

ESSENTIAL ELEMENTS IN ISLAMIC FINANCE

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[A Glossary of Arabic Terms begins at page 15]

General Introduction

In order to understand the needs of Muslim clients, it helps to know a little about Islam and Muslims: The Arabic word *Islam* means 'safe and sound' and 'submission' to the will of God. Muslims believe that there is only one God and that the Prophet Muhammad, blessings and peace be on him, was the last Messenger sent by God to man. The Arabic word *Allah* literally means 'the God'. Muslims believe that by following the example of the Messenger of Allah and his first sincere followers and by obeying what is commanded in the *Qur'an*, they are thereby submitting to God's will and will therefore be safe and sound both in this world and in the next.

In ascertaining the needs of Muslim clients more precisely, there are three main elements which have to be considered: *firstly*, the practice of the *Sunna* – which can be defined briefly as: 'the customary practice of a person or group of people. It has come to refer almost exclusively to the practice of the Messenger of Allah and to the first generation of Muslims;' *secondly*, the requirements of the *Shari'a* – which can be defined briefly as: 'lit. road, the legal modality of a people based on the Revelation of their Prophet. The final *Shari'a* is that of Islam;' and *thirdly*, the requirements of the law of the land.

Ideally Muslim clients should be in a position to follow the *Sunna* in accordance with the *Shari'a* while complying with the law of the land – which by virtue of *Article 9* of the *European Convention on Human Rights*, as incorporated into UK domestic law by virtue of the *Human Rights Act 1998*, guarantees their right to believe and worship and live and die as Muslims.

The *Shari'a* derives from the *Qur'an* – the original revelation which was revealed to the Prophet Muhammad, blessings and peace be on him, from God through the angel Jibril (Gabriel) – and the *Hadith* – the transmitted eyewitness accounts of what the Prophet Muhammad and his companions, blessings and peace be on him and them, said and did.

After the deaths of the Prophet Muhammad and his Companions, what they had learned was transmitted by a combination of action and memorisation. Inevitably situations arose which had not been encountered by the early Muslim community. Those who had to make legal judgements in such situations therefore had to struggle to arrive at a decision based within and on the basic parameters and principles of the *Shari'a*. This is known in Arabic as *ijtihad*.

The science of the application of the *Shari'a* is called *fiqh* – the equivalent of 'jurisprudence'. A *faqih* (plural, *fuqaha*) is someone who has sufficient knowledge of the *Shari'a* to be able to make a judgement in accordance with it. A *fatwa* is a legal opinion. A *qadi* is a judge who is able not only to make a judgement, but also to see that it is carried out.

As with today's judges, some *fuqaha* were better at reaching an informed and reliable decision than others. In the second and third generations of Muslims, leading *fuqaha* emerged and schools of jurisprudence formed.

Although the essential blueprint remained the way of the first Muslim community of Madina, different forms of *ijtihad* emerged, often in different geographical locations, each within the parameters of the *Shari'a*, although not necessarily identical. These are known as *madhhabs*. The word '*madhhab*' literally means 'the way he went' – so *fiqh* is linked primarily to behaviour and action, not to theory and speculation.

One of the main differences in *madhhab* was that between the two groups who came to be known as the Sunni and the Shi'a. This arose out of a difference of opinion as to who should have become the leader of the Muslim community after the death of the Prophet Muhammad, blessings and peace be on him. There are also different *madhhabs* within these two main groups.

The main Sunni schools of law which have survived up until today are the Maliki, Hanifi, Shafi'i and Hanbali schools. The main Shi'a school is the Jafari school.

Although the majority of Muslims today are Sunni Muslims, it does help to establish whether a Muslim client is Sunni or Shi'a. Since the majority of Muslims today are Sunni Muslims, these notes deal with the *Shari'a* as understood by Sunni Muslims.

One of the most important concepts which it is necessary to grasp is that of the different degrees of obligation within the *Shari'a*, ranging from what is permitted to what is forbidden – and from what is obligatory to what is a matter of personal choice:

- *Halal* means permitted.
- *Makruh* means disliked, but not forbidden.
- *Haram* means forbidden.
- *Fard* means obligatory.
- *Wajib* means necessary, but not obligatory.
- *Mustahab* means recommended, but not necessary.
- *Sunna* means what the Prophet and his Companions usually did although not obliged to do so.
- *Nawafil*, the plural of *nafla*, means voluntary, but well-rewarded.

For those who are interested, more detailed definitions of the Arabic terminology used in these notes appear in the attached *Glossary of Arabic Terms*.

Bearing this overview and these basic concepts in mind we can now begin to approach how the *Shari'a* deals with financial transactions.

The purpose of this presentation is to provide a basic understanding of what is Islamically acceptable in the realm of financial transactions. This requires not "the willing suspension of disbelief" to which Coleridge once referred, but rather "the willing suspension of what people have become accustomed to regard as 'normal'". It requires a fresh look at these matters, applying different principles and practices in a 'new' way – although in fact this way has always been available for many centuries.

General Overview

In the UK :

There are approximately 2 million Muslims in the United Kingdom today. Practising Muslims will want their daily financial transactions conducted in harmony with the teachings of Islam, since they believe that this will have beneficial results for them in this world as well as for their spirits on the other side of death in the next world.

This means especially that Muslims will wish to avoid usurious transactions and uncertain or doubtful transactions and any transactions which involve actions which are forbidden in Islam – for example the provision or consumption of alcohol or pork, or the manufacture and sale of armaments which may well be used to destroy innocent civilians. Thus the term ‘ethical investment’ has a different meaning for a Muslim and a non-Muslim, although there may be common ground between the two. The Shari‘a defines usury as any unjustified increase between the value of goods given and the countervalue of goods received – including charging interest on a loan.

House Purchase :

One of the largest financial transactions in which most people become involved during their lives is the purchase of property. For many of them this entails borrowing money by way of a mortgage. Up to now many Muslims have, in the absence of an Islamically acceptable option, opted to take out a mortgage even though they are not happy with an arrangement which involves their having to pay interest.

Since there was apparently no other option, their decision to take out a mortgage was dictated by necessity.

In fact the conventional mortgage combines the two main forms of usury as defined by Islamic jurisprudence : *riba al-fadl* which involves an amount in excess of the original amount being stipulated as part of the transaction (for example, A lends B £100 today on the condition that B will repay A £110 tomorrow) – and *riba an-nasiah* which involves an amount in excess of the original amount being stipulated as part of the transaction because of the lapse of time between payment and re-payment (for example, A would sell B a car for £10,000 today but demands £11,500 if B wants to pay A by monthly instalments during the following year). This is forbidden :

“Yahya related to me from Malik that he had heard that al-Qasim ibn Muhammad was asked about a man who bought goods for 10 dinars cash or 15 dinars on credit. He disapproved of that and forbade it.” (*Al-Muwatta‘ of Imam Malik*, 31.33.74)

Thus the inherent meaning of the word *riba* is excess – which arises as a result of unjustified increase or unjustified delay. With a conventional mortgage, the delay can sometimes be as long as 25 years or more.

Nowadays many Muslims are able to identify *riba al-fadl* with relative ease, whereas they are not always sure what *riba an-nasiah* is since this form of *riba* also involves any unjustified delay in the exchange of what is paid for what has been bought.

This is linked to the prohibition for a buyer to re-sell something which he has just paid for unless and until he has first taken physical possession of what he has just bought – which means that dealing in futures (for example, buying and selling crops which have not yet been sown, ripened or been harvested) is also prohibited by the Shari'a.

Shari'a also prohibits *'ina* which is combining two transactions in one in an attempt to avoid the prohibition of usury. In the sphere of house purchase, for example, a bank may say to a prospective house buyer, "If you do not want to borrow £200,000 on interest by way of conventional mortgage to buy your house, we will first buy the house for £200,000 (first transaction) and then sell it to you for £280,000 (second transaction) which you can pay to us by making a down payment of £40,000 followed by 240 monthly instalments of £1,000 per month for 20 years.

