jamia-tur-Rasheed besides qualification in Dars-e-Nizami.

Mufti Ehsan has a diversified experience over 10 years of academia and management. He has participated in several international and local seminars and conferences and is occasionally invited as a speaker at different forums and television channels. He frequently contributes with his articles in different local and international journals and periodicals.

He is also a member of Technical Committee of ICAP for Accounting Standards for Islamic Financial Institutions.

Mufti Ehsan has been teaching Fiqh, and Fiqh-ul-Muamlaat at Jamia-tur-Rasheed.

Shariah Non-Compliance A Reputational Risk for Islamic Financial Institutions

By Mufti Ehsan Waquar Ahmad

The increasing demand of Muslims worldwide has compelled financial industry to provide Shariah-compliant products. This demand is further supplemented by people who either agree with the ethical principles of Islamic banking or find these products more attractive than traditional (non-Islamic) banking products.

After the recent financial crisis and failures of conventional financial system, Islamic finance has attracted ever more attention. Issues pertaining to global readjustment of risk appetite and corporate governance have accelerated its growth to a much higher pace. In a market that now craves transparency Islamic financial solutions are set to come to the forefront of the global financial services agenda.

Islamic financial products are more complex than traditional financial products as these must conform not only to the laws of the state and take into account business proposition's viability but must conform to the Shariah principles essentially.

I would like to draw readers' attention on some of the key features essential for governing an institution effectively. Usually committees are formed within the BOD and in case of Islamic financial institutions an integral part is the Shariah Supervisory Board or Shariah Advisor constituted to perform specific functions.

Around the world, increased focus is being developed on the performance of board of directors and supervisory boards and lately on Shariah advisor. Especially after the past financial catastrophe, stakeholders have established enormous concerns about failure of ventures and deficiencies in new business ideas and plans that seems disguised under the cosmetic corporate governance. Islamic financial institutions in this scenario need to adapt extra vigilance. Corporate governance is nothing but a gist of moral integrity. Of course governance cannot be performed without technical awareness and required skills.

Here it is observed that there are differences in understanding Shariah compliance and its mechanism across the industry. The management usually focuses on business related issues where the objective revolves around profitability. In doing so the management at times overlook Shariah concerns. This oversight usually happens because of a preset understanding formed by the management that drives them to underestimate the Shariah personnel, assuming the Shariah principles may

not be able to address the need of today's modern financial markets. This notion at times rises to the extent that they think that complying with Shariah principles will hold back the growth that ultimately leads to avoidance of Shariah involvement in transaction.

Reciprocally, Shariah personnel feel that management ignores Shariah while conducting business. They think matters are presented with cosmetic dressing. Consequently an atmosphere of distrust starts growing.

The main reason for this misunderstanding can be concluded through the fact that the effects of Globalization, the constant altering situations, changing trends, fashion, lifestyle and advancement in communication technology particularly associated with finance and trade has never been so volatile before. In such volatile situation, the ever-changing conditions and the shrinking communication gap, implementing ideal Islamic law; Shariah at its best seems to become questionable. Generally people assume that verdicts delivered centuries ago based upon the customs and practices of the people, are not implementable today. As practices today have changed drastically, Shariah cannot find appropriate solution to address this complex situation. Another major element of this confusion is the extinction of Islamic Shariah Law that faded away several decades ago. Even on personal and individual level people have ignored these Islamic principles in their commercial transactions. Although they do adhere to some major practices pertaining to worship and rituals but they have completely disregarded Shariah instructions pertaining to trade and business. Same is the case here for Islamic Banking and finance where to a large extent, such misunderstanding is observed.

Although we know that Islamic jurisprudence is supple enough to adapt the condition required in today's societies. We believe that Shariah can provide solutions that anticipate the demands of modern age. But there is no practical solution available at the moment.

If Shariah cannot produce solution to such an important aspect pertaining to mankind's daily economic life then it will be wrong to claim that goal of Islamic law and its decisions is the betterment of mankind. What is required today is a need for an extensive research. This research should address the gap and form a bridge between the recent commercial transaction and requirement of Shariah fundamentals. This will certainly reduce the perplexity and provide moderated adaptable solutions. This will not only enhance the confidence of the management but the responsibility and decision

generated will be of very high quality.

Today in the world of trade and commerce, Shariah experts need to be innovative enough to address the problems, remove the bottlenecks and come up with solutions and practical alternatives that can secure the stakeholders interest and make the Islamic financial proposition viable. They should not be too rigid, emphasizing solely on the technical aspect of the classical contracts nor too liberal by using an unregulated *Masalahah* principle. They need to be coherent while applying analogy (Qiyas) to modern finance with vibrant innovation.

Knowing the fact that Islamic finance is passing through a phase of evolution, there are detracting decisions and compromise on idealistic approach. But this does not mean any compromise with Shariah principles. The industry may *resemble* going off track while in fact it may not.

I would also quote some examples where decision by scholars during different era has been revised in order to address the need of the time. They have stepped a level below in order to address the general principle of *Masalahah*.

After the emergence of Islam until 12th century Hijri, Islamic Jurisprudence remained as a law and constitution in the many states. During this whole era, Islamic Jurisprudence never failed to provide solution to mankind in the light of the Quran and Hadith until it was replaced. Solution to the daily requirements needed continuous involvement on an ongoing basis. It was *Shamia* (حاشية ردالمحتار) and *Sharah-e-Mujala* (شرح المجلة) where researches and judgments of such nature were last recorded.

Allama Shami (علامہ شامی) renowned as Ibn Abideen (ابن عابدی) in his book *Shifa-ul-Aleel* (شفاء العلیل) states that during the era of the companions (صحابہ) and their descendants (تابعین) and during the era of diligence (اجتهاد) charging any remuneration on rendering worship services (اجرة على الطاعات) were declared impermissible. Three centuries later Jurists felt the need by analyzing the situation diligently, so they excluded educational services like imparting Quranic educations. They declared it permissible to render such services against remuneration. Among the prominent jurist were Faqih Abu Laith and Imam Fazli. This verdict was further modified after the seventh century Hijra, including Islamic Teachings of jurisprudence, Hadith, etc and leading congregational prayers (امامة) were also included. Jurisprudence commentaries written in *Mukhtasar-ul-Wiqayah* (مختصر) and *Multaqa-ul-Abhar* (ملتقى الابحر) included these exceptions. The verdict was again revised and call for prayers

(delivery of sermon) (ارشاد) and many such other activities were also included in the list that were earlier declared impermissible.

Similarly public transporters commuting between the holy cities, as a rule they needed to perform Umrah on their arrival to the jurisdiction of *Harum Makkah*. Here also the jurists have revised the verdict considering the modern day situation.

Now critics, who consider Islamic Jurisprudence rigid in its judgments and ignore the prevailing situation and *Masalaha*, should also understand that if Islamic Jurisprudence was so rigid then the existence of traditional Islamic schools would have never existed, as all such educational services today are rendered against remuneration. Adaptability of Shariah; Islamic jurisprudence is the significance that gave it the acceptability in those societies. This flexibility is nothing new within Islamic Jurisprudence rather this is a common practice that is found throughout the entire jurisprudence cadre. Thus Allama Shami states:

فهذا كله وامثاله دلائل واضحة على ان المفتي ليس له الجمود على المنقول في " كتب ظاهر رواية، من غير مراعاة الزمان واهله، والا يضيع حقوقا كثير وتكون ضرره اكثر من نفعه "

"All these examples are clear indications that a Jurist (Mufti) should not be rigid while making decisions while comparing the judgments found in the traditional books without analyzing the situation and taking society and their customs into account. If he does so he will be more devastative in violating many rights rather than facilitating the people" (Ibn Aabiden 131/2)

He further narrates:

ليس للمفتي ولا للقاضي ان يحكما بظاهر الرواية و يتركوا العرف "

It is not legitimate for a jurist or a mufti to make decisions only by referring to the traditional judgments without taking the customs of the society in consideration.

Munyat-ul-Mufti (one of the reputed books in Hanafi School of Jurisprudence) states:

ولو ان الرجل حفظ جميع كتب اصحابنا، لابد له ان يلتزم للفتوى حتى يهتدى " اليه، لان كثيرا من المسائل يجاب عنها على عادات اهل الزمان "

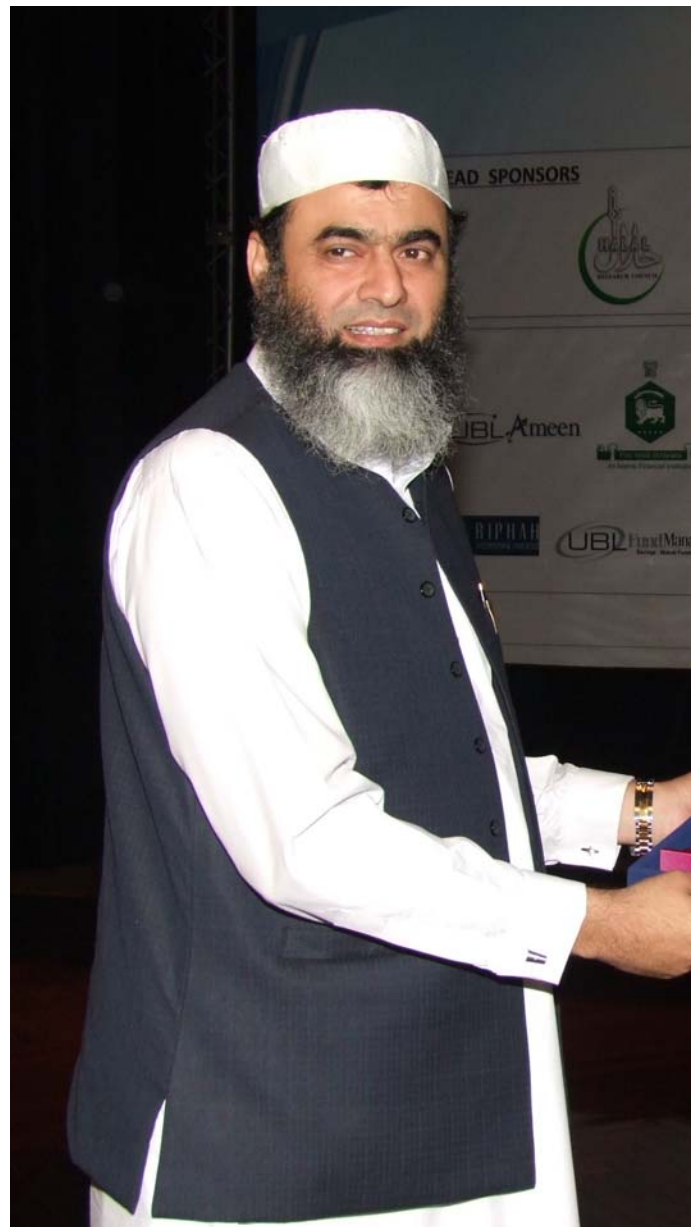
"If a person memorizes all the books of our jurists even then he needs to be supervised by an experienced jurist so that he can deliver right judgments. This is because many instances where practices and norms of the society are take into consideration prior delivering a verdict" (Munyat-ul-Mufti)

Looking at these statements Allama Ibn Qayyim states:

فان الشريعة مبناها واساسها على الحكم و مصالح العباد في المعاش والمعاد، " فهي عدل كلها و حكمة كلها و مصالح كلها، فكل مسئلة خرجت عن العدل الى الجور، وعن الرحمة الى ضدها، وعن المصلحة الى المفسدة، وعن الحكمة الى العبث، فليست من الشريعة وان ادخلت فيها بالتاويل "

"Indeed the basis of Islamic jurisprudence is based upon the betterment of mankind pertaining to their livelihood and trade. It is well balanced based on their best interest and care. Otherwise, if these fundamental are not present in the Islamic Law; Shariah will be injustice, trouble, distress, frustration and indiscretion. Rather it will be something else than Shariah" (Aalam-ul-Muqe'en 2/3)

Today, the emergence of Islamic finance is an issue that is still controversial among the scholars. Analyzing the current need of the economy and the requirement of financial institution becomes a necessity. Similarly the transactions structured in these financial institutions and their implementa-



tion, issue related to Murabaha, late payments, liquidity management for treasury operation and instruments used in Islamic Bank's treasury, foreign exchange transactions, derivatives, currency Salam, Tawarruq and many others needs careful analysis.

In order to understand the flexibility of Islamic Law and Islamic Jurisprudence it will be necessary to expound the definition of need (ضرورة), requirements (حاجت) and some similar terminologies. The set of priorities associated with the objectivity of Islamic Law (مقاصد الشريعة), precisely the betterment of humanity requires a detail discussion where interchangeability of different terminologies and fundamentals defined in Islamic Jurisprudence can be discussed in length.

It seems equally important for the success of Islamic financial industry that the management of these institutions should adhere to Shariah principles, they should not compromise on Shariah compliance, the members of the Shariah supervisory boards on the other hand need to address the *Masalahah* of the society and need to carry out extensive researches and finally the critics too need to understand the reality of public interest and Shariah law. Innovation in Islamic financial products needs to develop a distinctive method to ensure adherence to the fundamental concept. It is equally important for the management to understand the proposition of Shariah.

Management should also be well aware of the consequences of contravention in cases of non Shariah compliance. This violation will cost them to lose their trust where they have indemnified the customers to perform in accordance with Shariah principles. This will ultimately destroy their long-standing goodwill. Trust deficit once developed will not only harm the institution but will harm the industry at large.

They should adopt a clear vision, strategy with strong corporate values to direct the activities in accordance with the Shariah principles out rightly. They should establish high level of ethical values and professional standards. They should be committed to build a strong compliance structure. Without such measure apparently it seems difficult to make end meet.

Now in order to strengthen the compliance framework within the institution they should involve the Shariah more deeply in policy formation in order to prepare appropriate policies. Then they should monitor the implementation of policies decided by the Shariah in all their internal and external activities. They should take Shariah as a facilitator rather

than assuming them as a policing agency. This practical involvement of Shariah will create their onus and harmonize the working relationship.

For research and development, academia will have to perform and play their roles together with the assistance of these institutions. Alhamdulillah, institutions have been involved in providing a platform that is leading towards human resource development together with bringing innovation in products and services. And this I suppose is nothing but natural process of evolution, different participants within an economy gradually starts contributing towards its growth and development.

Finally an important development that requires special attention is a Product Development and Research Forum on state and global level where collective resources are synergized to handle to industry requirements.





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.

Islamic Vs Conventional Finance and Banking: is the difference real or fanciful?

By Dr Mohammed Ali Elgari

As more and more banks and insurance companies introduce *Islamic* products (or probe into possibilities of such introduction) the question is raised: is there a material difference between Islamic finance and conventional finance

The question became more pressing as Islamic banking product get more sophisticated, as it becomes more difficult for many to appreciate the difference.

Form Vs Substance:

Every economic relationship between two parties has two sides, one doing with the form, the other with substance. Both are important, for some formality is needed to give the substance a corpus.

To many people, form is just the ceremonial part of the transaction which, needs to be kept to the minimum. Too much formality is costly and inefficient. What counts, in the final analysis, is the "substance", the reality, the actual matter of that relationship.

It is not difficult to see that "modern" way of doing things is motivated by a strong drive towards efficiency, "fat-cutting" and concern only with what is assumed to be the substance. Therefore, the "essential part" of transactions and not the "external appearance" is what everybody is concerned with now days. In the sphere of economy where competition forces agents to tighten the belt of expenses, such a trend becomes matter of life or death for business enterprises.

With the exception of the technical order of legal proceedings in a litigation, even the legal profession is now "substance" driven especially in the West. Contractual relationship emphasizes rights and obligations with little attention given to the classification of the contract. It is not important whether the transaction is sale, rent or straight borrowing as long as the agreement will stand in court of law in case of litigation. Its no wonder then that, when dealing with Islamic products as compared to conventional ones, people of finance and law look for the "beef" and they find it, but then they conclude that the only visible difference is to do with the external appearance while the essence remains the same.

For bankers and financial professionals who are trained in the West, or prac-

tice their banking skills in a financial sector that is culturally Western, this poses a real dilemma, one that renders *Shari'ah*, in their minds a set of bewildering routine beyond comprehension. Why for example, it would be permitted for one to buy commodities (or a car) from the bank on deferred payment basis and sell the same in the open market to receive a discounted cash price (which has been his intended purpose from the very beginning) while it would not be permitted (from *Shari'ah* point of view) to simply borrow the same amount from the bank on similar term and end up paying the same plus that discount rate which will be paid to the bank anyway.

The answer is two folds both pertaining to legalistic Vs Economic and Form Vs Substance:

Muslims know the expediency of "borrowing" Vs *Murabaha*. Hence, let's simply do away with the thought that these faithfuls do this because they are less wise or unseasoned. The issue of form Vs substance exhibit itself in matters much wider than just sale and lease contracts. And the tendency towards substance also exhibits itself in all aspects of life in the west.

The point is what is substance? In a materialistic setting, the substance is "the beef". If I need cash, the form of contract is just an arrangement to facilitate this and it has to be short and efficient. In an Islamic setting, the substance is much more. It is how to "grasp the cash" but do it in ways that are agreeable to *Shari'ah*. Now the question is what is agreeable to *Shari'ah*? *Shari'ah* is a set of rules that if followed then the transaction may be called Islamic. These rules constitute a "form". Certainly being *Shari'ah* abided, we need not be "servants" to formalities. Rather we should penetrate the surface to see the end purpose. This, however, materializes collectively and may not be visible in every single transaction.

Shari'ah is unique in that injunction have a purport and a purpose. Therefore, "Form" is not without a purpose because the whole of *Shari'ah* is purposeful. If we don't we have to adhere to the form believing firmly that the purpose is there. Islamic banking is unique, but by no means anomalous. It is neither at odds with nor incomparable to conventional banking. Is it possible to contract the two models?

I They are both financial intermediations. A financial intermediary is the institution that acts as a middleman between cash surplus units (savers)

and deficit spending units (users of fund). It is quite obvious that the main function of conventional banks is financial intermediation. However, there are those who would like to think that there is no such thing in the Islamic economic system as financial intermediation and that an Islamic bank can only be "sufficiently" Islamic if it can operate like a trader, one who buys and sells goods and commodities.

The financial intermediary in conventional banking is a "borrower-lender" institution. Since such institution will not survive unless it at least covers expenses, then an income must be generated from such arrangement. This is where interest appears. An Islamic bank, on the other hand, is based on a multi-tier *Mudarabah*. A *Mudarabah* is a partnership in profit where capital and management may joint together to create value. The income accruing to the Islamic financial intermediary is coming out of profit not from interest. The root of such a conception is the fact that *Shari'ah* doesn't distinguish between a seller being a trader or a final intermediary, unlike positive law where civil law is different from commercial law. In *Shari'ah* all people stand against one legal code.

II A case in mind is *Murabaha*. There are those who say if an Islamic bank does *Murabaha* any other form but the traders way of doing things it will not be permissible from *Shari'ah* point of view, and an Islamic bank would be in their view a "dubious" conventional bank. They say: since it is never the intention of the bank, to own their assets and hold on to them then, such bank is not sufficiently Islamic.

According to this viewpoint, an Islamic bank must have huge warehouses and elegant stores full of goodies for sale. This is not valid and those who think so miss two important points:

Intention is of no consequence on the permissibility or otherwise of any exchange contract in *Shari'ah*. In an authentic Hadith, the Prophet (PBUH) showed one companion how to substitute a usurious transaction by another non usurious to reach the same purpose, He (PBUH) didn't object to the intention nor that he nullified the contract on the basis of intention. Rather he cor-

rected the form of contract.

If the anatomy of the contract is in line with Shari'ah requirements, then the transaction is acceptable. Hence, if bank actually buys and then sells, with ownership passing from seller to buyer and that the subject of contract is a good or commodity then the transaction is correct. In conventional banking the subject of contract is money hence any increase is usurious.

III The way conventional banks render financial intermediation is very simple. They borrow money and lend money. Both assets and liabilities are one form of lending. Islamic banking function in a rather "elaborate" (not perplexing) way. They have to continuously innovate to satisfy the needs of their clients. It is because of this we see Murabaha, Musharakah, Mudarabah, Istisna'a, Salam to name just a few Islamic modes of finance. This makes the job of an Islamic banker "not all roses", but certainly a more interesting one.

IV A conventional banker is a risk manager. He is concerned with all kind of credit, market, interest rate, legal and other risk factors. An Islamic banker should be just as concerned. However, there is one added risk for the Islamic banker, this is what we may call "Shari'ah disobedience risk". Risk analysis refers to the forces that may cause the outcome of investment to be sub optimal. Certainly an Islamic investor earning non-permissible income is an outcome that is most undesirable, and it may cause the value of his investment to be reduced.

V Contrary to popular opinion, being concerned about time value of money is a similarity not a difference between Islamic and conventional banking. There is no basis for the current thinking that Shari'ah doesn't allow the attachment of monetary value to time in the contracts exchange. The contract of Salam and deferred-payment sales fly in the face of this argument. It is only in loans that Shari'ah requires that no time value of

money is considered (but replaced by great rewards in the hereafter).

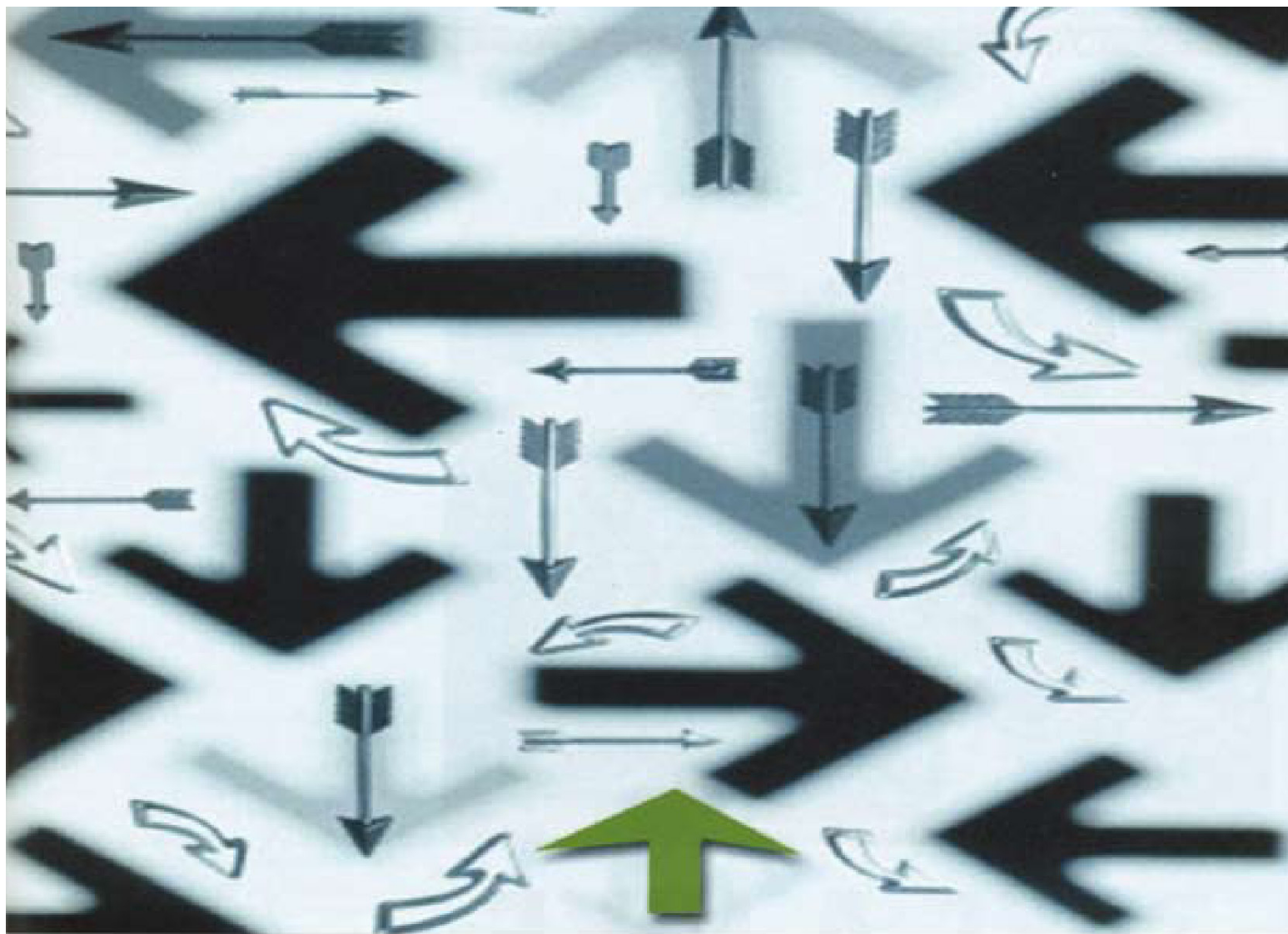
VI A major difference, however, remains in the handling of delinquency and default. When a borrower delays payment of debt, interest will accrue on his delayed portion. Unless, such borrower defaults and become incapable of paying back his debt, such interest will compensate the conventional bank for lost business. This can't



be done in Islamic banking as this is considered usurious.

Clearly, this is a disadvantage from two aspects: Firstly, an Islamic bank will not have the opportunity in a Murabaha transaction for example, to be compensated for lost profit. But more importantly, it increases significantly, the Murabaha risks. Since bank clients are rational people who will seize an opportunity when they see one, they will always delay payment. One major Ijtihad of contemporary Shari'ah scholars, is to allow the Islamic bank to impose penalties. Rather than accrue such penalties as income, and hence become usurious, they are disposed off to charity. This way the pressure will mount on the debtor to pay in time, without falling into Shari'ah impropriety.





always the right direction



BANQUE DU LIBAN

Cornerstone of a sustainable economy



Ahmed Rufai Mohammed

Head of Shariah, brings with him over 15 years expertise in matters related to the Shariah (Islamic Law). Prior to joining the IIFM, Dr. Muhammad was Shariah Advisor with Crescent Financing Company in Hamilton, New Zealand. A national of Ghana, Dr. Muhammad obtained his PhD and Master's degree in Islamic insurance and Islamic Law from the University of Malaya in Kuala Lumpur, Malaysia. He has a Bachelor's degree, in Islamic Law and Islamic jurisprudence, from the Islamic University of Madinah in Saudi Arabia. Prior to that, Dr. Muhammad studied Islamic jurisprudence and Islamic history at Al-Azhar University in Cairo, Egypt.

The Sources of Islamic Legislation and The Complete Recognition of The Independence of Thought in Islam

By Dr Ahmed Rufai Mohammed

Every objective of the Islamic Law (*Shari'ah*) is to promote the welfare of the people in particular, in safeguarding their faith, their life, their intellect, their posterity, and their property. Hence, whatever ensures the safeguard of these five basic objectives of Islamic Law serves public interest and is desirable.

The entire teachings of Islamic Laws are to secured and ensured the safeguard of these basic five objectives. Legislation of the principles of Islamic faith and the pillars of Islam is to protect the first principle and that is faith (i.e. *Imaan*). The rules of equality in punishment (i.e. *Al-Qisaas*), blood money (i.e. *Diyyah*) and wounds (i.e. *Al-Juruh*) in Islamic law are to protect the second principle and that is the life (i.e. *Annafs*). The prohibition of any kind of intoxicants in Islam is to save and protect the third principle which is the intellect (i.e. *Al-'Aql*). Family laws were legislated for the protection of the fourth principle and that is the posterity (i.e. *Annasl*). For the protection of the fifth principle and that is property (i.e. *Al-Maal*), the rules of transactions were legislated; therefore, stealing, extortion and etc. were prohibited (1). The famous Muslim scholar *Al-Imam Ibn Qayyim* said in this respect:

"The basis of the Islamic Law is wisdom and the welfare of the people in this world as well as the Hereafter. This welfare lies in complete justice, mercy, welfare and wisdom, anything that departs from justice to oppression, from mercy to harshness, from welfare to misery, and from wisdom to folly, has nothing to do with the Islamic Law"(2).

1. SOURCES OF ISLAMIC LEGISLATION

There is no deference of opinion among the Muslim community and the majority of the Muslim scholars that the sources of the Islamic legislation are composed of the following four primary foundations (3):

1. The Holy Qur'an,

2. The traditions of Prophet Muhammad (peace be upon him) (i.e. *Sunnah*),
3. The consensus of scholars (i.e. *Al-Ijma 'a*) and,
4. The reasoning or analogy (i.e. *Al-Qiyaas*).

1.1 First Source: The Holy Qur'an

Holy Qur'an is the principal source of which all other sources of Islamic Laws, legislation, principles, and ordinances were derived and ramified.

The Holy Qur'an is defined as a revelation from Allah Almighty which the trustworthy angel Gabriel has brought down upon the heart of Prophet Muhammad (pbuh) in plain and clear Arabic language. It starts with *Surat/ chapter Al-Fatiha* (i.e. the opening) and end with *Surat/ chapter An-Naas* (i.e. Mankind). Its words and meanings are from Allah Almighty (4). Allah Almighty has said in this respect in the Holy Qur'an:

"Whoever is an enemy to Gabriel, for indeed he has brought it (this Qur'an) down to your heart by Allah's Permission, confirming what came before it, and guidance and glad tidings for the believers". *Al-Baqarah* (The Cow), chapter2, verse 97.

1.1.1 Basis of Islamic legislation in the Holy Qur'an

The Islamic legislation in the Holy Qur'an is based upon the following fundamentals:

Removal of hardship and less burdens

Islamic Laws is distinguished by its moderation and simplification. The idea in Islam is not to make Allah's (God's) laws a burdensome fetter, but to ease a man's path in all kinds of difficult situations he may find himself in, as Allah Almighty does not wants to make things difficult for people, rather, He wishes for them ease. Many examples in this regard have been given in the Holy Qur'an and the traditions of Prophet Muhammad (pbuh). In the Holy Qur'an Allah Almighty has said:

"Allah intends for you ease, and He does not wants that to make things difficult". *Al-Baqarah* (The Cow), chapter2, verse. 185.

Similarly in the traditions of Prophet Muhammad (pbuh):

"*Ad'isah* (May Allah be pleased with her) the wife of Prophet Muhammad (pbuh), said that whenever he had to choose between two things he adopted the easier one, provided it was no sin, but if it was any sin he was the one who was the farthest from it of the people; and Allah's Messenger (pbuh) never took revenge from anyone because of his personal grievance, unless what Allah,



the Exalted and Glorious, had made inviolable had been violated". (Narrated by *Imaam Muslim*) (5).

Another example is eating the dead animal which is forbidden in Islam, but if a Muslim is forced to eat dead animal by necessity such as hanger etc. he is allowed to do so in order to save his soul, and there is no sin on him.

All these examples show the observation of moderation and simplification of the Islamic legislation and further emphasized that the religion of Islam is practically the easiest religion.

Imposing rules gradually

Before the advent of Islam, there are no specific rules to restrict the behavior of the 'Arab community, whereby bad habits such as alcohol consumption etc., were deep-seated in their hearts which will be difficult for them to change or shift from it at once. Allah Almighty for His compassion and Wisdom prohibited such bad habits not at once but gradually. One among the many examples is the prohibition of drinking alcohol which was deep-rooted in the Arab's hearts; Allah Almighty did not forbid this bad and evil habit at once, but gradually at three stages.

The first stage was that Allah Almighty Has indicated to them (Prophet's companions) in *Surat Al-Baqarah* (The Cow) (chapter2, verse 219) that the sin of alcohol is greater than its benefit in reply to their questions on alcohol. And in the second stage in *Surat An-Nisaa'* (The women) (chapter4, verse 43) He commanded them not to approach prayers (i.e. *Salaat*) when they are in a drunken state. After this revelation the majority among them quite and stop drinking alcohol, then, Allah Almighty revealed in the third year of the Prophet Muhammad (pbuh) immigration to *Al-Medinah Al-Munawwarah*, in *Surat Al-Ma'idah* (The Table spread with Food) ,chapter5, verses 90-91) the final prohibition of drinking alcohol and gambling until the day of Judgment.

1.2 Second Source: Traditions of Prophet Muhammad (pbuh) (i.e. *Sunnah*)

The Traditions or *Sunnah* of Prophet Muhammad (pbuh) is the undoubtedly secondary source from which the Islamic Laws and teachings are drawn.

It's defined as everything that is attributed to Prophet Muhammad (pbuh) including his verbal authentic statements (i.e. *Sunan al-Qawliyah*), practical judgment, that is his actions or practices (i.e. *Sunan al-Fi'iliyah*), and tacit approvals, that is his silent approval of the action or practice of a companion. (i.e. *Sunan al-Taqririyah*) (6). These are the three kinds of his traditions.

There is no difference of opinion among the Muslims that every Muslim is totally bound to comply with the provisions of Prophet Muhammad (pbuh) Traditions. This is because Allah Almighty has, in many verses of the Holy Qur'an, ordained Muslims to grasp and abide

by the teachings of Prophet (pbuh) as He said:

"He who obeys the Messenger has indeed obeyed Allah, but he who turns away, then We have not sent you as a watcher over them". *An-Nisaa'* (The Women), chapter4, verse 80.

The Prophet Tradition is regarded as valid justification if it is proven to be sound, correct and authentic. His traditions whether it is verbal authentic statements or practical judgment or tacit approvals are always consistent with the Holy Qur'an. It is either, a classification of the provisions and rules of the Holy Qur'an, or interpretation of general provision, or establishment of a rule that is derived from specific or general judgment proclaimed in the Holy Qur'an. For example the Holy Qur'an has imposed upon Muslims some obligations without giving details on its rules or on how to perform it. For example, the two most important religious institutions of Islam are the obligatory prayers (i.e. *Salaat*) and the obligatory charity (i.e. *Zakaat*) and yet when the injunctions relating to them were delivered, no details on how to perform Prayers or to give obligatory charity were supplied. It was Prophet (pbuh) himself who by his own actions gave the details of how to perform Prayers and explained the rules and regulations for how the obligatory charity payment and collection should be.

Therefore, the traditions of Prophet Muhammad (pbuh) are the key to understand the through meaning of the Holy Qur'an which gathers all kinds of knowledge. It is a mandatory legislation that must be followed by every Muslim as Allah Almighty has correlated in the Holy Qur'an in many verses the obedience to Prophet (pbuh) with Allah's Almighty obedience and so is disobedience.

1.3 Third Source: The Consensus of the Muslim Scholars (i.e. *Al-Ijma'a*)

Consensus or *Al-Ijma'a* is the third source of Islamic legislation. It is defined as the unanimous resolution of the Muslim jurists at a given time on a legal issue or question related to the Islamic Law based on the light of the general rules of the Holy Qur'an and the Traditions of Prophet Muhammad (pbuh) and their detailed implementations, after the death of Prophet Muhammad (pbuh) (7).

If there is an issue which has not been provided its rules



in the Holy Qur'an or Traditions of Prophet Muhammad (pbuh) then such an issue will be settled by consensus of the Muslim jurists. For instance, ruling on the prohibition of the certain modern conventional transactions system in Islam was reached through the consensus of the learned Muslim scholars.