On the face of it, if one only considers the second transaction in isolation, the buyer has freely agreed to buy the house for £280,000 in agreed instalments – but in fact this arrangement is *riba* in disguise, *riba khafi*.

Although the buyer 'agrees' to buy the house for £280,000, that unjustified extra £80,000 which the bank added to the market price is in reality either *riba al-fadl* or *riba an-nasiah*, or a combination of the two. This is because the bank would never have bought the house in the first place if the buyer had not already agreed to buy the house from the bank. So the two 'separate' transactions are in fact inextricably linked. This artifice has been known and prohibited from the earliest days of Islam:

"Yahya related to me from Malik that he had heard that the Messenger of Allah, may Allah bless him and grant him peace, forbade two sales in one sale."
(*Al-Muwatta'* of *Imam* Malik, 31.33.72)

"Yahya related to me from Malik that he heard that a man said to another: 'Buy this camel for me immediately so that I can buy it from you on credit.' 'Abdullah ibn 'Umar was asked about that and he disapproved of it and forbade it."
(*Al-Muwatta'* of *Imam* Malik, 31.33.73)

If the bank and the buyer bought the house together, with the buyer contributing £40,000 and the bank contributing £160,000, then they are partners in the purchase. They are co-owners. There is no unjustified increase stipulated by the bank as part of the agreement. It is then possible for the buyer to subsequently agree to buy the bank's share in the property and while living in the whole house to pay rental for his occupation of that (steadily diminishing) part of the house which the bank still owns. Once the buyer has bought all of the bank's share, the whole house is his.

The rent which the bank received during this process is its profit.

In this arrangement there are not two transactions in one and provided the rental element is reasonable, there is no unreasonable excess. This transaction will therefore be Shari'a compliant – **provided always** of course that the means of exchange are Shari'a compliant.

There is a similar model to this, the housing co-operative model, which unlike the bank is community based rather than financial institution based. The housing co-operative builds up a central fund by means of its members buying £100 shares (which can be redeemed at any time).

Once a member has £40,000 worth of shares, these can be redeemed and used to purchase the house with the co-operative providing the remaining £160,000 out of the central fund. Again, the buyer and the co-operative are partners in the purchase. They are co-owners. They can then enter into a purchase/rental agreement as just described. As regards the rental element, all profits can be shared between the member share-holders of the co-operative in direct proportion to the number of shares that they hold. There is therefore a return on the investment of those who have purchased shares but who are not purchasing a house.

In this arrangement there are not two transactions in one and provided the rental element is reasonable, there is no unreasonable excess. This transaction will therefore be Shari'a compliant – **provided always** of course that the means of exchange are Shari'a compliant.

At present these kinds of arrangements are relatively rare. Most houses are being purchased by way of a conventional mortgage – and since most financial transactions are usury-based, this means that the money which is being created out of nothing is affecting the value of *all* paper and plastic electronic money which is always losing its purchasing power.

Since paper and plastic electronic money is always losing its value, in modern societies house prices are always rising, the cost of mortgages is always increasing and the level of rents – which is usually linked to the level of mortgage payments – is always growing. There may be occasional dips, or the rate of increase may vary, but the general trend is upwards. Rising house prices and rents do not really mean that property has increased in value – rather it means that the purchasing power of paper and electronic plastic money has decreased. Thus for most people, paying for the roof over their heads is becoming increasingly difficult, whichever option they choose.

Overseas :

In a global context, since many of the traditional Muslim countries enjoy an abundance of natural resources, notably oil, many Muslims overseas are wealthy and wish to invest their surplus wealth in Islamically acceptable investments rather than in interest-bearing accounts. In the past many Muslims opted to deposit their money with the high street or merchant banks, often knowing full well that even if they did not accept the interest which accrued on their deposits, the banks would not only take it all themselves but also use it, either to lend on interest or to finance Islamically unacceptable projects, such as, for example, the provision of armaments to secular governments who would use them to destroy the crops, property and lives of Christian and Muslim civilians.

Since there was apparently no other option, their decision to deposit their money with the high street banks was dictated by necessity.

Islamic Banks :

During the last 30 years a growing number of Islamic banks have been established ostensibly with the aim of providing a usury-free service for their clients, including the provision of usury-free mortgages and usury-free investment opportunities. Their rapid growth has resulted in several of the high street banks, such as HSBC and Lloyds, offering similar financial products. Many other banks and financial services providers are following suit. It is a rapidly expanding and a highly profitable market.

Some critics observe that these developments have in fact been part of a strategy designed to ensure that the wealth of the Muslims remains accessible to the main banking system by providing apparently Islamically acceptable portals to it, through which it is calculated the wealth of the Muslims will continue to flow.

Shari'a Boards :

Both the Islamic banks and the high street banks who seek to provide financial products which are acceptable to Muslims have Shari'a Boards comprised of Muslim scholars whose role is to provide the requisite advice needed to ensure that the financial products on offer are indeed Islamically acceptable. The responsibilities which they have are therefore serious ones, since many people rely on their opinions, whether they be financial services providers or their customers.

The chief concern and function of the Shari'a Boards is to facilitate halal transactions and to devise and approve financial products which are free of usury. Up to now they have not always been particularly successful and some elements of their allegedly Shari'a compliant products have been easily identifiable as usury-in-disguise, especially when they involve two transactions in one.

The Prohibition of Usury

Although usury is loosely defined nowadays by non-Muslims as the practice of lending money at an exorbitant or illegal rate of interest, in the past they defined it as the practice of lending money at *any* rate of interest.

There are of course different forms of usury, not all of which involve directly loaning money on interest. Today the world is riddled with and suffering from all these forms of usury. Only someone who truly understands the relevant *fiqh* can identify them all.

Although the Torah prohibits usury (the root meaning of the Hebrew word for usury means 'to nibble'), this prohibition was later interpreted as applying only to transactions between Jews, but not to transactions with non-Jews.

Similarly, although the Injil (the Gospel) prohibits usury, Luther and Calvin decided in their re-formation of Christianity that the prohibition applied only to unreasonable rates of interest, and that reasonably sized usurious nibbles were permitted. Thus, for example, usury was subsequently legalised in England by King Henry VIII.

Modernist Muslims have tended to follow in these footsteps by re-defining traditional terminology and disguising *riba* as a 'service charge'.

Today usury has become so well established and institutionalised that few people question it or believe that life is possible without it. Those who are able to take advantage of the compound interest formula, for example, are often regarded as clever and prudent, whereas as far as practising Muslims are concerned, this is sheer folly – in both worlds.

This is because the practice of *riba* (usury) is clearly and unequivocally forbidden by the Shari'a of Islam. Allah (God) contrasts *riba* with *bay'* (trade) and with *sadaqa* (voluntary charitable giving) as follows:

Those who practise *riba* will not rise from the grave
except as someone driven mad by Shaytan's touch.
That is because they say, 'Trade is the same as *riba*.'
But Allah has permitted trade and He has forbidden *riba*.
Whoever is given a warning by his Lord and then desists,
can keep what he received in the past
and his affair is Allah's concern.
But all who return to it will be the Companions of the Fire,
remaining in it timelessly, for ever.
Allah obliterates *riba* but makes *sadaqa* grow in value!
Allah does not love any persistently ungrateful wrongdoer.

Those who have *iman* and do right actions
and establish *salat* and pay *zakat*,
will have their reward with their Lord.
They will feel no fear and will know no sorrow.

You who have *iman!* have *taqwa* of Allah
and forgo any remaining *riba*
if you are *muminun*.

If you do not, know that it means war from Allah
and His Messenger.
But if you make *tawba* you may have your capital,
without wronging and without being wronged.

(*Qur'an*: 2. 274-278)

You who have *iman!* do not feed on *riba*,
multiplied and then remultiplied.
Have *taqwa* of Allah
so that hopefully you will be successful.

Have fear of the Fire
which has been prepared for the *kafirun*.