As Allah Almighty commanded Muslims in the Holy

Qur'an to obey Him and His Messenger Prophet Muhammad (pbuh), He has also commanded them to obey those who are in authority among them as He said:

"O you who believe! Obey Allah and obey the Messenger and those of you (Muslims) who are in authority" *An-Nisaa'* (The Women), Chapter4, V. 59.

Those who are in authority of the worldly matters are the Muslim rulers and leaders, and those who are in authority of the religious matters, this include transactions and all other aspects of the Muslim life, are those who are expert in the Islamic knowledge. Therefore, if those who are in authority of the religious matters (i.e. ‘*Ulamaa*’) give unanimous judgment on issues, their verdict or judgment must be obeyed.

1.4 Fourth Source: Reasoning or Analogy (i.e. *Al-Qiyaas*)

Al-Qiyaas Literally, it means estimation or similarization or emulation (8).

Technically it is defined as the similarity between the branch and the origin in the cause derived from the rule of the original (9).

It is an individual judgment proclaimed by the Muslim scholars at different times and places based on the light of the general rules of the Holy Qur’an and the Traditions of Prophet Muhammad (pbuh).

This Method (the method of *Al-Qiyaas*) is the fourth source from which the Islamic Laws are drawn. It is an authoritative source of Islamic Law, particularly in matters which have not been provided by the text of the Holy Qur’an, or Tradition of Prophet Muhammad (pbuh), nor determined by the consensus of the Muslim scholars.

Islam has acknowledged reasoning as a valid source of the Islamic legislation. Therefore, if there is an issue which has not been provided for in the first and second sources of the Islamic legislation (i.e. the Holy Qur’an and *Sunnah*), or consensus, a legal reasoning can be established on such issue. But it is important to point out here that such reasoning should be derived from the general objectives of the Holy Qur’an and the *Sunnah* of Prophet Muhammad (pbuh).

The Holy Qur’an as the first source of Islamic legislation and knowledge is higher than reason, but at the same time the Holy Qur’an has recognized and admitted that the truth of the principles established by revelation may be judged by reason.

Muslim scholars have deferred that reasoning is considered as evidence to prove the Islamic Law rules. However, the majority among the Muslim Scholars have agreed that reasoning (*Al-Qiyaas*) is the fourth source of Islamic legislation, and maintain that it is an evidence

to prove the Islamic Law rules, particularly in matters which have not been provided by the text of the Holy Qur’an, or *Sunnah* of Prophet Muhammad (pbuh), nor determined by the consensus of Muslim scholars such as modern invented transactions etc. Only the minority among them do not believe in *Al-Qiyaas* as being evidence to prove the Islamic Law rules. Among these few is the famous scholar *Al-Imam Ibn Hazm Al-Zaahiri* (10).

The exercise of the reasoning has expressly recognized in the Holy Qur’an and the *Sunnah* of Prophet Muhammad (pbuh) as the means by which a decision may be arrived at when there is no text in the Holy Qur’an, or *Sunnah*. The majority of the Muslim scholars who have regarded reasoning (*Al-Qiyaas*) as the fourth source of Islamic legislation and an evidence to prove the Islamic Law rules, considered the following saying of Prophet (pbuh) the basis of *Al-Qiyaas* in Islam.

“On being appointed Governor of Yaman, Mu’aadh was asked by the Messenger of Allah (SAW) as to the rule by which he would abide. He replied, ‘By the rule of Qur’an.’ But if you do not find any direction therein,’ asked the Messenger of Allah. ‘Then I will act according to the *Sunnah* of the Messenger,’ was the reply. ‘But if you do not find any direction in the *Sunnah*,’ he was again asked. ‘Then I will exercise my judgment and act on that,’ came the reply. The Messenger of Allah raised his hand and said: ‘Praise be to Allah Who guides the messenger of His Prophet as He pleases” (11).

A strong conclusion can be deduced from the above that the Prophet (pbuh) has not only approved the exercise of reasoning, but also that his companions were aware of the principle, and that independent opinion or judgment (i.e. *Ijtihad*) by others than the Prophet was freely resorted to when necessary, even in the Messenger’s lifetime.

The way of life in this modern era is more sophisticated than before, during our predecessors’ lifetime. For this reason, in my view, this method of reasoning as a source of Islamic legislation will remain as continuous stream which provides Islamic Law with new judgments on issues which are not provided for in the Holy Qur’an or the *Sunnah* of Prophet (pbuh).

Beside the aforementioned four sources which have been agreed upon by majority of the Muslim scholars

as the foundation of Islamic legislation, there are some evidences (i.e. *'Addilah*) which they defer on its authenticity as sources of the Islamic legislation such as unrestricted interest (i.e. *Al-Maslahah Al-Mursalah*), juristic preference equity (i.e. *Al-Istihsaan*), presumption of continuity (i.e. *Al-Istishaab*), saying of Prophet Muhammad (pbuh) companion (i.e. *Qaul Al-Sahaabi*), revealed laws preceding the Islamic laws (i.e. *Shar'a man qab-lanaa*) and custom (i.e. *Al- 'Urf*). According to some Muslim jurists, these sources have the force of law, while according to others they have not (12).

2. INDEPENDENCE OF THOUGHT RECOGNIZED IN ISLAM

Islam recognized independence of thought and views for every Muslim, and required that the absolute obedience be given only to Creator Allah Almighty, and His Messenger Prophet Muhammad (pbuh).

Islam allows any individual to express his/her view and differ with anyone except the Holy Qur'an and the teachings of Prophet Muhammad (pbuh). What is needed from a Muslim is make sure that the principles laid down in the Holy Qur'an and the authentic *Sunnah* of Prophet Muhammad (pbuh) are not contravened.

Even though Allah Almighty has commanded Muslims in the Holy Qur'an as mentioned earlier that those who are in authority among them must be obeyed, but to differ with anyone of them when one has the authority of the Holy Qur'an and the authentic *Sunnah* of Prophet Muhammad (pbuh) is absolutely allowed. Because the right to differ with any highest of men below Prophet Muhammad (pbuh) is a Muslim's birthright and to take away that birthright is to stifle the very existence of Islam.

This principle of freedom of thought was firmly established in Islam, even during the Prophet Muhammad (pbuh) lifetime as pointed out earlier, his companions were aware of this principle, and that independent opinion or judgment (i.e. *Ijthaad*) by others than the Prophet himself was freely resorted to when necessary.

3. CONCLUSION

The principal objective of Islamic Law is to observe the interest of the people, and therefore, whenever there is interest, it is the Islamic Law's objective. Hence, any act that is inconsistent with justice, mercy and interest cannot be considered as Islamic Law's objective. It is for this reason that Muslim jurists unanimously held that

catering for the interest of the people and relieving them of hardships in all aspect of their life is the basic objective of the Islamic Law. Therefore, it is of importance to note that Islamic legislation has covered all aspects of human life. The impression received by Prophet Muhammad (pbuh) in revelation is neither error on his part nor deception by others, nor does he speak from his own desire. Whatever comes from him whether it is Qur'anic verses or his traditions are clearly from Almighty Allah, Who is not what the vain imagination of men conceives. Allah Almighty said in the Holy Qur'an with respect to this:

"Nor does he (i.e. Prophet Muhammad, pbuh) speak of (his own) desire. It is only a Revelation revealed. He has been taught by one mighty in power". An-Najm (The Star), chapter53, verse. 3-5.

The mission of Prophet Muhammad (pbuh) is to convey and explain to men the message that has revealed to him, particularly rules that are related to worship and all other aspect of human life as Allah Almighty said in the Holy Qur'an:

"And We have also sent down unto you the reminder (Qur'an) that you may explain clearly to men what is sent to them, and that they may give thought". An -Nahl (The Bees), chapter16, verse.44.

To sum up all what has been mentioned in this article is that in the case of any disagreement among Muslims, Holy Qur'an is the first to be referred to and if there is no Qur'anic text on the issue they disagree upon, then they look into the traditions/ *Sunnah* of Prophet Muhammad (pbuh) for the solution, and if there is no judgment on the issue from the Prophet's traditions, the third step is to refer to the consensus resolution of the Muslim scholars, and if there is no consensus on the issue, then use the method of reasoning by analogy (i.e. *Al-Qiyaas*).





Muhammad Zubair Usmani

Mufti Muhammad Zubair Usmani completed his Doctorate in Islamic Finance from Karachi University. He is also the Fazil Takhassus (specialist of Islamic Fiqh and Fatawa) from Jamia Uloom Karachi and is also a research scholar and teacher. He is also working as Shariah Advisor at Muslim Commercial Bank since July 2000.

The concept of Musharakah

By Mufti Muhammad Zubair Usmani

Musharakah means relationship established under a contract by the mutual consent of the parties for sharing of profits and losses, arising from a joint enterprise or venture.

Investments come from all partners/shareholders hereinafter referred to as partners.

Profits shall be distributed in the proportion mutually agreed in the contract.

The existence of Muta'aqideen (Partners):

Capability of Partners: Must be sane & mature and be able of entering into a contract. The contract must take place with free consent of the parties without any fraud or misrepresentation.

If one or more partners choose to become non-working or silent partners. The ratio of their profit cannot exceed the ratio which their capital investment bears so the total capital investment in Musharakah.

The basic rules and Features of Musharakah

It is not allowed to fix a lump sum amount for any of the partners, or any rate of profit tied up with his capital. A management fee however, can be paid to the partner managing the Musharakah provided the agreement for the payment of such fee is independent of the Musharakah agreement.

Losses are shared by all partners in proportion to their capital.

All assets of Musharakah are jointly owned in proportion to the capital of each partner.

All partners must contribute their capital in terms of money or species at an agreed valuation.

Share capital in a Musharakah can be contributed either in cash or in the form of commodities. In the latter case, the market value of the commodities shall determine the share of the partner in the capital.

The presence of the commodity: This means the price and commodity itself.

The rate of profit sharing should be determined: The share of each partner in the profit earned should be identified at the time of the contract. If however, the ratio is not determined before hand the contract becomes void (Fasid).

Therefore identifying the profit share is necessary.

Distribution of Profit



➤ The proportion of profit to be distributed between the partners must be agreed upon at the time of effecting the contract. If no such proportion has been determined. The contract is not valid in Shari'ah.

➤ The ratio of profit for each partner must be determined in proportion to the actual profit accrued to the business, and not in proportion to the capital invested by him. It is not allowed to fix a lump sum amount for any one of the partners, or any rate of profit tied up with his investment.

➤ If A and B enter into a partnership and it is agreed between them that A shall be given Rs. 10,000/- per month as his share in the profit, and the rest will go to B, the partnership is invalid. Similarly, if it is agreed between them that A will get 15% of his investment, the contract is not valid. The correct basis for distribution would be an agreed percentages of the actual profit accrued to the business.

OBSERVATIONS

If a lump sum amount or a certain percentage of the investment has been agreed for any one of the partners, it must be expressly mentioned in the agreement that it will be subject to the final settlement at the end of the term, meaning

thereby that any amount so drawn by any partner shall be treated as on account payment and will be adjusted to the actual profit he may deserve at the end of the term.

But if no profit is actually earned or is less than anticipated, the amount drawn by the partner shall have to be returned.

However, if a partner has put an express condition in the agreement that he will never work for the Musharakah and will remain a sleeping partner throughout the term of Musharakha, then his share of profit cannot be more than the ratio of his investment.

Sharing of loss

In the case of a loss, all the Muslim jurists are unanimous on the point that each partner shall suffer the loss exactly according to the ratio of investment. Therefore, if a partner have invested 40% of the capital, he must suffer 40% of the loss, not more, not less, and any condition to the contrary shall render the contract invalid. There is a complete consensus of jurists on this principle.

Profit is based on the agreement of the parties, but loss is always subject to the ratio of investment.

Termination of Musharakah

Musharakah is deemed to be terminated in any one of the following events:

1. Every partner has a right to terminate the *Musharakah* at any time after giving his partner a notice to this effect, whereby the *Musharakah* will come to an end.

In this case, if the assets of the *musharakah* are in cash form, all of them will be distributed pro rata between the partners. But if the assets are not liquidated, the partners may agree either on the liquidation of the assets, or on their distribution or partition between the partners as they are.

IN CASE OF A DISPUTE

If there is a dispute between the partners in this matter i.e. one partner seeks liquidation while the other wants partition or distribution of the non-liquid assets themselves, the latter shall be preferred, because after the termination of *musharakah*, all the assets are in the joint ownership of the partners, and a co-owner has a right to seek partition or separation, and no one can compel him on liquidation. However, if the assets are such that they cannot be separated or partitioned, such as machinery, then they shall be sold and the sale-proceeds shall be distributed.

2. If any one of the partners dies during the *musharakah*, the contract of *musharakah* with him stands termi-

nated. His heirs in this case, will have the option either to draw the share of the deceased from the business, or to continue with the contract of *musharakah*.

3. If any one of the partners becomes insane or otherwise becomes incapable of effecting commercial transactions, the *musharakah* stands terminated.

Termination of *Musharakah* without closing the business

If one of the partners wants termination of the *musharakah*, while the other partner or partners like to continue with the business, this purpose can be achieved by mutual agreement. The partners who want to run the business may purchase the share of the partner who wants to terminate his partnership, because the termination of *musharakah* with one partner does not imply its termination between the other partners.

However, in this case, the price of the share of the leaving partner must be determined by mutual consent, and if there is a dispute about the valuation of the share and the partners do not arrive at an agreed price, the leaving partner may compel other partners on the liquidation or on the distribution of the assets themselves.





2ND INTERNATIONAL CONFERENCE & EXPO ON HALAL INDUSTRY

14th - 15th December, 2011

at PC Hotel, Lahore - Pakistan

LET'S EXPLORE ENDLESS OPPORTUNITIES IN HALAL INDUSTRY

Organized jointly by



(Govt. of Punjab)



Halal Research Council

Including four Attractive Field Visits



Organized jointly by



(Govt. of Punjab)



Halal Research Council

Sponsors & Supporter



Media Partners



CONFERENCE SECRETARIAT

Halal Research Council

192-Ahmed Block, New Garden Town, Lahore - Pakistan. Ph: (+92-42) 35913096-98, 38407850,

Fax: (+92-42) 35913056, E-mail: info@halalrc.org - Web: www.halalrc.org

Conference URL: www.halalrc.org/halalconference2011

Halal Research Council is a CSR initiative of AlHuda CIBE (Pvt.) Limited



Interview with Khalid Hamad

Central Bank of Bahrain Executive Director
Banking Supervision-Chairman of the Waqf Fund
By Alberto Di Gennaro

Q: Mr Hamad, what does the Waqf Fund represent in the Islamic Finance industry in Bahrain ?

A : The Waqf Fund was established in 2006. It was an initiative which came through a study for establish a fund through a joint- venture between the Central Bank of Bahrain and the Islamic banks to develop Islamic Finance with particular emphasis on training, education and research as well as other developments. Waqf Fund has a Board of Trustees composed by more than 20 members and doesn't receive regulars contributions, but one time contributions from the big names.

The Waqf Fund's capital contributions now stand at approximately US\$ 7 million, by the CBB in partnership with 15 leading Islamic institutions and three conventional banks with Islamic windows. The Fund's mission is to advance Islamic finance training, education and research through a broad range of activities.

In this panorama, we feel that training is a priority area, because there is a huge need for skilled resources for developing Shari'ah; we cannot create Shari'ah Scholars, you need to build up the know-how for long years. There is always more need for Shari'ah Scholars and for skilled resources.

With the University of Bahrain, we have launched a sort of new academic program for anybody interested in Islamic Finance.

The University of Bahrain is considered the biggest and most significant resource for the commercial and financial sectors in Bahrain. The University's graduates are commonly distinguished for being highly equipped for immediate assimilation into the job market, as a large number of them have already proved their excellence. This is due to the practicality incorporated in the courses the business college offers. We will continue forth on this path, as the Waqf Fund will offer outstanding graduates an opportunity to acquire extra skills, as well as practical and academic training. This, without a doubt, will help providing human resources of an increasingly high calibre to the market. With Bahrain Institute of Banking and Finance we have signed an agreement to develop Islamic Finance through an advanced diploma on Islamic Jurisprudence.

The Waqf Fund has delivered several strategic initiatives ranging from developing the curriculum for Islamic Finance diploma program at Bahrain Institute of Banking & Finance; designing and implementing a unique "Graduate Sponsorship

Program" to address the shortage of qualified and skilled human resources; holding senior roundtable discussions on key issues; forming a research panel of leading practitioners, academics and scholars which would oversee the research activities sponsored by the Waqf Fund; developing a course on "Islamic business ethics for bankers", and other initiatives currently in progress.

The Fund will also pursue an active agenda of sponsoring original, independent research on relevant topics by inviting research proposals, extending finance and providing necessary mentorship through the research panel. Upon completion of a research project, the Fund would publish and disseminate the findings for the benefit of the Islamic Finance industry.

The Fund is also developing a general course on "Islamic business ethics for bankers". The course will provide a basic understanding of Shari'ah principles for junior staff at banks, with the aim of promoting good governance in Islamic financial institutions.

Another major initiative of the Waqf Fund is to hold roundtable discussions on key issues related to Islamic Finance with the aim of encouraging a high-level dialogue aimed at addressing developmental issues.

Nearly 50 leading practitioners, academics, scholars, regulators, and lawyers have participated in two roundtables held so far, on issues such as the future of the Islamic banking industry; shortage of qualified human resources; facilitating standardization of market practices; possibility of forming a supreme Shari'ah supervisory committee; and rights, obligations, and market practices of Islamic investment accounts holders.

The Waqf Fund, in coordination with the industry, studies the recommendations of the roundtable and tries to develop specific solutions, such as the Graduate Sponsorship Program. The establishment of the Waqf Fund is yet another demonstration of the CBB's vision for and commitment towards the Islamic Finance industry's long term success, for which knowledge, skills and experience are critical factors. The partnership with the industry will ensure that the Fund's activities are timely, relevant and appropriate for the sound development of the industry.

The Bahrain-based special Fund to support Islamic finance education and training is expanding and accelerating its activities to prepare professionals for the fast-growing Islamic financial services industry. The Board discussed the enhance-



ment of cooperation with the Bahrain Institute of Banking & Finance (BIBF), the Fund administrator. It was decided that the Fund should take a more proactive role in developing Islamic Finance training and education programmes offered by BIBF's Islamic Finance Studies Learning Centre.

Specifically, the Fund will expand its focus on the core development of a range of programmes needed to advance the Islamic Finance industry. The Fund will also seek out prestigious international organisations, which could partner with the BIBF in delivering training programmes.

The Board of Trustees is cognizant of the need for enhancing the Fund's activities to address the growing need for qualified Islamic Finance professionals.

The establishment of the Fund was a major milestone in the long term advancement of the Islamic Finance industry. It is also in keeping with CBB's holistic approach to the industry's development, which includes availability of qualified human resources.

Besides the CBB, the other founding members of the Waqf Fund are Unicorn Investment Bank, Bahrain Islamic Bank, Kuwait Finance House (Bahrain), AlBaraka Banking Group, Arcapita Bank, ABC Islamic Bank, Shamil Bank and Gulf Finance House.

This program was developed by the Waqf Fund as a result of recommendations from the 1st Senior Roundtable Discussion, and in consultations with CEOs and senior management of Islamic banks and conventional banks with Islamic windows, who are also Waqf Fund members. The industry players had unanimously pointed out the shortage of qualified human resources as one of the biggest challenges facing the industry.

The Graduate Sponsorship Program is an intensive program where Bahraini graduates will undergo an intensive period of study at BIBF, while also working as interns at the most prominent Islamic banks and conventional banks with Islamic windows which are members of the Fund.

In this regard, the first batch of 20 graduates will be commemorated under the Waqf Fund Graduate Sponsorship Program, who will be studying for a 6 months Islamic Finance Diploma at the BIBF in the evenings, and work as interns at banks during the day. Upon successful completion of the diploma and the internship, the banks will have the discretion to offer full-time employment to these interns.

The Graduates are fully sponsored by the Waqf Fund to attend the Advanced Islamic Finance Diploma at the Center for Islamic Finance, BIBF, for a period of 6 months. Simultane-



ously, the Graduates are also allocated a mentor at their internships and are expected to apply the knowledge of Islamic Finance they learn at the BIBF to their work experience, which will be duly recorded in a Log-book.

Top tier graduates in banking, finance, accounting, and economics from the University of Bahrain were selected based on a thorough assessment process, which included review of their grades, verbal, numerical reasoning and panel interviews.

This is the first such program, most likely in the world, where the best graduates from the university are trained up to scratch in Islamic Finance and also undertake internships at Islamic financial institutions. We are proud to have designed and funded this initiative and to have partnered with the BIBF, the University of Bahrain, and our member institutions to execute this important program. We hope to continue this program in successive batches and deliver a steady stream of skilled and qualified Islamic Finance professionals to the Bahrain market.

This initiative from Waqf Fund and the CBB is a contribution towards training and developing Bahraini workforce.

The Islamic Finance Industry will face severe shortage of skilled professionals with a dual knowledge of both Finance and Islamic Finance in the next decade. With the help of the Waqf Fund, we have made a significant investment to ensure that we are able to meet that challenge. To that end, the Waqf Fund and BIBF has invested substantially to upgrade the quality of teaching materials, hiring qualified Islamic Finance lecturers and partnering with prominent international institutions with the aim to deliver the best education in Islamic Finance in the world.

Earlier, the Waqf Fund had sponsored the development and documentation of training manuals on several subjects, to upgrade the quality of teaching materials, which will form

part of the curriculum of the Islamic Finance Diploma at the BIBF and the BIBF's Masters in Islamic Finance Program.

The financial sector in Bahrain is one of the pillars of the domestic economy, and is a driving force which governmental institutions continuously regulate, develop and maintain. Today, Islamic Finance plays a central role in this developing sector, of which Bahrain is internationally recognized as a regional hub. We are, therefore, proud to commence this partnership with the Waqf Fund and the BIBF. Bahrain will thereby maintain its role as a regional leader of the Islamic Finance industry, as its founders envisioned, and in accordance with the Bahrain 2030 vision of His Majesty King Hamad bin Isa Al Khalifa.

Q: What does “Waqf” mean?

A: Waqf literally means donation. The legal meaning of Waqf is the detention of a specific thing in the ownership of waqif and the devoting of its profit or products in charity of poors or other good objects.

Waqf signifies the extinction of the waqf's ownership in the thing dedicated and detention of all the thing in such a manner that its profits may revert to or be applied "for the benefit of Mankind".

There is no direct injunction of the Quran regarding Waqf, but there is a hadith which says "Ibn Umar reported, Umer-Ibn-Al- Khitab got land in Khyber, so he came to the prophet Muhammad (peace be upon him) and asked him to advice him about it. The Prophet said, if you like, make the property inalienable, and give the profit from it to charity." Waqf means the permanent dedication by a Muslim of any property for any purpose recognized by the Muslim law as religious, pious or charitable. Some people before they die put money in a Waqf for helping poor people or for any project to help the poor.

Q : Could the experience of the Waqf Fund be exported in other countries?

A: Definitely, we are focusing now domestically, but will come the time we will become international. Our stakeholders are Bahraini, the research panel is Bahraini; our aim is to serve the members and actually the members are Bahraini, but when we will have members from outside Bahrain, we will open the doors.



Rules Regarding Waqf

If a person makes something Waqf, it ceases to be his property, and neither he nor anybody else can either gift it or sell it to any person. Also, no one can inherit anything out of it. There is, however, no harm in selling it in certain circumstances, as mentioned in rules nos. 2102 and 2103.

It is not necessary to utter the formal declaration of Waqf in Arabic. If, for example, a person says: "I have waqf'd this book for the students" it will be considered valid. In fact, Waqf is established by conduct as well. Therefore, if a person spreads a mat in a mosque with an intention of Waqf, or constructs a building having an appearance of a mosque, with an intention of giving it away as a mosque, the Waqf will be established. In the cases of public Waqfs, like a mosque, a madressah, any public utility, or Waqf for general poor or Sadat, it does not require anyone to make a formal acceptance. In fact, even private Waqf, like the one created for one's own children, do not require any reciprocal acceptance.

If a person marks a property for Waqf, but regrets before actually making a Waqf, or dies, the Waqf is not considered as established.

If a person Waqfs a property, he should make it a perpetual Waqf from the day he declares the Waqf. Therefore, if he says: "This property is Waqf after my death" the Waqf will not be valid, because it would not cover the period from the time of declaration till his death. Also, if he says: "This property will remain Waqf for ten years and will not be Waqf thereafter" or says: "It will be Waqf for ten years and thereafter it will not be Waqf for five years, and will become Waqf again after the expiry of that period", such a Waqf will not be valid.

A private Waqf will be valid when the property which has been waqf'd is given away, at the disposal of beneficiaries of the first category, or their representative or guardian. And, if a person Waqfs something upon his minor children, and looks after it on their behalf with the intention that it will become their property, the Waqf is in order.

In the case of public Waqf like madressahs, mosques etc. it is not necessary that it be possessed by any gesture. The Waqf is established immediately upon its declaration as such.

It is necessary that the person who makes a Waqf should be Baligh and sane, and should be doing so of his free will and niyyat. Also, he should have the right, according to Shariah, of disposal and discretion over his property. Based on this, feeble-minded person who squanders his wealth and is therefore debarred, cannot make a valid Waqf.

If some property is made Waqf for an unborn child, it is a matter of Ishkal for that Waqf to be valid, and it is necessary to observe precaution in this case. But, if Waqf is created for some persons who are present at that time, and also for the persons who will be born later, even if they may not be in the womb of their mothers when the Waqf was made, it will be in order. For example, if a person Waqfs a property for his children and after them for his grandchildren, and for every succeeding generation to benefit from it, the Waqf is in order.

If a person creates a Waqf for himself, for example, if he Waqfs a shop for himself so that its income may be spent for the construction of his tomb after his death, the Waqf is not in order. But, if, he creates a Waqf for the poor and later on, he himself becomes poor, he can benefit from the accruals of that Waqf.

If a person appoints a Mutawalli (trustee) of the property waqf'd by him, the trustee should act according to his instructions, but if he does not appoint a trustee and say, he has waqf'd the property for a particular group, like, for his children, the discretion rests with them, and if they are not baligh, the discretion rests with their guardian. And the permission of the Mujtahid is not necessary for appropriating any benefit from the Waqf. But for any such steps taken to safeguard the interest of the Waqf, or the interest of future generations, like repairing or hiring it for the benefit of the future generation, permission from the Mujtahid is necessary.

If a person Waqfs a property, for example, for the poor, or for the Sayyids, or he Waqfs it for charitable purposes, and does not appoint the trustee for the Waqf, the discretion with regard to that Waqf rests with the Mujtahid.

If a person Waqfs a property for a particular group, like, his descendants, so that every generation should benefit from it successively, and to achieve that purpose, the trustee of the Waqf leases it out, and then dies, the lease will not become void. But, if the Waqf has no trustee, and one generation for whom the property has been waqf'd, leases it out and they die during the currency of the lease, and the next generation does not endorse the lease, the lease becomes void; and if the lessee has given rent for the entire period, he is entitled to receive the refund of rent which covers a period from the time of their death till the end of the period of lease.

If the Waqf'd property is ruined, its position as Waqf is not affected, except when the Waqf is of a special nature, and that special feature ceases to exist. For example, if a person endows a garden and the garden is ruined, the Waqf becomes void and the garden reverts to the heirs of the person.

If one part of a property has been waqfed and the other part is not, and the property is undivided, the Mujtahid, or the trustee of the Waqf, or the beneficiaries can divide the property and separate the Waqf part in consultation with the experts.

If the trustee of Waqf acts dishonestly, and does not use its income for the special purposes, the Mujtahid should assign an honest person to act with the dishonest trustee in order



to restrain him from acting dishonestly. And if this is not possible, the Mujtahid can replace him with an honest trustee.

A carpet which has been waqfed in Husayniya (Imambargah) cannot be used in mosque for offering prayers, even if the mosque may be near the Husayniyah.

If a property is waqfed for the maintenance of a mosque, and that mosque does not stand in need of repairs, and it is also not expected that it will need repairs for quite some time, and if it is not possible to collect and deposit the accrual till such time when it could be used for the repairs, then, as an obligatory precaution, the income should be used for the purposes which has nearest conformity with the intention of the one who waqfed it, like spending it in other needs of the same mosque, or for the repairs of any other mosque.

If a person waqfs some property for the repairs of a mosque, and the Imam of the congregation, and the Mu'azzin, and if the quantity for each has been specified by the donor, it should be spent in the same manner. But if, it is not specified, the mosque should be repaired first, and if there is any balance, it should be distributed between the Imam of the congregation and Mu'azzin, by the trustee, as he deems fit and proper. But it is better that these two beneficiaries reach a compromise between them in respect of the distribution.





Aly Khorshid

Trustee member of Academy (UK), member of the institute of management consultancy (UK), and visiting lecturer in El-Azhar University "Egypt" and 'SOAS' University of London on Islamic finance. Dr Khorshid has been involved with financial institutions for over 2 decades with comprehensive skills and knowledge in Islamic finance; He is recognised expert on Shariah compliant finance, within the Islamic law, Islamic moamlat, and Islamic contracts.

The Global Financial Crisis

Islamic system may have some answers

By Dr Aly Khorshid

The current financial crisis has highlighted the critical importance of ensuring that a firm's senior managers have a transparent and robust oversight of capital, liquidity and risk management. This article outlines the principles that all institutions should be upholding right now.

Whether we consider recent events from the vantage point of the sub-prime mortgage industry's losses, the proliferation of sophisticated financial products, or the collapse in confidence in investment and commercial banks taking place at the moment, the scale of the crisis is substantial. We all know about the sub-prime crisis and the world as we know it is changing in its aftermath. The entire global economic system is interconnected - what affects one nation touches others? If the troubled country is the US, it reaches everywhere and if the crisis is great enough, the disease may be fatal and human wreckage catastrophic. This is precisely the current dilemma that world leaders and financial experts are currently scrambling to figure out. They are desperate to contain, and not sure what, if anything, can work. The lingering question is: how did this happen and why?

What is the underlying problem?

- Financial institutions are holding a large volume of securities of falling and doubtful value, and which imply large losses for them.
- There are further losses from having insured asset values through credit default swaps and other derivative instruments
- Trading is not-so-transparent over-the-counter markets
- There are also massive speculation

Even if a bank knows that its own balance sheet is intact, it cannot be sure that its counterparty is in the clear (or in some way exposed to a third party with problems). In this hot environment of distrust and capital shortage, standard macroeconomic policy instruments are blunted and a strategy that relies mainly on liquidity provision by central banks while essential will not suffice.

Where did it start?

The financial crisis that has taken the world by storm despite efforts by the US government to keep dishing out rescue plans and joint actions with other central banks to inject massive sums of money into the markets. No one seems to be able to tell when the crisis will actually retreat, but one thing is sure: it has displayed the trend of further propagation, as evidenced by the spread of its fallout to financial institutions in Europe calling for similar rescue packages. The root cause, to some extent, reflects the laxity with which the US was regulating the disbursement of sub-prime mortgage loans, as well as the derivatives that evolved from them.

The financial institutions of many countries in particular developed and emerging economies, were lured in by such derivatives, which explain the wide reach of the latest crisis. As liquidity began to disappear in the asset-backed securities markets, counterparties became increasingly risk averse, making funding extremely difficult to obtain and creating uncertainties about valuation and creditworthiness that persist to this day.

The collapses of Lehman and many other financial institutions in the last few weeks have put a great deal of strain on the system. And when you have a system that's already under stress, that strain is hard to take.

With financial markets worldwide facing growing turmoil, internationally coherent and decisive policy measures are required to restore confidence in the global financial system. In a report published earlier this month, the IMF says that the losses in the US sub-prime assets and securities will ultimately total US\$1.45 trillion (€1.07 trillion; £828bn), more than 50% above its April 2008 estimate of US\$945bn. The IMF has called for 'a comprehensive set of measures that could arrest the currently destructive process. Failure to do so could usher in a period in which the ongoing deleveraging process becomes increasingly disorderly and costly for the real economy'.

What more must be done?

First, as some governments have concluded, the fragility of public confidence has now reached a point that some explicit public guarantee of financial system liabilities is unavoidable. This means not only retail bank deposits but probably also inter-bank and money market deposits, so that activity may restart in these key markets. Of course, such a step would need to be temporary, and include safeguards against the risk-taking that comes with such guarantees, such as height-

ened supervision and limits on deposit rates offered.

Second, the state needs to take out troubled assets and force the recognition of losses. Asset purchases must be done transparently at fair market value. The reasons are not moralistic, though there is such an imperative, but pragmatic. If prices are inflated, then banks will inevitably have to make good the losses that fall on the taxpayer – in the US case, they would have to issue shares to the government, thus diluting other shareholders. But losses deferred to the future prevent new private capital from flowing into banks. If such capital is to be attracted, it is better to pay a lower price now, recognise losses, and give banks an upside if the implied loss turns out to be smaller.

Third, private money is scarce in today's environment, and loss recognition alone may not be sufficient to induce fresh injection of private capital. One strategy that has worked in past crises is to match new private capital subscriptions with state capital, which imposes a market test for the use of public funds.

Fourth, a high degree of international co-operation has become urgent. Unfortunately, recent measures have been taken with national interests in mind, and not enough has been done to prevent unintended "beggar-thy-neighbours" consequences that only exacerbate problems for others. If one country credibly offers a blanket guarantee (say, Ireland), investors may move out of countries that do not (say, the UK). If asset purchase schemes are very different, institutions will go to the most generous buyer. Financial institutions now span many countries and credible rescue plans must be consistent across many jurisdictions. More fundamentally, and looking beyond the immediate crisis, it is clear that the international community needs to work to close the many loopholes in the global regulatory architecture that allowed financial institutions to minimise capital even as they concentrated risk.

Fifth, it is now becoming clear that emerging market countries are likely to be hit hard by financial turmoil, despite stronger fundamentals and policy frameworks. Lest a sudden stop of capital bring their progress to a sudden halt or, worse, bring down their financial systems, some form of large and rapid financing should be kept ready. There should be no doubt that the Fund is prepared to deploy its emergency procedures and flexibility in rapidly approving high access financial programmes, based on streamlined conditionality that focuses on crisis response priorities.

As bleak as the situation now looks, I am convinced that

there is a way out of our shared predicament. The trick is to get policymakers around the world to pull in the same direction.

Public assistance must protect the taxpayer

Government intervention in business usually has unintended consequences. The results of regulation are often disappointing but the scope and scale of regulation nevertheless expand. Regulation works best when it is narrowly focused on defined objectives. We now regulate airline safety, not the airline business, since prudential supervision of the industry created elaborate panoply of controls that came to serve only the interests of established operators, and often not even them.