Obey Allah and the Messenger
so that hopefully you will gain mercy.

(*Qur'an*: 3. 130-132)

What you give with usurious intent,
aiming to get back a greater amount from people's wealth,
does not become greater with Allah.
But anything you give as *zakat*, seeking the Face of Allah –
all who do that will get back twice as much.

(*Qur'an*: 30. 38)

The reported words of the Prophet Muhammad, may Allah bless him and grant him peace,
and the recorded practices of the first Muslim community are equally explicit:

'Abdullah ibn Mas'ud related that the Messenger of Allah, may Allah bless him and grant him peace, cursed the one who accepted usury, the one who paid it, the witness to it and the one who recorded it. (*Sunan of Imam Abu Dawud*: 16.1249.3327)

Yahya related to me from Malik from Nafi' that he heard 'Abdullah ibn 'Umar say, "If some one lends something, let the only condition be that it is repaid." (*Al-Muwatta' of Imam Malik*: 31.44.94)

Malik related to me that he had heard that 'Abdullah ibn Mas'ud used to say, "If some one makes a loan, they should not stipulate better than it. Even if it is a handful of grass, it is usury." (*Al-Muwatta' of Imam Malik*: 31.44.95)

Abu Hurayrah related that the Messenger of Allah, may Allah bless him and grant him peace, said, "A time is certainly coming to mankind when only the receiver of usury will remain, and if he does not receive it, some of its vapour will reach him." Ibn 'Isa said, "Some of its dust will reach him." (*Sunan of Imam Abu Dawud*: 16.1248.3325)

It would appear that this time has certainly come, since it is now virtually impossible to live or conduct business without having a bank account which is linked to a banking system which is based on usury. Since the 1st January 1987, employees in the UK no longer have the right to be paid in cash which means that most people now have to have a bank account through which their pay must pass.

Yet in order to be truly Shari'a compliant, any modern financial product must be free from usury – and in order to be usury-free the means of exchange used in any financial transaction must itself be usury-free, including the manner in which it has been generated and the manner in which it has been earned.

It is therefore necessary to consider what the Muslims have until very recently always utilised as their means of exchange:

Gold and Silver

Since the time of the Prophet Muhammad, who died in 632 CE, may Allah bless him and his family and companions and grant them peace, the traditional currency of the Muslims has always been the gold *dinar* and the silver *dirham*. The Islamic *dinar* is a specific weight of 22 carat gold equivalent to 4.25 grams. The Islamic *dirham* is a specific weight of pure silver equivalent to 3.0 grams.

Umar Ibn al-Khattab, the second leader of the Muslim community after the death of the Prophet Muhammad, confirmed and established the known standard relationship between the two based on their weights: 7 gold *dinars* must be equivalent to 10 silver *dirhams*.

Traditionally, the respective weights of the two coins were determined with reference to the weight of a specific number of grains of barley:

"Know that there is consensus [*ijma*] since the beginning of Islam and the age of the Companions and the Followers that the *dirham* of the *shari'a* is that of which ten weigh seven *mithqals* [weight of the *dinar*] of gold. . . The weight of

a *mithqal* of gold is **seventy-two grains of barley**, so that the *dirham* which is seven-tenths of it is fifty and two-fifths grains. All these measurements are firmly established by consensus.” (*Al-Muqaddimah*, Ibn Khaldun).

The gold *dinar* and the silver *dirham* have intrinsic value. They can only be devalued either by debasing them with other metals, or by clipping them so that they are under weight.

The gold *dinar* and the silver *dirham* can be used as a means of exchange – but they cannot be treated as a commodity in themselves, which means that they cannot be rented out (i.e. loaned on interest) and they cannot be replaced by or represented by an IOU or a promise to pay.

The Uses of the Gold *Dinar* and the Silver *Dirham*:

1. They can be used to **save** because they are wealth in themselves.
2. They are used to **pay zakat** and **dowry** which are requisite within Islamic Law.
3. They can be used to **buy and sell** since they are a legitimate medium of exchange.

The Status of a Promise to Pay :

It is also well established by the Shari'a that an IOU cannot be used as a medium of exchange. For example, A sells B some goods for 10 dinars. B does not have the money on him, so he writes A an IOU and takes possession of the goods. A is not permitted to use that IOU as a means for purchasing goods from C – because the transaction may become usurious.

For example, C may only agree to sell goods which are worth 9 dinars for the IOU – for which he will subsequently receive 10 dinars from A. Or perhaps C will only accept 9 dinars in payment for the goods and A can only raise them from D who pays him 9 dinars for the IOU knowing that A will give him 10 dinars for it.

The authority for the prohibition of using an IOU as a medium of exchange derives from the earliest days of Islam :

Yahya related to me from Malik that he had heard that receipts were given to people in the time of Marwan ibn al-Hakam for the produce of the market at al-Jar. People bought and sold the receipts among themselves before they took delivery of the goods. Zayd ibn Thabit and one of the Companions of the Messenger of Allah, may Allah bless him and grant him peace, went to Marwan ibn al-Hakam and said, “Marwan! Do you make usury *halal*?” He said, “I seek refuge with Allah! What is that?” He said, “These receipts which people buy and sell before they take delivery of the goods.” Marwan therefore sent a guard to follow them and to take them from people’s hands and return them to their owners. (*Al-Muwatta* of *Imam* Malik : 31.19.44)

All forms of paper assets – bonds, shares, and even bank deposits – are promises to repay money borrowed. Since these paper assets have no intrinsic value, the value they are given is dependent upon the investor’s belief that the promise will be fulfilled – which is not what always happens. It is not possible, for example, to obtain £20’s worth of gold in exchange for a £20 note at any bank, even the Bank of England.

Islamic jurisprudence clarifies the difference between gold and silver on one hand and paper money on the other by the legal terminology which is used to indicate their inherent characteristics : Gold and silver are categorised as *'ayn* (tangible merchandise) – whereas paper money is categorised as *dayn* (a promise to pay, a debt). An *'ayn* can never be mistaken for a *dayn* – and vice versa.

The Shari'a permits an *'ayn* to be exchanged for an *'ayn*, but it is not permitted to exchange an *'ayn* for a *dayn*, nor is it permitted to exchange a *dayn* for a *dayn*.

Since paper money is an (unredeemable) IOU, it follows that dealing with today's paper money is in fact usurious – and therefore any financial transaction or financial product which involves its use is unavoidably usurious and cannot therefore truly be described as being 'Shari'a compliant'.

Using plastic electronic money is a substitute for using paper money and therefore the same judgement applies. Since virtually all money deposited with banks is used by the banks to provide loans on interest and to earn interest for the bank while not being used by the bank account holder, this means that even if an individual bank account holder does not accept interest on any credit balance, the bank will still be using the money in that credit balance to create money out of nothing by way of interest, either by lending it or by depositing it in an interest bearing account, whether it is overnight or for a longer period.

Even if a bank assures its Muslim customers that their deposits will not be utilised to create money out of nothing by placing them in an interest-bearing account, this does not alter the fact that the money itself is an unredeemable IOU and is therefore itself usurious and accordingly not Shari'a compliant.

The Role of Shari'a Boards in establishing the Gold Dinar and Silver Dirham

Up to now most Shari'a Boards have either failed to consider or have studiously ignored or skirted round this fundamental issue. This is either because their members have become so accustomed to using paper and plastic money that they do not see what it really is (that is, they cannot distinguish between an *'ayn* and a *dayn*), or it is because they argue that achieving Shari'a compliance is an evolutionary process which will take time and therefore it is not feasible to deal with this issue at this stage.

Sooner or later, however, the Shari'a Boards will have to give this matter serious thought, since even if their current financial products are Shari'a compliant in every other aspect, in fact none of them will be Shari'a compliant until the means of exchange which they all utilise is itself Shari'a compliant.