When governments intervene in the banking crisis, their objectives should be equally narrowly focused and on what matters to the public, not what matters to the banks. We have no reason to care whether the inter-bank market is functioning well, nor should it be a policy objective to revive the issue of mortgage-backed securities. The inter-bank market was many times larger than needed to secure its eco-

nomie function, and the residential mortgage-backed securities market should probably never have come into existence: banks will be sounder and their lending decisions wiser if the loans they underwrite are on their own balance sheets.

However it feels on Wall Street and Canary Wharf, this is not the worst economic crisis since the Great Depression. Today's problems are not only created by financial markets but largely confined to them. Compared with the wreckage of Europe's physical infrastructure in the 1940s, or the threats to living standards and social order from oil shortages and accelerating inflation in the 1970s, these perturbations are minor. The greatest threat to the non-financial sector is the effect on business and consumer confidence that comes from apocalyptic headlines.

The travails of the banking system matter less to the public than to bankers, but they do matter. The payments system is an essential utility; companies and individuals must be able to receive cash and pay invoices. The most feared event is a recurrence of March 1933 with customers unable to use their chequebook and locked out of their banks. But the central banks of the world have now flooded the system with



liquidity and if your bank cannot pay your bills, it is because it is short of assets, not because it is short of cash.

The next public objective is to reassure those who are rightly uninterested in studying the impenetrable accounts of banks to make sure their savings are safe. The deposit protection measures that are in place – implicit or explicit – are more or less enough to do this. Despite panicky headlines, the volume of retail deposits that have been withdrawn from big banks are a small percentage of the total.

The largest problem for the real economy, beyond the crisis of confidence, is the difficulty, though not impossibility, that good borrowers find in obtaining credit. This is not because banks do not have sufficient cash. It is partly because they are short of capital. But even better capitalised banks are reluctant lenders. The main cause of the credit shortage is an overdue fit of prudence.

Another lesson from experience of government intervention is that temporary public assistance to get companies over a bad patch is rarely either temporary or effective. When government funding comes in, other funders move out. Things are almost always worse than management admits, or perhaps knows. When the share price or the credit default swap rate has told a different story from the one senior executive tells, the market has generally been a more reliable predictor than the trading statement.

Even large-scale recapitalization of banks will not ease the pressure on lending much, but it will do so a bit and is certainly the measure most likely to have an effect. All other measures take us down a road whose destination is not clear but certainly distant. Since there are fine on going retail and corporate businesses in the banking sector, the idea of separating the good banks from the bad banks makes sense. The scale of necessary recapitalisation may imply a public contribution.

Where does We Stand Now?

The current upheaval in the global financial markets has caused more mayhem in a month than the world has seen in its entire economic history. The financial market turmoil has not yet come to an end. In fact, over the past few weeks, it has intensified yet again. Larger financial institutions have failed or had to be taken over by others, while a number of markets have exhibited increased volatility and reduced liquidity. In particular, significant tensions persist in global money markets, where market liquidity is strained and term interest rates are elevated. Meanwhile, volatility has in-

creased in other global financial markets, particularly for equities and commodities.

Central banks have provided liquidity to help to stabilize conditions. In addition, public authorities have announced a number of measures and initiatives to address problems within stressed markets and troubled individual institutions. Nevertheless, international money markets remain under stress. Too much volatility is, to a large extent, a reflection of the urgent need to control investors' 'animal spirits' through the appropriate market and institutional framework.

Strengthening supervision, regulation, risk management, accounting and transparency frameworks are of great importance. Several governments have taken decisive action to address credit concerns and central banks have been coordinating action to address liquidity pressures in funding markets. It is extremely important for central banks to strengthen enhanced information sharing and collective monitoring of market developments. Central banks should take steps to strengthen their capacity to counter problems in the international circulation of liquidity.

The US government has stepped up to bailout financial institutions; bailouts are needed in the short run must be targeted at low-income victims of the sub-prime deals. In the longer term, the solution will require leaders to revamp the financial framework and limit risks, including: better financial information; simplified legal contracts and regulations; expanded markets for managing risks; home equity insurance policies; income-linked home loans; and new measures to protect consumers against hidden inflationary effects.

Renewed Focus on Regulation

It is important to note that market events over the last couple of months drive home the critical importance of ensuring that a firm's senior managers engage themselves with regulatory objectives, adjusting approaches to delivery as circumstances change, rather than just focusing mechanically on compliance with prescriptive rules.

More principles-based, outcome-focused regulation is an essential tool both for informing senior management about the objectives of the regulators and for making them accountable for delivery. It is important for boards to recognise that having compensation structures where traders receive immediate reward and do not bear the consequences of losses is a risk to shareholders. The compensation structure should ensure that both employees and shareholders share the risk in good times and bad. Firms should continue to ex-

pect increased regulatory attention on their funding and liquidity arrangements and the adequacy of their stress testing. Firms should ensure they can deal with uncertain market conditions and also maintain sufficient focus on other important business, such as the usual controls and regulatory priorities.

Over the coming year, one can expect the regulators to challenge senior management and boards more intensively including a focus on issues, such as:

- How are they ensuring continued compliance with regulatory principles, especially as market conditions change?
- The judgments they make on business decisions.
- Whether they review the consequences of their decisions.
- When developing and selecting business options, whether they give robust consideration to the risks and impact of those risks if they were to come into effect.
- As a result, financial institutions must focus on the following principles:
- Strengthened prudential oversight of capital, liquidity and risk management.
- Enhancing transparency and valuation.
- Changes in the role and uses of credit ratings.
- Strengthening the authorities' responsiveness to risks.
- Robust arrangements for dealing with stress in the financial system.
- Consider the potential for new risks going forward.
- Increase liquidity buffers.
- Co-effective firm-wide risk identification and analysis.
- Consistent application of independent and rigorous valuation practices across the firm.
- Timing and quality of information flows up to senior management.
- Breadth and depth of internal communication across the firm.
- Informative and responsive risk measurement and management reporting and practices.
- The balance between risk appetite and risk controls.

- Increase oversight in setting the risk appetite of banks.
- Take an enterprise-wide view of risk.
- Set up governance and control mechanisms and frameworks to ensure that any excesses or transgressions are flagged and reported.

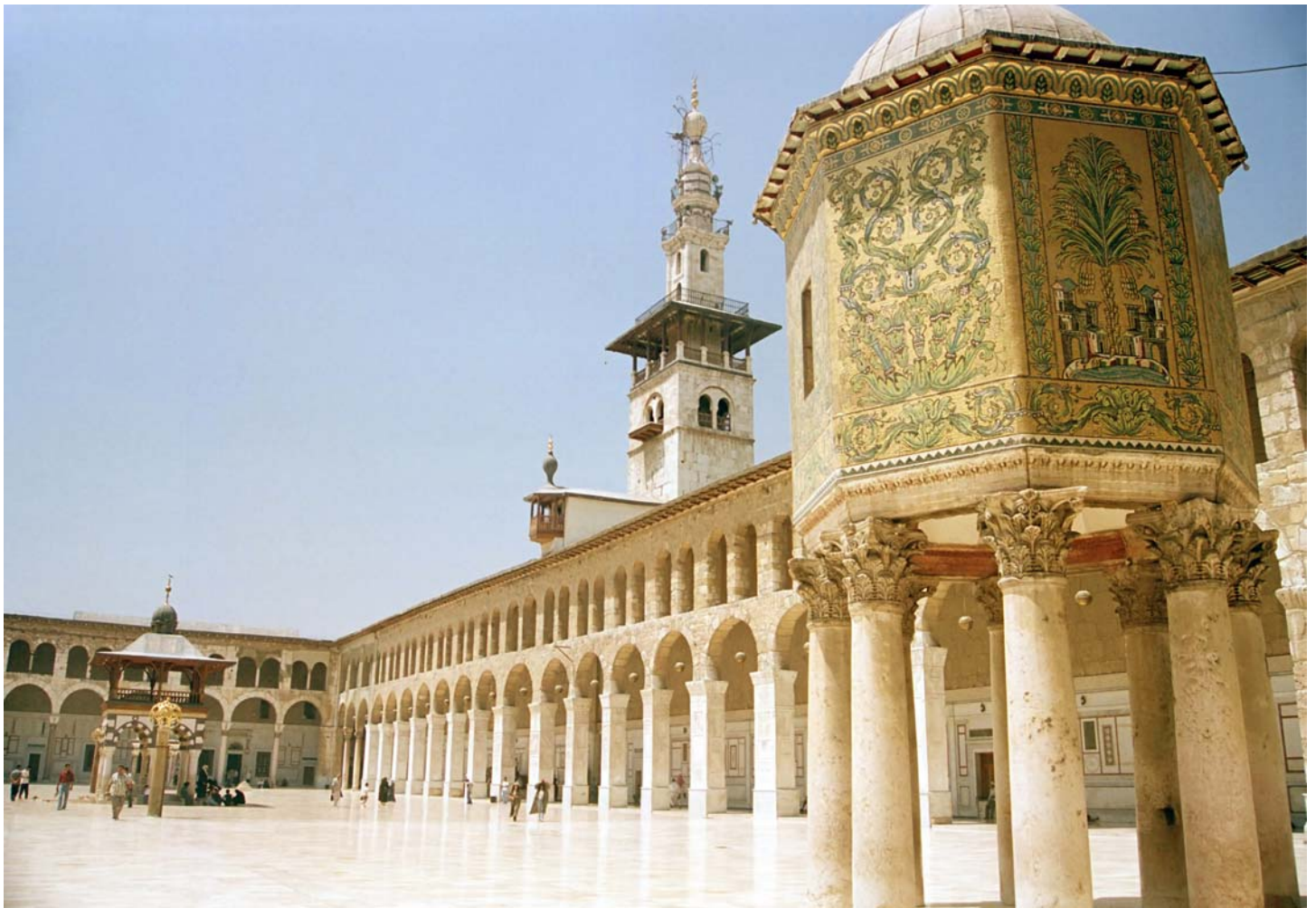
- Regulators expected to take counter-cyclical measures to dampen the credit curve, such as curbing rampant build up of credit during economic boom.
- Pro-active role of senior management in understanding emerging risk:
 - Role of communication and information flow on risk indicators is critical.
 - Risk measures that reflect the dynamic nature of risks.
 - Qualitative risk indicators that reflect key aspects of risk management practices that cannot be captured by risk measures.
- Increased role of independent directors in risk oversight and governance.

The regulators' focus will continue to be ensuring that all firms maintain adequate financial resources, robust funding and contingency plans. The last nine months have highlighted how crucial it is for firms to look closely at the vulnerabilities inherent in their business models and test for extreme events. For instance, recent events have confirmed the importance of firms maintaining adequate liquidity; institutions would be expected to take a comprehensive view of all possible demands on liquidity that could arise from various sources, on balance sheet or off, and develop plans to meet those demands, even in times of stress.

The primary focus, as per the regulators' view, with regard to liquidity management should be on scenario planning and stress testing. The other aspect is market abuse, which remains a key risk to efficient, orderly and fair markets. Regulators are stepping up their efforts to both help prevent market abuse and to detect and act where abuse has taken place, by strengthening the capacity of their market monitoring department.

What can we learn from the Islamic system?

Several factors have contributed to the growth of Islamic



banking, but this phenomenal growth is not without concerns. Islamic banking fundamentally is based on few basic contracts, which can be used to create products as desired. The risk profiles of these products reflect the risk profiles of these basic contracts, and are dynamic and complex.

Islamic banking is fundamentally different from conventional banking since Islamic banking does not have interest rates as a variable in the risk equation, it is less risky, since the risks are more dynamic in Islamic banking and they are also generally higher. Islamic system may have the answer to the Risk management in Banks

Important features of Risks in Islamic banking

Islamic banking rests on participation and thus is based on sharing profit and loss as partners, so the funding and return on a project is not only on the amount and duration of the borrowing but also on the purpose and performance. The stress is on equity financing rather than debt financing. This changes the canvas of the risks. In conventional finance the canvas of the risk is narrower and carries only a financial dimension. In the case of Islamic finance, the canvas of risk is bigger and covers many extra elements due to participation,

purpose, and other restrictions attached to capability of payment.

The most common risks, Credit Risk, Market Risk, Operational Risk and Liquidity Risk, All these risks are basic principals in Islamic banking also. Credit Risk is a risk related to lending portfolio, which does not apply to Islamic banking in the same way as in conventional banking because Islamic banks do not borrow or lend. However, there are different reasons for Credit Risk in Islamic banking such having large amount of liquid for long time.

Market Risk which in conventional banking based on four factors – interest rates, indices, derivatives and commodities – is based on only three in Islamic banking as it excludes interest rates. The Operational Risk is present in both, since it relates to systems, processes, and people. In Islamic banking the additional dimension is Shariah Risk. Liquidity Risk exists in Islamic banking in the same way as in conventional banking; however the reasons for the Liquidity Risk are different.

Issues Related to Risk Management in Islamic banking

The risks behave differently in Islamic banking as compared to conventional banking. A few points, which should be

noted in relation to risks in Islamic banking, are:

- Credit Risk is apparently higher in Islamic banking due to the non-availability of legal recourse for defaults, thus increasing the chances of defaults.
- Also, Credit Risk is higher in Islamic banking due to limited access to credit derivatives
- Market Risk is through commodities, indices and foreign exchange.
- Operational Risk has another dimension of Shariah Risk, which can be treated differently to Operational Risk.
- Liquidity Risk is perceivably higher due to non-availability of money markets, limited recourse to overnight borrowing and higher sensitivity of market and clients
- Moreover, the additional factors such as deficient legal framework, standards, procedures, qualified manpower and qualified government support increases the risk exposures.

Thus risks in Islamic banking are far more complex than in conventional banking and need better understanding and analysis. Because they are more dynamic and are intermingled, they need special treatment. In order to understand the risks in Islamic banking, it is important to understand the structure of contracts in Islamic banking. An analysis on how contracts are structured and how risks exist in Islamic banking contracts is presented in the next section.

Conclusion

For months, economists have debated whether the US is headed towards a recession. Today, there is no doubt. President Bush can tout his US\$150bn economic stimulus package and the Federal Reserve can continue to cut short-term interest rates in an effort to encourage consumer spending, but these moves are unlikely to stop the economy's slide. The severe liquidity and credit crunch that stemmed from the sub-prime mortgage bust is now spreading to broader credit markets; US\$100 barrels of oil are squeezing consumers and unemployment continues to climb. And with the housing market melting down, empty-pocketed Americans can no longer use their homes as ATMs to fund their shopping sprees. It is time to face the truth - the US economy is no longer merely battling a touch of the flu; it's now in the early stages of a painful and persistent bout of pneumonia.

Countries are watching anxiously and hoping that they don't experience the same symptoms. In recent years, the global

economy has been unbalanced, with Americans spending more than they earn and the country running massive external deficits. When the sub-prime mortgage crisis first hit headlines last year, onlookers hoped that the rest of the world had enough growth momentum and domestic demand to protect itself from the US slowdown. But making up for the slowing US demand will be difficult, if not impossible.

It is important to note that free, flat and liquid markets hold the promise that has been discussed for years: optimal capital allocation, proper risk distribution, leveling of the playing field between large and small investors, and cheap and efficient capital formation. The issue is that several factors need to hold in order for this promise to be realised. Markets need to be free, flat and liquid, and the current crisis shows us that none of these things are really true. Hopefully, regulators and rule-makers everywhere will rise to the challenge.

Islamic banking is fundamentally different from conventional banking since Islamic banking does not have interest rates as a variable in the risk equation, it is less risky, since the risks are more dynamic in Islamic banking and they are also generally higher. Islamic system may have the answer to the Risk management in Banks. The most common risks in banks are the Credit Risk, Market Risk, Operational Risk and Liquidity Risk. All these risks are basic principals in Islamic banking also. Credit Risk is a risk related to lending portfolio, which does not apply to Islamic banking in the same way as in conventional banking because Islamic banks do not borrow or lend.

A basic question, therefore, arises: is the financial system broken, corrupt and in need of reform, or is the system sound, yet subject to external pressures, notably heavy monetary stimulation, with which it could not easily cope? On that diagnosis rests the future of our highly liberalized financial markets







The role of Shari'ah Scholars in IFIs today and in the Future

By Dr Muhammad Ayub

Shariah is the *grundnorm* and the *raison d'être* of Islamic finance and compliance of Islamic banking and finance practices to the principles of Shariah is the first basic requirement for Islamic financial institution (IFIs). Islamic finance offers an alternative to resolve the problems created by the economic and financial systems in vogue. It provides new identity based on the *maqasid al shari'ah* by encouraging risk based capital, but prohibiting speculative risk taking embedded *ab initio* in the financial contracts. Hence, the balanced return rate structure based on the real assets backed economic activities, and supply of money commensurate with prospects of growth in an economy, provide a sound basis for sustainable development and evenly shared incomes for socio-economic benefit of the mankind as a whole. The divine laws are designed to facilitate improvement and perfection of mankind and attainment of the ultimate happiness of the people.



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.

Islamic banking and finance that has developed by leaps and bounds over the last decade is currently facing several challenges, the most serious of which is lack of credibility and getting general acceptance from the jurists in general as well as the general public. It is involved in debt proliferation using almost all tools of conventional finance and has got an industry status providing derivative products and hedging instruments of speculation that were initially considered among the prohibited areas for Islamic finance. *W'ad*, a moral obligation by nature, has been transformed to form the basis of full-fledged and complicated contracts like 'Islamic' swaps and options. Even the sukuk that basically are governed by *Shirkah* laws, as far as funds mobilisation is concerned, have evolved into debt based obligations and deemed at par with fixed income conventional bonds. There is a growing feeling that the 'Islamic finance industry' is more about the form than substance and has not lived up to its original ideals. The clients in many cases have to bear additional transaction cost due to complicated legal documentation and process flow. Hence, it could also accentuate inequality by diverting wealth to the supplier of finance irrespective of actual productivity of the supplied finance.