If we look at Shari'a compliant beverages as an analogy, it is clear that any beverage which contains alcohol is *haram*. Now some Shari'a scholars may be employed by the beverages industry to argue that beer is 'less *haram*' than whisky since it contains less alcohol – and that a shandy is 'more *halal*' than beer since it contains less alcohol. The truth of the matter is that for a beverage to be *halal*, it should contain **no** alcohol, not **low** alcohol – and furthermore, if a person is purchasing that beverage, then additionally both the means of exchange and the method of exchange must also be *halal* if that beverage is not to be tainted with what is *haram*.

Additionally, the manner in which the means of exchange was earned should also be *halal*. For example, if a family earns their living selling alcohol, then their income is *haram*, even if they are paid with gold *dinars* and silver *dirhams*. If they use part of that income to purchase their milk, in a subtle way the transaction will have been tainted with the *haram*.

Zakat

It is also a well established principle of Shari'a that the *zakat* tax (the annual obligatory tax on Muslims payable on surplus wealth at a rate of 2.5% – which after being collected is distributed amongst the poor, thereby ensuring the re-distribution of unused wealth) can only be paid in gold and silver or in certain goods in kind or in certain livestock, but not with an IOU nor with *fulus* (small change represented by base metal coinage or paper tokens, with no inherent value).

It is said that the reason why the rate of *zakat* is 2.5% is because it is in the nature of things that one in every 40 people are unable to support themselves without financial help from others – and Allah knows best.

When Shaykh Muhammad Alish (1802-1881) was asked:

“What is your judgement in respect to the paper with the stamp of the Sultan that circulates like dinars and dirhams? Is it obligatory to pay zakat as if it was a coin of gold or silver, or merchandise, or not?” he replied:

“Praise belongs to Allah and blessing and peace upon our Master Muhammad, the Messenger of Allah.

Zakat is not to be paid for it, because zakat is restricted to livestock, certain types of grains and fruits, gold and silver, the value of rotational merchandise [stock in trade] and the price of goods withheld. What has just been referred to does not belong to any of these categories.

You will find an explanation by making a comparison with the copper coin or fulus with the stamp of the Sultan which is in circulation and for which no zakat is paid since it does not belong to any of the categories just mentioned. It says in the Mudawwana : “Those who possess fulus for over a year for a value of 200 dirhams do not need to pay zakat unless it is used as a rotational merchandise [stock in trade]. Then, it should be treated as if it is merchandise.’

In the ‘At-Tiraz’, after mentioning that Abu Hanifa and Ash-Shafi’i obliged payment of zakat for the fulus, [it is stated that] since both affirm that the payment of zakat is from value, and considering that Shafi’i has two contradictory opinions about the subject, the opinion of this school is that there is no obligation to pay zakat for the fulus since there is no disagreement about the fact that what applies with respect to the fulus is not its weight or its quantity but only its given value. If the zakat was obligatory [on paper] by considering its substance as a merchandise, then the nisab would not be stipulated according to its given value but according to its substance and its quantity, as is the case with silver, gold, grain or fruits. Since its substance [paper] is irrelevant [in value] in respect to the zakat, then it should be treated the same as the [coins made of] copper, iron or other similar substances.

And Allah, ta'ala, is the Wisest. And may Allah bless and give peace to our Master Muhammad and his family.”

(Translated from the *Al-Fath Al-'Ali Al-Maliki*, pp. 164-165).

In other words if *zakat* were to be paid on paper money because it was being assessed as merchandise, or stock in trade, then the amount payable would be calculated with reference to its inherent value as paper – and not with reference to its given value as indicated by the numbers, patterns and promises printed on it. Since a small piece of paper is worth next to nothing, even the *zakat* payable on many pieces of paper would be negligible – and whether the numbers and symbols £5 or £10 or £50 or £100 were printed on each piece of paper this would be entirely irrelevant as regards measuring their worth as pieces of paper.

For the purposes of paying *zakat*, the value of a piece of paper from a roll of toilet paper would probably be the best way of measuring the value of any other piece of paper of approximately the same size and quality, including a bank note of any paper currency.

Since paper does not belong to any of the categories of goods on which *zakat* is payable, and since paper money is in practice never treated as stock in trade, and since it is therefore treated as small change, it follows that it is in fact not Shari'a compliant to pay *zakat* with paper money or with electronic plastic money or with small change – or indeed to have a *zakat* bank account, unless that account is an e-dinar or e-dirham account where every electronic dinar or electronic dirham is backed by a physical gold dinar or a physical silver dirham.

Darura – Necessity

The legal requirements of the Shari'a including the prohibition of usury (which always involves without exception exploitation of need and obtaining something for nothing) are not difficult to comprehend. The reasons why an IOU or promise to pay is not acceptable as a means of exchange if a transaction is to be Shari'a compliant are easy to understand.

The question which then arises is this : If the law of the land permits what the Shari'a prohibits – not only by legalising usury but also by encouraging usury, and if the only legally permitted currencies in circulation are themselves all usurious, then how can Muslims possibly conduct their day-to-day financial transactions in accordance with the Shari'a?

The shorter answer is that at present they cannot.

The longer answer is that if they cannot, then they are permitted by Shari'a to use the legally permitted currencies in circulation even though they are *haram*, until a *halal* means of exchange – traditionally the gold dinar and the silver dirham – has been established. This is because at present they have no other choice. As long as there is apparently no other option, the decision to use paper and electronic plastic is dictated by necessity.

This principle of the Shari'a – the principle of *darura* – is well-known and well-used, but also it is often mis-used. It does not entitle the Islamic banks to pretend that paper and electronic plastic money are Shari'a compliant by virtue of necessity indefinitely. The Shari'a requires them to strive to move from what is *haram* to what is *halal* – and since it will not be difficult to do this, this means that they cannot plausibly assert that there is no alternative to paper and plastic, however well qualified the members of their Shari'a boards appear to be.

Indeed historically and up until quite recently, the use of token money has been the exception rather than the rule. Gold and silver have been used as a means of exchange since at least 3,000 BC. Modern paper currencies have been widely used for about 100 years; the gold standard has only been out of use for about 70 years – and modern electronic plastic money has only been around for about 50 years.

The Islamic banks and the governments of the traditionally Muslim countries now have the knowledge and the infrastructure and the resources to legally recognise the gold *dinar* and the silver *dirham* as their currencies, and to put the gold *dinar* and silver *dirham* back into circulation and to operate *dinar* and *dirham* accounts.

The proper collection and distribution of *zakat* in gold and silver will in turn impede hoarding and ensure the equitable re-distribution of wealth amongst the poor.

No financial transaction and therefore no financial product can be truly Shari'a compliant until these traditional Islamic means of exchange are in use again.

The Future

The impulse to make this transition may well arise not so much out of a yearning to be pleasing to Allah by following His Shari'a, and not so much out of a desire to be granted a place in the Garden in the next world as a reward for obedience to Allah, and not so much out of a wish to avoid a place in the Fire in the next world as a punishment for disobedience to Allah – but rather simply out of sheer necessity :

When it becomes unavoidably apparent that the frail bubble of modern economics must inevitably burst, given that paper money is only intrinsically worth the paper on which it is printed and given that most of the trillions of all the major currencies in the world today only exist as electronic data tenuously located on various hard disks around the world, then prudent investors are likely to exchange their paper and electronic plastic tokens for merchandise or property which possess intrinsic value.

In other words, they will probably wish to do the reverse of the trick which Nathan Rothschild once played on the Bank of England :

“On another occasion he forced even that venerable institution, the Bank of England, in spite of its prestige and its Government support, to confess that it was no match for the finesse of the great financier. Rothschild particularly required an amount of bullion to promote the success of an operation he had in hand. This bullion the directors willingly lent him on condition that it should be returned by a certain day. On that day Rothschild appeared at the Bank to fulfil his engagement. When asked if he intended to return the bullion, his reply was to produce a bundle of notes for the amount. He was reminded of the terms of the agreement, the directors pointing out that to oblige him they had touched their reserve, and that they now urgently required the bullion. “Very well, gentlemen,” he is reported to have said, “return me my notes; I dare say your cashier will honour them with gold from your vaults, and then I can return your bullion.”

(*The Rothschilds: The Financial Rulers of Nations*, John Reeves)

The Past

From the sane perspective of the Shari'a, it does not take a great deal of financial acumen or expertise to appreciate that most modern financial problems have arisen out of the institutionalisation of usury and that these have ballooned out of control in less than a lifetime – ever since the banking system abandoned the gold standard. Even economists who do not have access to the wisdom of the Shari'a are beginning to say that this departure from bi-metal backed currency has turned out to be no more than an experiment which has gone horribly wrong.

Historically, as long as the Muslims used gold dinars and silver dirhams, they thrived. Since it is an essential aspect of Islamic finance that money may be used as a means of exchange, but must not be treated as a commodity (which means that it cannot be rented out – that is, loaned on interest), and since the Shari'a forbids any unjust increment in a commercial transaction (even by so much as a blade of grass), in this past age, usury was virtually non-existent and therefore there was zero inflation. For fourteen centuries, a silver dirham was enough to purchase a chicken and a gold dinar was enough to purchase a sheep. This is still the case today.

Since there was no usury and no inflation, other than the *zakat*, there was virtually no taxation. As long as the *zakat* tax was collected and distributed, there were no national debts. There was therefore no need to increase taxes every year in order to service the national debt, as is the case in most countries today, including the UK.

This state of affairs was shared by early Jewish and Christian societies as well. The *mark* was originally the gold coin of Europe. The *thaler* (from which the word dollar originates) was originally the silver coin of Europe.

Even Americans are beginning to realise that the government of the USA has persevered in ignoring its own Constitution at its peril :

“Since 1968 the money of the United States has consisted of two things:

- Legal-tender Federal Reserve Notes, not redeemable in gold or silver.
- So-called “clad” coins composed of base metal with no silver or gold content whatsoever, and zinc cents.

As the ‘Supreme Law of the Land’, the Constitution requires any change in its provisions be made only by the process of amendment. No amendment has ever been proposed, let alone made, in any of the monetary provisions of the Constitution since the Framers drafted them. Yet the government operates as if drastic alterations have taken place.

The standard unit of money the ‘dollar’, no longer contains any precious metal at all, though the Constitutional ‘dollar’ was defined as 371.25 grains of fine silver.

Gold and silver have been withdrawn as the base of the monetary system, although the Constitution provides that, ‘No state shall . . . make any thing but gold and silver Coins a Tender in payment of debts.’

Irredeemable Federal Reserve Notes (what the Framers would have called 'Bills of Credit') have become the nation's currency, although the Constitution explicitly provides that, 'No state shall emit Bills of Credit,' and delegates no power to Congress to emit such 'Bills' either.

The Federal Reserve system, composed of thousands of private banks, ultimately controls the supply of money in the country through the emissions of Federal Reserve Notes, although the Constitution provides that Congress alone has the power to 'coin money and regulate the Value thereof'.

None of these alterations has ever been sanctioned as constitutional by the Supreme Court."

(*Our Ageless Constitution*, published by W. David Stedman Associates).

When asked if he would become king of America, a banker replied, "Give me control of the issuing of money and credit and I care not who sits in the house of politics."

Conclusion

If complicated mental gymnastics are avoided and the simplicity of the Shari'a is acknowledged and appreciated, then it appears inevitable that the world of finance will one day return to a bi-metal based economy, simply because it is healthier and it has a proven track record of at least five millenia.

From a Shari'a perspective, the return to the use of gold and silver currencies will not be an attempted escape back to the past, but rather it will be a recovery of sanity and true economic stability – and once established it will then and only then be possible to have truly Shari'a compliant financial products, in substance as well as in name.

"Yahya related to me from Malik that Yahya ibn Sa'id heard Sa'id ibn al-Musayyab say, 'Keeping gold and silver out of circulation is part of working corruption in the land.'" (*Al-Muwatta* of *Imam* Malik : 31.16.37)

GLOSSARY OF ARABIC TERMS

- 'adl*: equity; the root of this word refers to the balance obtained when the two pannier-bags on either side of a beast of burden are of equal weight.
- ajal*: a delay granted to the debtor for repayment of a loan or for the performance of an obligation.
- amana*: a trust, a fiduciary relationship, a deposit on trust.
- 'amil*: the agent who works with the *qirad* investment.
- amin*: trustee.
- akhira*: what is on the other side of death; the world after this world in the realm of the Unseen.
- al-ahkam*
- al-khamsa*: 'the five values', the categories of *fard* or *wajib*, *mandub*, *mubah*, *makruh* and *haram*.

- 'alim:* (plural *'ulama*), a Muslim who has sound knowledge of the *Qur'an* and the *Hadith*, and accordingly of the *Shari'a* and the *Sunna*, and who puts what he or she knows into action.
- Allah:* The Lord of all the worlds and what is in them. *Allah* has ninety-nine Names all of which are from and within the One, *Allah*. *Allah*, the supreme and mighty Name, indicates the One, the Existent, the Creator, the Worshipped, the Lord of the Universe. *Allah* is the First without beginning and the Last without end. He is the Outwardly Manifest and the Inwardly Hidden. There is no existent except Him and there is only Him in existence.
- amal ahl*
al-Madina: the normative practice of the people of Madina (meaning the first three generations), one of the fundamental principles of Maliki *fiqh*.
- amir:* the one who commands, the source of authority in a situation; a military commander.
- 'aqd:* (plural *'uqud*), contract.
- 'ard:* merchandise, goods.
- awqaf:* the plural of *waqf*, an inalienable endowment for a charitable purpose which cannot be given away or sold to anyone.
- 'ayn:* ready money, cash; a capital asset or object with material value.
- 'ard:* merchandise, goods.
- ba'i:* a buyer.
- baligh:* someone who is an adult (cf. *bulugh*).
- baraka:* blessing, any good which is bestowed by Allah, and especially that which increases, a subtle beneficent spiritual energy which can flow through things or people.
- bay':* trade, sale – of which there are many kinds, some *halal*, some *makruh*, some *haram*.
- bayt al-Mal:* the 'house of wealth', the treasury of the Muslims where income from *zakat* and other sources – including the wealth of Muslims who die without leaving a Will or any relatives entitled to that wealth in accordance with the *Shari'a* – is gathered for redistribution.
- bulugh:* the age of sexual maturity.
- buyu':* sales, the plural of *bay'*.
- dara'ib:* general taxes imposed for public welfare by the government.
- darura:* necessity.
- darura malji'a:* pressing necessity, also called *mulihha*.
- deen:* the life transaction, the way you live and behave towards *Allah*. It is submission and obedience to a particular system of rules and practices. Literally it means the debt or exchange situation between two parties, in this usage the Creator and the created, or as some say between the conditioned and the unconditioned, the limited and the limitless, or the many and the One.

Allah says in the *Qur'an* that surely the *deen* with *Allah* is *Islam*. The *deen* of *Allah* and the Muslim community is *Islam* but every society and cultural grouping have a *deen* which they follow.