Islamic finance is based on sound principles, important of which are: i) Owner of an asset has both risk and reward of that asset; ii) entitlement to return from an asset is intrinsically linked to the liability of loss of that asset (it has far-reaching implications in respect of transactions of loans, sales, lease and Musharakah / Mudaraba); iii) subject of any exchange has to be valid assets – not notional; iv) one cannot sell what one does not own and possess; and v) requisite completion of the exchange process as

per contract – mere netting-off (*Muqassah*) and every one transferring the business risk to others are not acceptable as per Shariah rules. Netting-off in Forex exchange where currencies / subject matter on both sides do not exist is void (Fathul Bari, Daral M'arafah, Beirut, 1379 H; Vol.4, P. 380-382)

Islamic finance is much more than the concept of 'ethical finance' as being currently highlighted that takes into account some or all of the attributes like community welfare, corporate governance, customer relations, employee / employer relations, environment, etc. A crucial factor missing in the conventional concept is the element of distributive justice and equity which is the binding feature of Islamic finance. For smooth functioning of the global financial system and welfare of the mankind, there is a case to changing the basis of profit entitlement from risk-free to the risk based techniques and effectively closing all channels of excessive uncertainty (*gharar*) based and other unjust earnings.

To bring Islamic finance back to its original contours, approach and philosophy, all stakeholders particularly the Islamic bankers and the Shariah scholars need to reshape their role and policies with view to align finance products and services with the cardinal principles of Islam. Bankers need deep study and orientation which is responsibility of the respective banks management. Targets assigned to bankers with regards to mobilising savings and financing must focus on the Shariah compliance rather than on mere business promotion or profit maximisation for the share holders. Depositors in Islamic banking should rank *pari passu* with the shareholders. Bankers need to change the approach that all conventional products should have Shariah based alternatives. It should be clear that fictitious deals based on notional and invalid assets lead only to unethical practices and wide spread injustice in the economies. Regulators have to develop pricing and sharing benchmarks based on real performance of the economy and profitability in various sectors with help of the representatives of the commodities and the financial markets players. They also need to be vigilant to ensure the real difference between the two systems that may ultimately lead to socio-economic benefits – a real challenge that they should try to meet.

The Shariah advisory and compliance process needs complete review. Shariah scholars are opinion makers in any society. Presently, majority of them is of the view that 'Islamic banking' in vogue is not really Islamic – it is merely a change of name, and same is the view of the general public.

'*Ulama* and religious leaders have to be taken into confidence so that they might support the Islamic finance movement by dint of which Divine system is being studied by followers of all religions throughout the world. For this, there has to be an effective dialogue between the the Shariah scholars of every prominent Islamic sect in a society and the policy makers in the areas of Islamic economics, banking and finance. The basis of such dialogue should be the Shariah Standards issued by AAOIFI whose Shariah supervisory committee has representation from all notable Islamic juristic schools and that has done a great service by providing the Standards for almost all transactions as per Islamic law of contracts.

Due consideration has to be given to the substance and consequences of the contracts used for business. Shari'ah scholars associated with the IFIs may consider sanctioning only those products whose economic substance could be helpful in achieving the objectives of shari'ah. *"One can hope that jurists will eventually realize that the purpose of Islamic jurisprudence should not be the imposition of such inefficiency inducing transaction costs"*, says the eminent scholar Mahmoud El-Gamal, while lamenting the 'Shariah-arbitrage rent-seeking behaviour' in Islamic finance industry. Shariah scholars need education, training and orientation about contemporary business and finance for which the central banks and the IFIs operating in an area may need to facilitate. Madaaris (religious schools) curriculums also need revision to focus on chapters on *Muamlat* in *Hadith* and *Fiqh* books.

A change in the Shariah compliance framework may also help in this regard: Shariah scholars may not be the employee of the banks or Islamic finance service providers; central banks / regulators in each jurisdiction may host a pool of Shariah scholars, who may be deputed on rotation basis by the central Shariah committees in the central banks to approve the products and oversee the Shariah compliance process in various IFIs. Their honorarium may be paid from contributions by the IFIs keeping in view their outreach and level of business in the market. The regulators must also need to ensure that the legal ruses (*Hiyal*) are not considered ends in themselves, but means to legal ends, which are the benefits intended by the Shariah – *maqasid al shari'ah*.





Salman Ahmed Shaikh

Director and researcher in Islamic Economics Projects

He is author of "Proposal for a New Economic Framework Based on Islamic Principles". He has also written 20 papers and more than four dozen articles on Islamic Economics.

Islamic Credit Cards: A Necessity or Luxury

By Dr Salman Ahmed Shaikh

Islamic never encourages one to become indebted unless it is necessary. Following Ahadith show the viewpoint of Islam on debt creation, especially while it is beyond one's capacity to repay and to what extent it should be avoided and used to meet only one's necessary requirements.

Prophet Muhammad (pbuh) said:

O Allah! I seek refuge with Thee from sin and debt." [Sahih Muslim]

The Prophet Muhammad (pbuh) said:

"After the grave sins which Allah has prohibited, the greatest sin is that a man dies while he has debt due from him and does not leave anything to pay it off, and meets Him with it."

Following supplication is related to the Prophet Muhammad (pbuh) for salvage from debt:

"O Allah! I seek refuge in You from all worry and grief. I seek refuge in You from incapacity and slackness. I seek refuge in You from cowardice and niggardliness, and I seek refuge in You from being overcome by debt and being subjected to men."

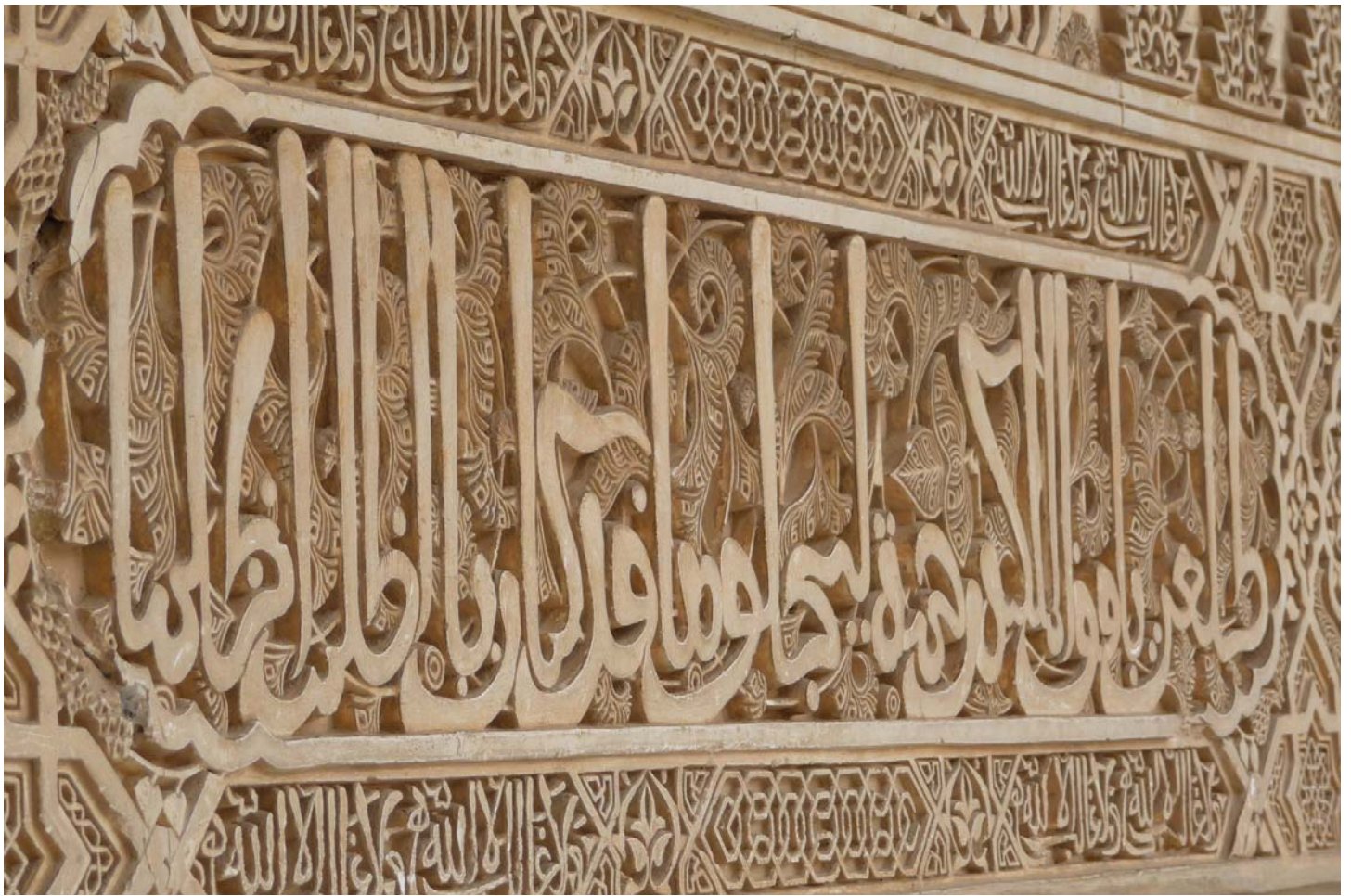
But, the currently practiced Islamic finance contracts used widely are based on debt based financing than equity financing.

Some financial institutions in Islamic countries have developed Islamic Credit Cards for consumer financing. Problem arises due to the fact that credit cards could be used for impulsive buying or even fulfillment of one's need which does not involve a tangible asset. Even when a transaction may involve a tangible asset, it is hard to fulfill all the necessary requirements of Murabaha in quick time.

One way to deal with it is to use no mode of financing and simply offer it as a 'convenience' product and charge a transaction fee.

But, charges must be realistic and must not be too high. It also must be noted that a credit is still provided to the customer (else it will be same as a debit card), but an additional amount is not charged over the credit amount. But, then the charges so taken from the customer must be transaction specific and not time specific. In current practice, they are time specific. Monthly charges have to be paid irrespective of whether one uses the card or not. This is not recommendable.

Furthermore, the product that provides the same convenience 'debit card' is free of any cost nowadays. If credit card is marketed as a 'convenience product' and a



transaction fee is charged, it would imply for all practical purposes that it is in lieu of credit facility and not in lieu of convenience provided as such convenience is provided by the same banks free of any costs in 'debit cards'.

As a matter of fact, banks want to make profit out of the business of providing finance, even for consumption purposes. This is not recommendable looking at the various principles and philosophy of Islamic faith. Islamic Economics and its basis, principles and objectives will be increasingly compromised if such products are launched.

Courtesy: Halal Tamweel





Beata Paxford

She is a senior lawyer for a renowned Polish law firm. She is a PhD candidate in the Chair of Banking Law at Warsaw University. Her PhD dissertation is devoted to Islamic banking.

Shari'ah Boards

By Beata Paxford

Islamic finance & banking has successfully settled in Europe. That is a fact. However, if you happen to talk with someone about the idea, you will usually hear the answer: "Yes, interest free banking". And what has to be emphasized is that Islamic banking & finance is not only related to the prohibition of *riba*, but it has a whole spectrum of issues worth knowing. One of such is the question of Sharia boards - the advisory body of all Islamic financial institutions.

The presence of the Sharia board is a *sine qua non* condition of the existence of an Islamic financial institution. A Sharia Board consists of experts or scholars trained, as its very name suggests, in Sharia. Their first role is to provide advice to the Board of Directors in matters connected with religious Islamic law. The members of the Sharia board are also responsible for compliance checks of transactions held by the institution the board advises for. The rule has it that an Islamic finance institution (Islamic banks included) has to make sure that all the transactions are compliant with Sharia and can therefore be called Islamic. Banks and other financial companies that intend to embark on the Islamic venture, are obligated to employ a Sharia board. In traditionally Islamic countries, this issue is not a problem, as there would be plenty of access to scholars. Nevertheless, in Europe, finding and keeping a reliable and credible Sharia body might cause some legal and management issues.

First of all, availability. Experts in Islamic finance point out that the European market does not boast a large number of Sharia scholars to choose from. This is why many Islamic firms literally share members of a Sharia board. The question arises as to whether one and the same expert can provide unbiased advice for competing firms. Islamic institutions, it has to be underlined here, are not charity organizations, they are destined to compete and woo clients, often using various marketing techniques. Furthermore, institutions may differ in terms of goals, targets and scope of business. Hence, economists and lawyers specialising in Islamic finance ask if such a solution provides for a healthy and trustworthy standard. Of course, it might be said that the members of the Sharia board sitting in various firms are objective and independent, but still the issue remains. Likewise, some financial institutions want the members of their bodies to sign an anti-competition agreement, requiring them not to work for a competitive institution for some period of time. For Islamic finance firms, that could turn out to be disastrous. There are only a few respected experts in Sharia and from what can be seen, there is a long way to go before new ones appear on the scene.

For a European market, an Islamic financial firm would need a Sharia board that

knows the religious law, economy and the characteristics of continental financial and banking services. For a Sharia scholar trained in another country on a different continent, a more lax European approach to Sharia may seem unacceptable. For instance, derivative based transactions that are used in Europe can be considered haram in more conservative Islamic environment. Bodies like the Islamic Finance Services Board or AAOIFI are working hard to provide a unified set of guidelines for Islamic institutions around the world, but there is still a long way to go. Luckily, recently European universities (mainly in the UK) have developed MBA courses in Islamic finance & banking aiming at educating more professionals in Sharia-oriented business. However, we have to wait a couple of years to assess whether the specialists with the MBA diploma in Islamic finance will prove efficient and well prepared for the job.

The other issue worth considering is the independence of the Sharia board. Usually, the members of the Sharia board are employed by an Islamic institution. According to European law, they have to work on the grounds of an employment contract under the supervision of an employer. In financial institutions, the Board of Directors (or the Management Board as it is sometimes called or le *directoire* in French) is the main authority of the firm. The Board decides on the strategy of the firm, the salaries, the investments and lay offs and other like-wise issues. In an Islamic financial institution, ideally and theoretically, the Sharia Board is a completely independent body that provides fatwas on Sharia compliance. Neither the Board of Directors nor the Supervisory Board can influence the fatwas issued by the Sharia board. Generally, the employment contract as such excludes independence because there exists subordination between the employee and the principal. In terms of the Sharia board, such solution would be not acceptable, as the employed members of the Sharia board could be stripped of their independence in a compliance check.

In respect of the independence of the Sharia board, there is also a question of potential legal problems related to this body. As mentioned previously, financial institutions (if they act as joint stock companies, plc, limited liability companies etc.) are required to have two bodies - that is, the managing Board of Directors and a Supervisory Board. The members of each of the bodies are either appointed by the shareholders or by another body. Their roles are usually specifically stipulated in the relevant legal codes.

Both bodies have different roles in the company. In terms of

the Sharia board, it is difficult to place their role among these bodies. The role of the Sharia board is mostly similar to the role of the Supervisory Board. However, the members of the Sharia board do not often possess the required economical and legal knowledge to read complicated financial statements and to assess the work of the Board of Directors.

Hence, those shaping the Islamic finance industry have much on their plate in respect of the Sharia board. In the author's view, the members of the Sharia board should excel both in Islamic law and economics. They should go on a special course or even studies to gain the required knowledge of e.g. bank management, specific legal issues in a given jurisdiction, the ability to value and understand financial transactions and their aim. The Sharia board can no longer remain archaic in terms of the modern management of a financial firm. As for their independence, the best solution would be to either appoint members of the Sharia board onto the Supervisory Board, or enter into a services contract with particular members of the Sharia board to ensure their independence and their expertise.

Furthermore, it is worth considering if the market should accept non-Muslims as the members of Sharia boards. For Sharia compliance, the key points are: knowledge, experience, awareness of economics, banking and legal issues. The trained experts who possess such qualities and are of trustworthy character could be of value to any Islamic finance institution.





Sayyid Muhammad Rizvi

Born in 1957) is a Twelver Shi'ah scholar, a speaker, as well as an author. He is the second-born son of Sa'eed Akhtar Rizvi. In 1972 he went to Qom for religious studies and in 1982 he returned to India. He moved to Ontario, and since 1996 he has been the Imam of the Islamic Shia Ithna Asheri Jamaat of Toronto.

Al-Fajr As-Sadiq: A New Perspective

By Mufti Sayyid Muhammad Rizvi

1. INTRODUCTION

The daily prayers are an integral part of a Muslim's life. In order to fulfill their religious obligation, it is important for all Muslims to know the timings of the daily prayers. To know the timings of *zuhr* and *maghrib* prayers has never been a problem; but to know the timing of *subh* prayer has not been easy. Previously, Muslims used to rely on the *mu'azzin* of their neighbourhood mosques who would mostly use visual senses to determine the time of *subh* prayer. Even now, the Muslims living in the Muslim countries do the same.

However, the Muslims in the West are deprived of the benefits of neighbourhood mosques and their *azan*. Therefore, they have come up with a time-table which can be used by all Muslims in their homes. In preparing a prayer time-table, it is easy to find the timings of *zuhr* and *maghrib* prayers from any observatory or astronomical institution: one can easily ask the scientific institution for the times of "noon" and "sunset" because the definitions of "noon" and "sunset" are common knowledge. The difficulty arises in determining the time for *subh* (dawn) prayer. How do you define "*subh*" or "*fajr*" for the Western astronomer or scientist? How do you explain the difference between the "false" dawn and the "true" dawn?

In this article, with the help of Allah *subhanahu wa ta'ala*, I intend to discuss the definition of dawn and see how can we relate it to the existing scientific classifications of twilights and daybreak.

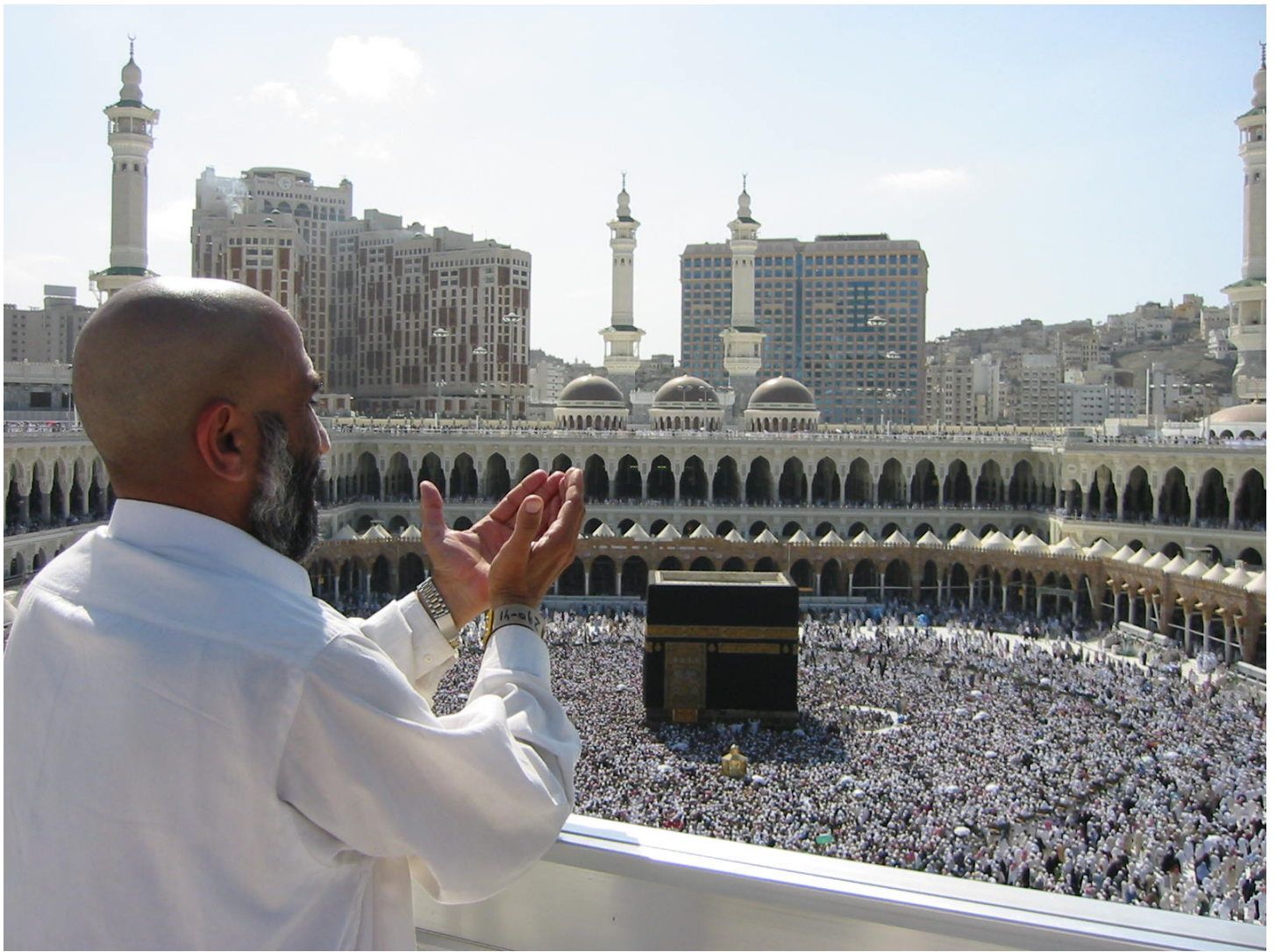
2. THE PROBLEM

My task will become much easier if I pin-point the problem at the very beginning of this discussion. I will do this by separating the points of agreement from the point of disagreement.

It should be known to the reader that there is absolutely no disagreement among the Muslims on the fact that *al-fajr as-sadiq* (the true dawn) is the time for *subh* prayer and for the beginning of *sawm*, fasting.

Neither is there any disagreement among the Shi'ah scholars about the classical definitions of *al-fajr as-sadiq* (the true dawn) and *al-fajr al-kazib* (the false dawn). By "classical", I mean the definitions which are based on the *ahadith* of the Imams of Ahlu 'l-bayt (a.s.). For example, Ayatullah Sayyid Muhammad Kazim al-Yazdi, writes:

The rising of *fajr* is known by the appearance on the horizon of a light which as-



cends towards the sky and resembles a tail of the fox--this is known as *al-fajr al-kazib* (the false dawn). Then the light spreads on the horizon (and becomes like a white cotton and like the river of Sura') in such a way that whenever you look towards it, it will convince you of its increasing beauty. In other words it [*al-fajr as-sadiq*, is known by] the spreading of the light on the horizon after it had been ascending towards the sky. (Al-Yazdi, *al-'Urwatu 'l-Wuthqa*, p. 172.)

All the contemporary scholars agree with this definition of the false and true dawns; the difference is only in the style and clarity. For example, Ayatullah al-Khu'i writes:

The *al-fajr as-sadiq* is the light which spreads horizontally on the horizon and it increases in visibility and clarity. Before this is *al-fajr al-kazib*: a light which appears vertically on the horizon, ascending towards the sky like a pillar, and it decreases and weakens till it disappears. (Al-Khu'i, *Minhajju 's-Salihiyn*, vol. 1, p. 132.)

The last sentence that *al-fajr al-kazib* "decreases and weakens till it disappears" needs some explanation. It apparently

means that after the false dawn, the horizon becomes dark and then a new light appears which is the true dawn. This is not a correct understanding of the natural phenomenon of twilight. "Disappearing" means that when the light starts to spread horizontally at the time of *al-fajr as-sadiq*, the "pillar" becomes indistinguishable and merges into the broader light. So the "weakening and disappearance" is related to the "pillar" and not to *al-fajr al-kazib* itself. My interpretation is supported even by the way Ayatullah al-Yazdi has described the two dawns: "the spreading of the light on the horizon after it had been ascending towards the sky;" he describes them as a continuous process, and not as two dawns with an intervening darkness. Similarly, the description of the two dawns by Ayatullah Sayyid Baqir as-Sadr in his *al-Fatawa al-Wazihah* (p. 266) supports my interpretation.

So the disagreement is not in the religious definitions of the true dawn, it is in applying the phenomenon of *al-fajr as-sadiq* on a particular time of dawn. **What time of dawn is *al-fajr as-sadiq*?** As Ayatullah al-Khu'i says, "There is no dispute

or difference among Muslims in the fact that the beginning time for *subh* prayer is the true dawn. However, there is a dispute concerning the time-frame in which it materializes, and this is a discussion related to the minor premises of this issue." (At-Turkamani, Q.M., *Tahriru 'l-'Urwati 'l-Wuthqa* [fiqh lectures of Ayatullah al-Khu'i], vol. 1, p. 128). In other words, the problem is not in finding the religious commandment about the timing of *subh* prayer, rather it is in the application of that religious view.

3. METHODOLOGY OF DEFINING THINGS IN FIQH

Before we proceed further, it is necessary to clarify one important issue about the methodology of defining various things and issues in *fiqh*. Are we allowed to follow the scientific definitions of things or not? If yes, when?

In *fiqh*, there are three possible sources for definitions of things and concepts: the *shari'ah*; the common people; the experts (of science or the relevant field of knowledge).

1. If the *shari'ah* sources clearly define something, then it is known as "*al-'urfu 'sh-shari'*--the *shar'i* definition."

2. If the common people (or layman) define something without any *shar'i* or scientific precision, then it is known as "*al-'urfu 'l-'amm'*--the common definition."

If the experts (of science or other fields of knowledge) define something, then it is known as "*al-'urfu 'l-khass'*--the experts' definition or the scientific definition."

If the *shari'ah* defines something, then there is no doubt that we must follow the *shar'i* definition.

But if the *shari'ah* is silent on definition of certain things, then should we follow the common (*'amm*) definition or the scientific (*khass*) definition? Anyone who is familiar with the *shari'ah* will agree with me that in absence of a *shar'i* definition, one has to follow the common definition. One has to go by the common perception of things, not the perception of the experts of science or other area. One can follow the scientific (*khass*) definition only in the cases where the *shari'ah* is silent and the common people have no way of defining the issue. (On *'urf*, the specialist may refer to Shaykh Murtaza al-Ansari, *al-Makasib*, p. 193. For a comparative study on *'urf* in various schools of *fiqh*, see Sayyid Muhsin al-Kharrazi, "*Hawla 'l-'Urf*" in the Arabic journal *at-Tawhid*, no. 34 [Tehran: 1988] pp. 43-60; and Muhammad Taqi al-Hakim, *al-Usulu 'l-'Ammah li 'l-Fiqhi 'l-Muqarin*, pp. 417-425.)

Moreover, in many issues, even the *shari'ah* definition is tied with the perception of common people. For example, the

shari'ah says that the water for ritual ablution must be "pure" (*mutlaq*). Does it mean scientifically pure? Certainly not! Otherwise, the running water in this part of the world is not scientifically pure, it has some purifying chemicals in it, for example, fluoride. The *shari'ah* says that such water will still be classified as pure unless the colour, taste, or smell of the water changes--that is, the changes which can be sensed by the common people without the help of a scientific lab.

4. SCIENCE & THE TWILIGHTS

From the scientific point of view, the light which appears before sunrise and remains after sunset is known as "twilight". Twilight literally means "the light between the two," i.e., between night and day or between day and night. In Arabic, "twilight" is known as "*ash-shafaq*."

It is obvious that the light of morning twilight gradually increases in brightness; to distinguish the various stages of twilight, the scientists have divided it into three types of twilights:

1. the Astronomical Twilight: this begins when the Sun's center is 18 degrees below the horizon.

2. the Nautical Twilight: this occurs when the Sun's center is at 12 degrees below the horizon.

the Civil Twilight: this occurs when the Sun's center is at 6 degrees below the horizon.

The third twilight known as the Civil Twilight is of no use for us as it is mostly used by civil authorities to decide when the street lights and car head-lights are no longer needed. Some scientists have given it the name of "head-lights twilight."

According to the astronomers, the morning Astronomical Twilight is the end of night and beginning of day; and the evening Astronomical Twilight is the beginning of night.

Muslims who are concerned with preparing the prayer timetables have always held different views about relating the true dawn to the twilight: the difference range from those who say the *al-fajr as-sadiq* occurs when the Sun is at 21 degrees below the horizon to those who say that it occurs when the Sun is at 16 degrees. (See 'Abdu 'l-Majid al-Bakri, "*ash-Shafaq wa 'ilaqatuhi bi ba'z awqati 's-salat*" in the monthly *az-Zahra* [Cairo] vol. 1 [Safar 1343 AH] p. 75-81. Also see works of Dr. Mohammad Ilyas.)

Most of the present day Muslims have accepted the Astronomical Twilight (when the Sun is at an angle of 18 degrees below the horizon) as the time of *al-fajr as-sadiq*. (Most Mus-

lim astronomers and scholars; for example, see the circular of Hujjatul Islam Sayyid Fazil Milani dated 3 Sha'ban, 1409, distributed by al-Khoei Foundation, London).

There are others who say that *al-fajr as-sadiq* occurs when the Sun is almost halfway between the Astronomical and Nautical Twilights--at 16 degrees below the horizon. (Some Shi'a communities in England, see the circular of al-Khoei foundation. [I should mention here that there are a few persons who say that the time from *al-fajr as-sadiq* to sunrise is equal to 1/7 of the day time. This view has no theoretical base nor any *shari'ah* proof to sustain it. It might be correct in some cities by coincidence but not as a rule to be followed all over the world. And, therefore, we do not consider it as one of the prevalent views.])

What you will read now is an attempt to see the validity or otherwise of these prevalent views, and to find the correct time-frame in the morning twilight for *al-fajr as-sadiq*. In reading the following pages, the reader is advised to keep in mind what we said earlier about the methods of definition in *fiqh*.

5. TWILIGHTS & AL-FAJR AS-SADIQ

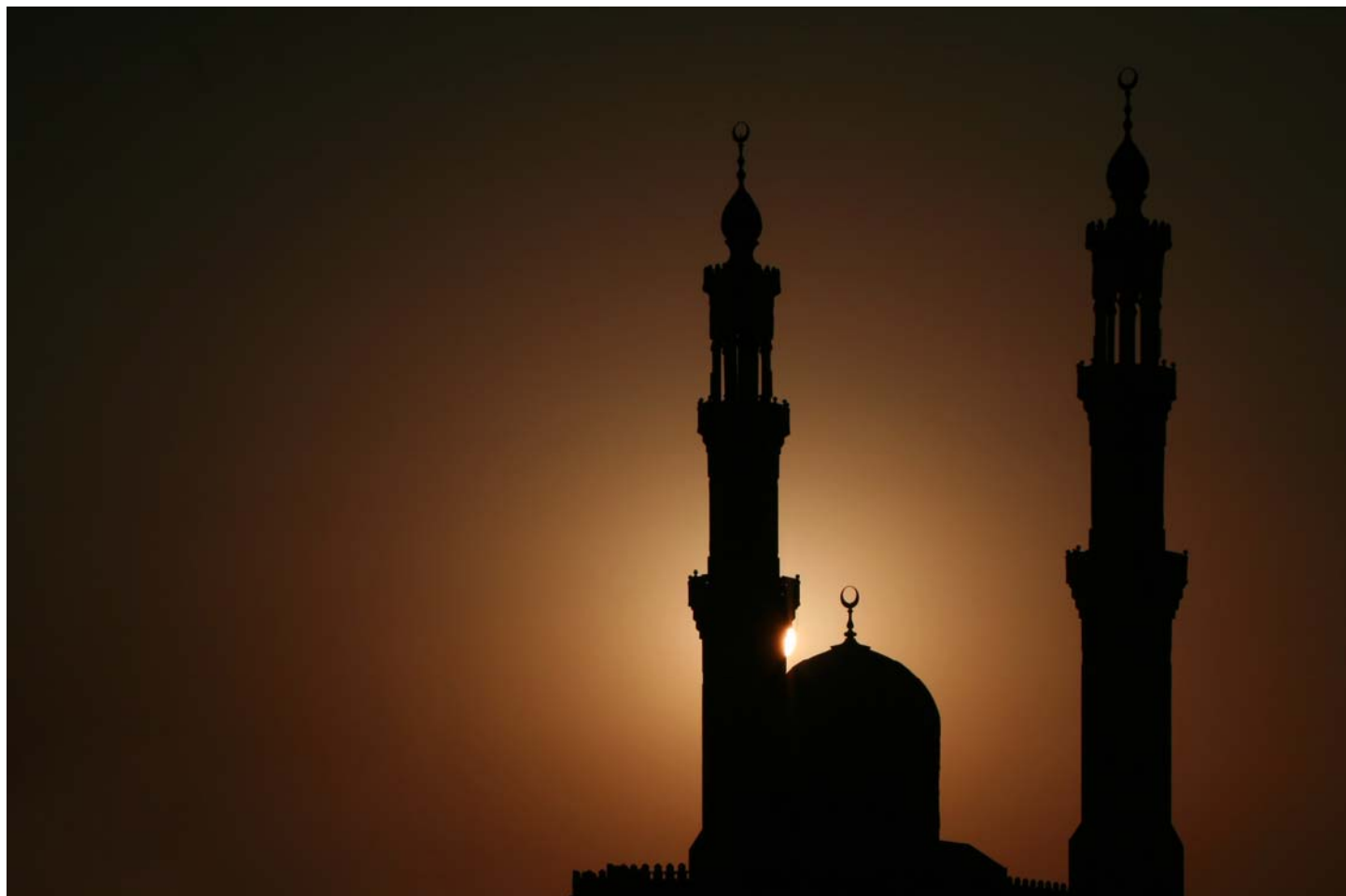
When we look at the *shari'ah*, we see that it has clearly defined the true dawn for us. Therefore, we cannot just follow the scientific definition of "dawn" or "daybreak". But the problem is in determining when does the true dawn materialize: at the time of Astronomical Twilight or the Nautical Twilight or somewhere between the two?

However, since the *shari'ah* has clearly defined the phenomenon known as the true dawn, we can always seek the help of science in pin-pointing the time when *al-fajr as-sadiq* occurs. This can be done by looking at the definitions of the twilights to find which of them exactly or closely correspond to the description of true dawn as given by the *shari'ah*.

1. Does the description of *al-fajr as-sadiq* fit the description of the Astronomical Twilight?

My contention is that the Astronomical Twilight does not fit the description of *al-fajr as-sadiq*. Why?

All the *ahadith* on this issue describe the true dawn as a phenomenon or an occurrence which can be observed and seen by the common people, and as a light which spreads over the horizon and makes it distinct. The Imams of Ahlu 'l-Bayt (a.s.)



have used the words like "seeing it" and "observing it." See the *ahadith* narrated by `Ali bin Mahazyar, Hisham bin Huzayl, Zurarah bin A'yan, `Ali bin `Atiyyah and Abu Basir. (See *Wasa'ilu 'sh-Shi'ah*, vol. 3, p. 152-154. Although the sanad of the first two narrators are not flawless, but their contents can be confirmed by the authentic *ahadith* of the latter three narrators.)