- dayn*: (plural *duyun*), a debt.
- dhimma*: obligation or contract, in particular a treaty of protection for non-Muslims living in Muslim territory.
- dhimmi*: a non-Muslim living under the protection of Muslim rule.
- dinar*: (plural *dananiir*), a gold coin 4.4 gm in weight.
- dirham*: (plural *darahim*) a silver coin 3.08 gm in weight.
- dunya*: this world, not as a cosmic phenomenon, but as it is imagined, inwardly and outwardly. It has been compared to a bunch of grapes which appears to be in reach but which, when you stretch out for it, disappears.
- faqih*: (plural *fuqaha*), a person learned in the knowledge of *fiqh* who by virtue of his knowledge can give a legal judgement.
- fard*: what is obligatory in the *Shari'a*. This is divided into *fard 'ayn*, which is what is obligatory on every adult Muslim; and *fard kifaya*, which is what is obligatory on at least one of the adults in any particular Muslim community. The knowledge of which relatives are entitled to what shares of a dead Muslim's wealth, for example, is *fard kifaya*.
- fatwa*: (plural *fatawa*), an authoritative statement on a point of law.
- fiqh*: the formal study of knowledge, especially the practice of *Islam*. It is the science of the application of the *Shari'a*. A practitioner or expert in *fiqh* is called a *faqih*.
- fiqh*
al-aqalliyat: 'jurisprudence of [Muslim] minorities', a new name for an old area of jurisprudence that used to be called *fiqh an-nawazil* – or 'jurisprudence of momentous events'.
- fiqh*
an-nawazil: 'jurisprudence of momentous events', an area of *fiqh* covered mostly by the Malikis, which is concerned with the *fiqh* for Muslims living in a minority situation.
- fulus*: the plural of *fals*, originally a small copper coin, used as small change, but with no intrinsic value. Any of today's 'modern' currencies could be used as *fulus*.
- fuqaha*: the scholars of *fiqh*, who by virtue of their knowledge can give an authoritative legal opinion or judgement which is firmly based on what is in the *Qur'an* and the *Hadith* and which is in accordance with the *Shari'a* and the *Sunna*.
- gharar*: a sale in which uncertainty is involved. It is forbidden. The sale of futures falls into this category. Any contract in which the availability of goods promised cannot be guaranteed is invalidated through this element of risk.

- habous*: another term for *waqf*.
- hadd*: (plural *hudud*), Allah's boundary limits for the lawful and unlawful. The *hadd* punishments are specific fixed penalties laid down by Allah for specified crimes which break these limits.
- hadith*: the written record of what the Prophet Muhammad said or did, may the blessings and peace of *Allah* be on him, preserved intact from source, through a reliable chain of human transmission, person to person.
- hadith qudsi*: the written record of those words of *Allah* on the tongue of the Prophet Muhammad, may the blessings and peace of *Allah* be on him, which are not a part of the revelation of the *Qur'an*, preserved intact from source, through a reliable chain of human transmission, person to person.
- hakam*: an arbiter.
- halal*: what is permitted by the *Shari'a*.
- haram*: what is forbidden by the *Shari'a*. Also *Haram*. A protected area. There are two protected areas, known as the *Haramayn*, in which certain behaviour is forbidden and other behaviour necessary. These are the areas around the *Ka'ba* in *Makka* and around the Prophet's Mosque in *Madina*, in which is his tomb, may the blessings and peace of *Allah* be on him.
- hiyal*: legal devices, evasions, observing the letter, but not the spirit of the law.
- hudud*: (the plural of *hadd*), the limits. The boundary limits which separate what is *halal* from what is *haram*, as defined by *Allah*. The *hadd* punishments are specific fixed penalties laid down by Allah for specified crimes.
- ihsan*: the inward state of the *mumin* who is constantly aware of being in the Presence of *Allah*, and who acts accordingly. *Ihsan* is to worship *Allah* as though you see Him, knowing that although you do not see Him, He sees you.
- ihtikar*: cornering, hoarding. It is not allowed with essential staple items, such as grain.
- ijara*: lease or hire, including work for a regular wage.
- ijara wa iqtina'*: hire purchase contract, lease-purchase financing, a modern development combining two concepts. The purpose here is not interest which must not play a part, The instalments are paid into an account and are invested in a *mudaraba*.
- ijma'*: consensus, particularly consensus of the people of knowledge among the Muslims on matters of *fiqh*.
- ijtihad*: to struggle, to exercise personal judgement in legal matters. The faculty of deciding the best course of action in a situation, which is not expressly referred to in the *Qur'an* and the *Hadith*, and then choosing a course of action which is close to the *Sunna* and in accord with the *Shari'a*.
- 'ilm*: (plural, *'ulum*) knowledge, science.

- imam*: (1) Muslim religious or political leader; (2) one of the succession of Muslim leaders, beginning with 'Ali, regarded as legitimate by the Shi'a; (3) leader of Muslim congregational worship.
- iman*: trust in *Allah* and acceptance of His Messenger, may the blessings and peace of *Allah* be on him. *Iman* grows in the heart of the one who follows the way of *Islam*. *Iman* is to believe in *Allah*; His Angels; His Books; His Messengers; the Last Day and the Fire and the Garden; and that everything, both good and bad, is by the Decree of Allah. Thus *iman* is the inner knowledge and certainty in the heart which gives you *taqwa* and *tawba* and the yearning to know more.
- Islam*: the Prophetic guidance brought by the Prophet Muhammad, may the blessings and peace of *Allah* be on him, for this age for the people and *jinn* who desire peace in this world, the Garden in the next world, and knowledge and worship of *Allah* in both worlds. The five pillars of *Islam* are the affirmation of the *shahada* (the affirmation that there is no god except Allah and that Muhammad is the Messenger of Allah); doing the *salat* (prayer); fasting during the month of *Ramadan*; paying the *zakat* (a tax on surplus wealth); and doing the *hajj* (the pilgrimage to Makka) if you are able.
- jahiliyya*: the time of arrogance and ignorance which precedes the time when the way of *Islam* is established as a social reality. Anyone who does not have wisdom suffers from *jahiliyya*.
- ja'iz*: permitted, another term for *mubah*.
- jizya*: a protection tax payable by non-Muslims as a tribute to a Muslim ruler, traditionally 4 dinars or 40 dirhams per year.
- Jannah*: the Garden, Paradise, the final destination and resting place of the *Muslims* in the *akhira*, once the Day of Reckoning is past. *Jannah* is accurately described in great detail in the *Qur'an* and in the *Hadith*.
- Ka'ba*: the House of *Allah*, in *Makka*, originally built by the Prophet Ibrahim, peace be on him, and rebuilt with the help of the Prophet Muhammad, may the blessings and peace of *Allah* be on him. The *Ka'ba* is the focal point which all Muslims face when doing the prayer. This does not mean that *Allah* lives inside the *Ka'ba*, nor does it mean that the Muslims worship the *Ka'ba*. It is *Allah* whom the Muslims worship, and *Allah* is not contained or confined in any form or place or time or concept.
- kafir*: (plural *kafirun*) the one who denies the Existence of *Allah* and who rejects His Prophets and Messengers, and who accordingly has no peace or trust in this life, and a place in the Fire in the next life. The opposite is believer or *mu'min*. Shaykh 'Abd'al-Qadir writes, '*Kufr* means to cover up reality: *kafir* is one who does so. The *kafir* is the opposite of the *mu'min*. The point is that everyone knows 'how it is' – only it suits some people to deny it and pretend it is otherwise, to behave as if we were going to be here for ever. This is called *kufir*. The condition of the *kafir* is therefore one of neurosis,

- because of his inner knowing. He 'bites his hand in rage' but will not give in to his inevitable oncoming death.' (*Quranic Tawhid*. Diwan Press. 1981).
- kanz*: hoarded up gold, silver and money, the *zakat* of which has not been paid.
- khalif*: the Arabic is *khalifa*, (pl. *khulafa*); Caliph, someone who stands in for someone else, in this case the leader of the Muslim community, although it is sometimes used to describe the deputy of someone in a higher position of authority.
- kharaj*: taxes imposed on revenue from land. Originally these were only applied to land owned by non-Muslims.
- kufir*: disbelief, to cover up the truth, to reject Allah and refuse to believe that Muhammad is His Messenger, may Allah bless him and grant him peace.
- madhhab*: a school of law founded on the opinion of a *faqih*. The four main *madhhabs* now are the Hanafi, Maliki, Shafi'i and Hanbali schools. There are also *madhhabs* which have ceased to exist, for example, the Awza'i, Zahiri, Jariri schools and the *madhhab* of Sufyan ath-Thawri. The Shi'a also designate their *fiqh* as the 'Imami' or 'Ja'fari *madhhab*' after Ja'far as-Sadiq. Among the Shi'a, there are also the Akhbaris and the Usulis.
- magharim*: unjust non-Shari'a taxes, unlawful taxes, fines.
- mahkama*: court of justice, tribunal.
- makruh*: abominable, reprehensible but not unlawful in the *Shari'a*.
- mal*: (plural *amwal*), property, something that exists and can be utilised.
- mamnu'a*: what is prohibited in acts of worship in the *Shari'a*.
- mandub*: what is commendable, recommended.
- masnun*: *sunna*, referring to an act which the Prophet's early community performed regularly.
- mubah*: permissible, permitted; something for which there is neither reward nor punishment. Also called *ja'iz*.
- mudaraba*: commenda, co-partnership, *qirad*; whereby the investor provides the '*amil*' with a capital sum with which to trade. Any profit or loss is shared between them as agreed at the outset. Neither investor nor '*amil*' can stipulate a guaranteed return as part of the contract. *Mudaraba* is different to *musharika*, partnership, which involves a contract of co-ownership whereby profit or loss is shared in proportion to the partners' shares in their business venture.
- mudarib*: agent manager, managing trustee.
- mufsida*: what invalidates acts of worship in the *Shari'a*.
- mufti*: someone qualified to give a legal opinion or *fatwa*.
- muhsin*: the Muslim who has *ihsan*, and who accordingly only gives reality to the Real, *Allah*. Only the *muhsin* really knows what *Tawhid* is. Shaykh 'Abd'al-Qadir once said, 'The difference between the *kafir* and the *muslim* is vast. The difference between the *muslim* and the *mumin* is greater still. The

difference between the *mumin* and the *muhsin* is immeasurable,' not only in inward state, but also in outward action.

mumin: (plural *muminun*) the Muslim who has *iman*, who trusts in *Allah* and accepts His Messenger, may the blessings and peace of *Allah* be on him, and for whom the next world is more real than this world. The *mumin* longs for the Garden so much, that this world seems like the Fire by comparison and feels like a prison.

munafiq: (plural, *munafiqun*); a hypocrite, a person who outwardly professes *Islam* on the tongue, but inwardly rejects *Allah* and His Messenger, may the blessings and peace of *Allah* be on him, and who side with the *kafirun* against the *muminun*. The deepest part of the Fire is reserved for the *munafiqun*.

Munkar

and Nakir: the two angels who question your *ruh* in the grave after your body has been buried, asking, "Who is your Lord? Who is your Prophet? What is your Book? What was your *Deen*?"

murabaha: partnership between an investor and a borrower in a profit-sharing re-sale of goods, in which the profit is pre-determined and fixed. *Murabaha* takes place when the seller of a product expressly discloses and declares to the buyer the price at which the product was bought (the cost price) and then stipulates what the profit is (the selling price minus the cost price) in *dinars* or *dirhams*. Traditionally this is a way of trading, not a way of providing finance.

musawama: sale of goods at any price mutually agreed upon by the buyer and seller.

musharaka: partnership.

muslim: one who follows the Way of *Islam*, doing what is obligatory and avoiding what is forbidden in the *Shari'a*, keeping within the *hudud* of *Allah*, and embodying as much of the *Sunna* as he or she is able, through study of the *Qur'an* and the *Hadith* followed by action. A Muslim is, by definition, one who is safe and sound, at peace in this world, and guaranteed the Garden in the next world.

mustahab: what is recommended, but not obligatory, in acts of worship in the *Shari'a*.

Nar: the Fire of Hell, the final destination and place of torment of the *kafirun* and the *munafiqun* in the *akhira*, once the Day of Reckoning is past. Some of those Muslims who neglected what is *fard* in the *Shari'a* and who did grave wrong action without making *tawba* will spend some time in the Fire before being allowed to enter the Garden, depending on the Forgiveness of *Allah* – Who forgives every wrong action except *shirk* if He wishes. *Nar* is accurately described in great detail in the *Qur'an* and in the *Hadith*.

nasi'a: a sale in which the price is paid later for goods to be delivered at once; ownership in the goods passes at the time the contract is made.

nawafil: what is voluntary in acts of worship in the *Shari'a*.

- nisab*: minimum. The minimum for the *hadd* of theft is three *dirhams* or a quarter of a *dinar*; and there are various minimums for *zakat* becoming payable : in money it is 200 *dirhams* or 20 *dinars*; in produce 5 *wasqs*, and in livestock 5 camels, 30 cattle, and 40 sheep or goats.
- niyya*: intention; actions are judged by their intentions.
- qabr*: the grave, experienced as a place of peace and light and space by the *ruh* of the *mumin* who sees his or her place in the Garden in the morning and in the evening; and experienced as a place of torment and darkness and no space by the *ruh* of the *kafir* who sees his or her place in the Fire in the morning and in the evening. After death there is a period of waiting in the grave for the *ruh* until the Last Day arrives, when everyone who has ever lived will be brought back to life and gathered together. Their actions and intentions will be weighed in the Balance, and everyone will either go to the Garden or to the Fire, for ever.
- qadi*: (plural *qada*), a judge, qualified to judge all matters in accordance with the *Shari'a* and to dispense and enforce legal judgements.
- qadi al-qudat*: the chief *qadi*, in charge of all other *qadis*.
- qard*: loan of money or something else.
- qard hasan*: interest-free loan.
- qibla*: the direction faced in prayer, which, for the Muslims, is towards the *Ka'ba* in Makka.
- qirad*: wealth put by an investor in the trust of an agent for use for a specific commercial enterprise, the agent receiving no wage, but taking a designated share of the profits after the capital has first been paid back to the investor (see *mudaraba*). *Qirad* is only permitted with *dinars* or *dirhams*. It is not permitted to stipulate a specific time period.
- qiyas*: logical deduction by analogy, one of the four main fundamental principles which can be utilised in reaching a judgement.
- Qur'an*: the 'Recitation', the last Revelation from *Allah* to mankind and the *jinn* before the end of the world, revealed to the Prophet Muhammad, may *Allah* bless him and grant him peace, through the angel Jibril, over a period of twenty-three years (beginning in 610 and ending in 632), the first thirteen of which were spent in *Makka* and the last ten of which were spent in *Madina*. The *Qur'an* amends, encompasses, expands, surpasses and abrogates all the earlier revelations revealed to the earlier Messengers, peace be on all of them. The *Qur'an* is by far the greatest of all the miracles given to the Prophet Muhammad by *Allah*, for he was illiterate and could neither read nor write. The *Qur'an* is the uncreated word of *Allah*. The *Qur'an* still exists today exactly as it was originally revealed, without any alteration or change or addition or deletion. Whoever recites the *Qur'an* with courtesy and sincerity receives knowledge and wisdom, for it is the well of wisdom in this age.

- rabb al-mal*: investor, beneficial owner, sleeping partner.
- rahn*: mortgage; a pledge; pawn.
- rak'a(t)*: a unit of the prayer consisting of a series of standings, bowing, prostrations and sittings.
- rama*: a form of usury which arises when transfer of payment in an exchange which should have taken place hand to hand is delayed.
- ra'y*: opinion, personal discretion, a legal decision based on the use of common sense and personal opinion, used where there is no explicit guidance in the *Qur'an* and *Sunna* and where it is not possible to use analogy (cf *qiya*s).
- riba*: usury, which is forbidden, whatever form it takes, since it always involves obtaining something for nothing through exploitation.
- riba al-fadl*: this involves any unjustified excess in quantity in an exchange, for example, charging interest on lent money; or an exchange of goods of superior quality for more of the same kind of goods of inferior quality, for example, dates of superior quality for dates of inferior quality in greater amount, which is forbidden.
- riba*
- al-Jahiliyya*: pre-Islamic *riba*.
- riba jali*: manifest *riba*.
- riba khafi*: hidden *riba*.
- riba an-nasi'a*: this involves any unjustified delay in time in an exchange, for example, increasing the price of goods if payment is to be deferred; or a delay in transfer in an exchange of two quantities, even if they match in quantity and quality, for example in an exchange of 10 dirhams for 7 dinars which is only permitted if the exchange is hand to hand.
- rihb*: profit.
- ruh*: the spirit which gives life, formed from pure light; also the Angel Jibril.
- sadaqa*: voluntary charitable giving for the sake of Allah.
- sajda*: the act of prostration.
- sakk*: (plural *sukuk* or *sikak*), an IOU (from which the word 'cheque' derives) which can be honoured by a buyer's agent either immediately or in another location.
- salam*: a sale in which the price is paid at once for goods to be delivered later; ownership in the goods passes at the time the contract is made.
- salat*: the prayer, particularly the five daily obligatory prayers which constitute one of the pillars of Islam.
- sarf*: exchange of two currencies; a barter transaction.
- sariqa*: theft.
- shahada*: bearing witness, particularly bearing witness that there is no god but Allah and that Muhammad is the Messenger of Allah, may Allah bless him and

grant him peace. It is one of the pillars of Islam. It is also used to describe legal testimony in a court of law.

shahada

az-zur:

perjury, false witness.

shahid:

(plural *shuhud*), a witness.