This can even be seen in the Qur'anic verse about the beginning of fasting which says that you can eat and drink "until the white thread becomes distinct unto you from the black thread at dawn." (2:187) The words "unto you" emphasize that the people in general (not just the astronomers and scientists) should be able to observe the true dawn. This is also supported by the fatwa of Ayatullah al-Imam Khumayni when he says, "...the occurrence of *fajr*...is a *hissi* (commonly perceptible) occurrence, not *'ilmi* (scientific) occurrence..."! (See the circular distributed by al-Khoei Foundation.)

In this backdrop, when you look at the descriptions of the Astronomical Twilight, it will dawn upon you that it is extremely difficult to observe its light with your eyes. The sky must be very dark to enable you to see the Astronomical Twilight. What I have said about the Astronomical Twilight can be confirmed by the following quotation from *Mariner's Celestial Navigation*:

"Astronomical twilight...the period while the Sun's center is between 18 degrees and 12 degrees below the horizon. To both navigators and the civil population it is then 'night-time,' with little discernible sunlight diffusing the sky. The horizon would be too indistinct for sight-taking, so the *Nautical Almanac* carries no listing of the event." (Crawford, W.P., *Mariner's Celestial Navigation* [San Francisco: Miller Freeman, 1972] p. 372).

Since the Astronomical Twilight is "too indistinct for sight-taking" by civil population, it cannot qualify as the true dawn. How can the *shari'ah* expect its followers to say prayers or begin fasting by a natural phenomenon which cannot be seen by common people?

Then on what ground have the majority accepted the Astronomical Twilight as *al-fajr as-sadiq*? Usually two bases are mentioned in support of this view:

1. "Since the true dawn occurs when the Sun reaches 18 degrees, all existing time-tables in Muslim countries rely on the 18 degree formula as the basis for dawn and this is according to their visual observations of many years. 'Allamah at-Tabataba'i has clearly mentioned this in his *Tafsir al-Mizan*

(vol. 2 [Beirut] p. 48). (Sayyid F. Milani in al-Khoei Foundation's circular.)

Firstly, the practice of the Muslims by itself does not become a proof that what they are doing is right. This general practice at best can be used only as a secondary evidence provided the matter is first proved by other concrete proofs.

Secondly, the writing of 'Allamah at-Tabataba'i in *al-Mizan* actually proves the opposite of what has been claimed above. The 'Allamah, who also had great interest in astronomy, writes:

"There are two dawns: the first is called the 'false' dawn because it vanishes in a short time. It is also called the 'tail of the wolf' because it looks as if a tail is raised. This false dawn is a beam of light like a vertical column; it appears at the end of the night on the eastern horizon when the sun reaches an angle of 18 degrees below the horizon. Then it gives way to a horizontal line of light which looks as if a white thread has been stretched on the horizon. This is the second dawn. It is called 'true' dawn because it truthfully announces the arrival of day-time and is connected with sunrise." (At-Tabataba'i, S.M.H., *al-Mizan*, vol. 2 [Tehran: Daru 'l-Kutubi 'l-Islamiyyah, 1362 {solar} AH] p. 49; also see the English translation, vol. 3 [Tehran: WOFIS, 1973] p. 64-5.

Therefore, the practice of the Muslims in general does not automatically give validity to this view. The second basis for this view is the scientific definition of dawn. For example, the circular published by al-Khoei Foundation says:

2. "The Science Research Council [of England] considers the 18 degree as the end of night and the beginning of day."

This is true as far as the scientists and astronomers are concerned; but, as mentioned above, the Astronomical Twilight does not fit the descriptions of *al-fajr as-sadiq*. Since the scientific definition differs from the *shari'i* definition, we cannot accept the Astronomical Twilight as *al-fajr as-sadiq*.

2. Does the description of *al-fajr as-sadiq* fit the description of the Nautical Twilight?

The description of the Nautical Twilight makes it the most probable candidate for *al-fajr as-sadiq*. As mentioned above, the true dawn had two attributes: it is a light which can be observed by people in general; and it is a light which spreads over horizon making it distinct and visible. The Nautical Twilight has both these attributes as can be seen from the following:

1. The *Dictionary of Astronomy, Space and Atmospheric Phe-*

nomena defines the Nautical Twilight as "that period when the upper limb of the Sun is below the visible horizon and the center of the Sun is not more than 12 degrees below the celestial horizon."! (Tuer, David F., *Dictionary of Astronomy, Space, & Atmospheric Phenomena* [N.Y.: Van Nostrand Co; 1979] p. 153.)

2. G.V. Rozenburn, in his *Twilight: a study in Atmospheric Optics*, says: "Next comes nautical (or navigational) twilight, during which small details are lost in darkness, but outlines of large objects such as shorelines are fairly distinct." (Rozenburn, G.V., *Twilight* [N.Y.: Plenum Press, 1966] p. 22.)

3. The name of this twilight itself is also significant. "Nautical" means something which is related to ships, seamen, and navigation. It means the twilight by which the seaman is able to see the horizon with his naked eyes. This can be inferred from W.P. Crawford, the writer of *Mariner's Celestial Navigation*, when he explains why the *Nautical Almanac* has no listing for the Astronomical Twilight "the horizon would be too indistinct for sight-taking, so the *Nautical Almanac* carries no listing of the event." (Crawford, *op. cit.*, p. 372).

4. We have said above that it is very difficult for common people to observe the Astronomical Twilight, and that the true dawn, on the contrary, is a phenomenon which can be observed by the people in general. For the scientists, the beginning of the day time is the Astronomical Twilight; but the beginning of the day time for the civil population is the Nautical Twilight. While counting the twilights for seamen and navigators, Mr. Crawford writes, "In the morning, nautical twilight is the first to begin." (Crawford, *op. cit.*, p. 371).

These points prove that the horizon becomes visible for the common people only at the beginning of the Nautical Twilight. In other words, the Qur'anic 'white thread' over the eastern horizon becomes visible only when the Sun has reached 12 degrees below the horizon. Therefore, we can easily consider the Nautical Twilight as the best candidate for *al-fajr as-sadiq* (the true dawn).

6. CONCLUSION

Firstly, the *shar'i* definition of *al-fajr as-sadiq* possesses two main characteristics: the horizon becomes horizontally visible (the 'white thread' on the eastern horizon); and the common people can observe the occurrence of the true dawn.

Secondly, based on the *shar'i* descriptions of *al-fajr as-sadiq*, the Astronomical Twilight has been found to lack the quali-

ties of true dawn. Even in its later stages, the Astronomical Twilight may, at best, be considered as *al-fajr al-kazib* (the false dawn). This is also the view of 'Allamah at-Tabataba'i. And, therefore, we reject any view which says that the time of prayer and fasting begins before or at the Astronomical Twilight.

Thirdly, the Nautical Twilight has been found to possess the two main qualities of *al-fajr as-sadiq*. And, therefore, at the time of Nautical Twilight we are sure that the true dawn has already started.

However the time between the Astronomical Twilight and the Nautical Twilight is still unknown to us: that is, we have not been able to exactly pin-point the beginning of the true dawn. So what should be done as far as the time between the two twilights are concerned?

Following the basis of precaution,

the Astronomical Twilight should be considered as the beginning of fasting;

the Nautical Twilight should be considered as the beginning of the *subh* prayer time.





The Golden Age

The early 'Abbasids were also fortunate in the caliber of their caliphs, especially after Harun al-Rashid came to the caliphate in 786. His reign is now the most famous in the annals of the 'Abbasids - partly because of the fictional role given him in *The Thousand and One Nights* (portions of which probably date from his reign), but also because his reign and those of his immediate successors marked the high point of the 'Abbasid period. As the Arab chronicles put it, Harun al-Rashid ruled when the world was young, a felicitous description of what in later times has come to be called the Golden Age of Islam.

The Golden Age was a period of unrivaled intellectual activity in all fields: science, technology, and (as a result of intensive study of the Islamic faith) literature - particularly biography, history, and linguistics. Scholars, for example, in collecting and reexamining the hadith, or "traditions" - the sayings and actions of the Prophet - compiled immense biographical detail about the Prophet and other information, historic and linguistic, about the Prophet's era. This led to such memorable works as *Sirat Rasul Allah*, the "Life of the Messenger of God," by Ibn Ishaq, later revised by Ibn Hisham; one of the earliest Arabic historical works, it was a key source of information about the Prophet's life and also a model for other important works of history such as al-Tabari's *Annals of the Apostles and the Kings* and his massive commentary on the Quran.

'Abbasid writers also developed new genres of literature such as *adab*, the embodiment of sensible counsel, sometimes in the form of animal fables; a typical example is *Kalilah wa-Dimnah*, translated by Ibn al-Muqaffa' from a Pahlavi version of an Indian work. Writers of this period also studied tribal traditions and wrote the first systematic Arabic grammars.

During the Golden Age Muslim scholars also made important and original contributions to mathematics, astronomy, medicine, and chemistry. They collected and corrected previous astronomical data, built the world's first observatory, and developed the astrolabe, an instrument that was once called "a mathematical jewel." In medicine they experimented with diet, drugs, surgery, and anatomy, and in chemistry, an outgrowth of alchemy, isolated and studied a wide variety of minerals and compounds.

Important advances in agriculture were also made in the Golden Age. The 'Abbasids preserved and improved the ancient network of wells, underground canals, and waterwheels, introduced new breeds of livestock, hastened the spread of cotton, and, from the Chinese, learned the art of making paper, a key to the revival of learning in Europe in the Middle Ages.

The Golden Age also, little by little, transformed the diet of medieval Europe by

introducing such plants as plums, artichokes, apricots, cauliflower, celery, fennel, squash, pumpkins, and eggplant, as well as rice, sorghum, new strains of wheat, the date palm, and sugarcane.

Many of the advances in science, literature, and trade which took place during the Golden Age of the 'Abbasids and which would provide the impetus for the European Renaissance reached their flowering during the caliphate of al-Mamun, son of Harun al-Rashid and perhaps the greatest of all the 'Abbasids. But politically the signs of decay were already becoming evident. The province of Ifriqiyah - North Africa west of Libya and east of Morocco - had fallen away from 'Abbasid



control during the reign of Harun al-Rashid, and under al-Mamun other provinces soon broke loose also. When, for example, al-Mamun marched from Khorasan to Baghdad, he left a trusted general named Tahir ibn al-Husayn in charge of the eastern province. Tahir asserted his independence of the central government by omitting mention of the caliph's name in the mosque on Friday and by striking his own coins - acts which became the standard ways of expressing political independence. From 821 onward Tahir and his descendants ruled Khorasan as an independent state, with the tacit consent of the 'Abbasids.

Al-Mamun died in 833, in the town of Tarsus, and was succeeded by his brother, al-Mu'tasim, under whose rule the symptoms of decline that had manifested themselves earlier grew steadily worse. As he could no longer rely on the loyalty of his army, al-Mu'tasim recruited an army of Turks from Transoxania and Turkestan. It was a necessary step, but its outcome was dominance of the caliphate by its own praetorian guard. In the years following 861, the Turks made and unmade rulers at will, a trend that accelerated the decline of the central authority. Although the religious authority of the 'Abbasid caliphate remained unchallenged, the next four centuries saw political power dispersed among a large number of independent states: Tahirids, Saffarids, Samanids, Buwayhids, Ziyarids, and Ghaznavids in the east; Hamdanids in Syria and northern Mesopotamia; and Tulunids, Ikhshidids, and Fatimids in Egypt.

Some of these states made important contributions to Islamic culture. Under the Samanids, the Persian language, written in the Arabic alphabet, first reached the level of a literary language and poets like Rudaki, Daqiqi, and Firdausi flourished. The Ghaznavids patronized al-Biruni, one of the greatest and most original scholars of medieval Islam, and the Hamdanids, a purely Arab dynasty, patronized such poets as al-Mutanabbi and philosophers like the great al-Farabi, whose work kept the flame of Arab culture alive in a difficult period. But in historical terms, only the Fatimids rivaled the preceding dynasties.



Issue 1

Winter 2011 | Quarterly

Publishing House

Shirkah Finance Ltd

www.shirkah-finance.com

Edited by

AL WARRAQ FINANCE Ltd

www.alwarraq-finance.com

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

Alberto Di Gennaro

Creative Director

Sara Lugnani

Art, Fashion, Events Director

Nada Ramzi

Editorial contributors

Muhammad Zubair Usmani, Ehsan Waquar Ahmad,

Ahmed Rufai Mohammed, Mohammed Elgari, Khalid Hamad,

Aly Khorshid, Muhammad Ayub, Salman Ahmed Shaikh,

Beata Paxford, Sayyid Muhammad Rizvi

Photographer

Michael Jennings

Production Manager

Khaled Aljeeri

Design & Layout

Shirkah Finance Ltd Lugano

Printing

Multimediapublishing (Milano)

THANK YOU FOR YOUR DONATIONS

Mission

'Alim Journal is a quarterly publication with a planned circulation of 8.000 copies. distributed to Shari'ah Scholars. Islamic Bankers. Investors. High Net Worth Individuals. Islamic Law Lawyers. International Law Firms, Entrepreneurs. Government Institutions, Central Banks, Quranic Schools and Islamic Charitable Organizations.

One year contribution

CORPORATE DONATIONS

CHF (Swiss Francs) 5.000 - USD (US Dollars) 5.500

- Website Banner for one year
- One exclusive interview (four pages) with the Chairman/CEO of the Company/institution
- One institutional page for four issues
- Two pages for corporate communication for four issues

INDIVIDUAL DONATIONS

Any private donation will be welcomed. Your contribution will allow us to keep growing and expanding our editorial, cultural and charitable activity.

All the donors will receive a receipt for their donations and the 5% of all the funds received will be assigned. once a year, to an Islamic cultural, research or charity institution, whose name for 2012 will be communicated in the next issue of 'Alim Journal.

The names and the professional or institutional profiles of all donors will be published on the 'Alim Journal website in a special dedicated section.

For further information and details contact:

info@alwarraq-finance.com

or visit:

www.alwarraq-finance.com

© All rights reserved. No part of this publication may be reproduced in whole or part without permission from the publisher. The view expressed in Alim Journal are those of the respective contributors and are not necessarily shared by the magazine or its staff. Alim Journal welcomes new contributors but can assume no responsibility for unsolicited manuscripts, photographs or illustrations.

مجلة
عالم
'Alim
The Shari'ah Scholar's Journal



The Shari'ah Scholar's Journal

AL WARRAQ FINANCE Ltd
Consulting & Publishing

SWITZERLAND
World Trade Center
Via Lugano, 13
P.O. Box 317
6982 Agno - Switzerland

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

BANK ALKHAIR

alBaraka

CAPINNOVA

QUANTUM INVESTMENT BANK LLC

بنك إيلاف
ELAF BANK

GSCORP

KHALEEJ COMMERCIAL BANK
البنك التجاري

THE INTERNATIONAL BANK OF AZERBAIJAN

DDCAP Limited

Knowledge Partner

THOMSON REUTERS

Investment & Advisory Partner

EIGER

VIP Networking Host

THE ISLAMIC BANK OF ASIA
البنك الإسلامي الآسيوي

Silver Strategic Partners

EIIB
EUROPEAN ISLAMIC INVESTMENT BANK PLC
بنك الاستثمار الإسلامي الأوروبي

fiserv.

ABC Islamic Bank

VENTURE CAPITAL BANK

FWU

path solutions

Islamic Professional Services Partner

Deloitte

Ratings Workshop Hosted By

Islamic International Rating Agency

Workshop Hosted By

International Islamic Financial Market

Refreshment Break Hosted By

BAHRAIN FINANCIAL HARBOUR

Media Associate

عالم
Alim

18th Annual

THE WORLD ISLAMIC BANKING CONFERENCE

المؤتمر العالمي للمصارف الإسلامية

21, 22 & 23 November 2011, The Gulf Hotel, Kingdom of Bahrain

Supported by

مصرف البحرين المركزي
Central Bank of Bahrain

KEYNOTE SPEAKERS

**H.E. Khaled Mohammed Al-Aboodi**
Chief Executive Office & General Manager
The Islamic Corporation for the Development of the Private Sector, the private sector arm of the Islamic Development Bank Group (IDB), Saudi Arabia**H.E. Rasheed M. Al Maraj**
Governor
Central Bank of Bahrain**Kishore Mahbubani**
Dean and Professor,
The Practice of Public Policy
Lee Kuan Yew School of Public Policy
National University of Singapore

Competing for Global Growth

WIBC: For 18 Years the World's Largest Annual Gathering of Islamic Finance Leaders

1200 Industry Leaders. 50+ Countries. 60+ Sponsors. A Unique Global Gathering: WIBC 2011

Jurisdiction Partner



Platinum Strategic Partners

Singapore @ WIBC
2011 Hosted ByMultilateral Strategic
PartnerIslamic Financial Services
Associate & Award Auditor

Strategic Associate

Islamic Finance
Administration PartnerGold Strategic Partner
& Gala Dinner HostShowcasing Luxembourg
for Islamic Finance

Showcasing



Showcasing

Gold Strategic Partner &
Conference Luncheon Host Day 2Gold Strategic Partner &
Pre-Conference Luncheon HostBritain Comes to WIBC - The UK Pavilion
A Part of the World Comes to WIBC Initiative

WIBC is a MEGA Brand.

MEGA Brands. MEGA Clients. Market Leaders. Shaping the Future of the Global Islamic Finance Industry Since 1993
Contact us: t:+971 4 343 1200 | f:+971 4 343 6003 | P.O. Box 72045, Dubai | www.megaevents.net