Shari'a:

a road. The way of *Islam*, the way of Muhammad, may the blessings and peace of *Allah* be on him, the road which leads to knowledge of *Allah* and the Garden. Shaykh 'Abd'al-Qadir writes, 'It is the behaviour modality of a people based on the revelation of their Prophet. The last *Shari'a* in history has proved to be that of *Islam*. Its social modality abrogates all previous *shara'i* e.g. Navaho, Judaic, Vedic, Buddhic, etc. These *shara'i* however, continue until the arrival and confrontation takes place in that culture with the final and thus superior *Shari'a* – *Islam*. It is, being the last, therefore the easiest to follow, for it is applicable to the whole human race wherever they are.' (*Qur'anic Tawhid*. Diwan Press. 1981).

sharika:

(also *shirka*), a partnership.

sharika

al-a'mal:

(also *sharika al-abdan*), labour partnership, based on the partners' work.

sharika

al-'aqd:

contractual partnership.

sharika

al-mal:

finance partnership, based on the partners' contributions in gold or silver.

sharika

al-mulk:

proprietary partnership.

sharika

fi'l-bay':

the transfer at cost price of an article from one person to another who in return becomes a partner in the ownership of the article and agrees to sell it for both of them, the profit to be shared.

sharika wujuh: credit partnership.

Shi'a:

lit. a party or faction, specifically the party who claim that 'Ali should have succeeded the Prophet as the first *khalif* and that the leadership of the Muslims rightfully belongs to his descendant.

shirk:

the unforgivable wrong action of worshipping something or someone other than Allah or associating anything or anyone as a partner with *Allah*, that is, to worship what is other than *Allah*, including your self, your country, your universe and anything it contains. *Shirk* is the opposite of *Tawhid*. *Allah* says in the *Qur'an* that He will forgive any wrong action except *shirk*. Shaykh 'Abd'al-Qadir writes, 'Idol-worship means giving delineation to the Real. Encasing it in an object, a concept, a ritual, or a myth. This is called *shirk*, or association. Avoidance of *shirk* is the most radical element in the approach to understanding existence in *Islam*. It soars free of these deep social restrictions and so posits such a profoundly revolutionary approach

to existence that it constitutes - and has done for fourteen hundred years - the most radical rejection of the political version of idolatry, statism. It is very difficult for programmed literates in this society to cut through to the clear tenets of *Islam*, for the Judaic and Christian perversions stand so strongly in the way either as, rightly, anathema, or else as ideals. The whole approach to understanding reality has a quite different texture than that known and defined in European languages, thus a deep insight into the structure of the Arabic language itself would prove a better introduction to the metaphysic than a philosophical statement. The uncompromising *tawhid* that is affirmed does not add on any sort of 'god-concept'. Nor does it posit an infra-god, a grund-god, even an over-god. Christian philosophers were so frightened by this position that when they met it, to stop people discovering the fantasy element in their trinitarian mythology they decided to identify it with pantheism in the hope of discrediting it. That they succeeded in this deception is an indication of how far the whole viewpoint has been kept out of reach of the literate savage society. Let it suffice here to indicate that there is no 'problem' about the nature of *Allah*. Nor do we consider it possible even to speak of it. No how, who, or what or why. It is not hedging the matter in mystery. It is simply asking the wrong questions. The knowledge of *Allah* is specifically a personal quest in which the radical question that has to be asked is not even 'Who am I?' but 'Where then are you going?' (*Qur'anic Tawhid*. Diwan Press. 1981).

- shirka*: partnership.
- sirq*: theft.
- suftaja*: bill of exchange; it is defined as a loan of money repayable by the borrower to a person other than the lender in a different place. It is forbidden.
- Sunna*: the form, the customary practice of a person or group of people. It has come to refer almost exclusively to the practice of the Messenger of *Allah*, Muhammad, may the blessings and peace of *Allah* be on him, but at the time that *Imam* Malik, may *Allah* be pleased with him, compiled *Al-Muwatta'*, meaning '*The Well-Trodden Path*', there was no sense of setting the *Sunna* of the Prophet apart from the *Sunna* of *Madina*, so that the actions of its knowledgeable people were given even more weight than the behaviour of the Prophet related in isolated *Hadith*. The *Sunna* of the Prophet Muhammad and the first Muslim community of *Madina al-Munawarra* is a complete behavioural science that has been systematically kept outside the learning framework of this society.
- Sunni*: the main body of Muslims, who recognise and accept the first four *khalifs*.
- suq*: market.
- takbir*: saying "*Allahu Akbar*", "Allah is greater".
- takaful*: mutual responsibility, mutual guarantee, the Muslim answer to insurance in which money is pooled and invested.

- taqlid*: in reference to *fiqh*, it means the following of previous authorities and the avoidance of *ijtihad*.
- taqwa*: awe of *Allah*, which inspires a person to be on guard against wrong action and eager for actions which please Him.
- tawba*: returning to correct action after error, turning away from wrong action to *Allah* and asking His forgiveness.
- Tawhid*: Unity in its most profound sense. *Allah* is One in His Essence and His Attributes and His Acts. The whole universe and what it contains is One unified event which in itself has no lasting reality. *Allah* is Real. Shaykh 'Abd'al-Qadir writes, 'Our *Imam* said, "It is a meaning which obliterates the outlines and joins the knowledges. *Allah* is as He always was. *Tawhid* has five pillars: it consists of the raising of the veil on the contingent, to attribute endlessness to *Allah* alone, to abandon friends, to leave one's country, and to forget what one knows and what one does not know." His greatest statement on *tawhid*, which Shaykh al-Akbar has called the highest of what may be said on the subject is, "The colour of the water is the colour of the glass." Commenting on this Shaykh Ibn 'Ajiba said, "This means that the exalted Essence is subtle, hidden and luminous. It appears in the outlines and the forms, it takes on their colours. Admit this and understand it if you do not taste it." *Tawhid* is itself a definition whose meaning is not complete for the one who holds to it until he has abandoned it or rather exhausted its indications and abandoned it for complete absorption in the One.' (*Qur'anic Tawhid*. Diwan Press. 1981).
- ta'zir*: deterrence, discretionary penalty determined by the *qadi*.
- tazkiya*: testing the reliability of a witness; cross-examination.
- tijara*: trade.
- 'ulama*: the plural of *'alim*. Those who know. The *Qur'an* states: "Those who know fear *Allah*."
- 'ulum*: plural of *'ilm*.
- 'urf fasid*: disapproved custom, which conflicts with the *Shari'a* and is therefore rejected.
- 'urf sahih*: valid or approved custom, which is in harmony with the *Shari'a* and is therefore accepted.
- 'ushr*: one tenth of the yield of land to be levied for public assistance.
- usul*: fundamentals, essentials.
- usul ad-deen*: meaning *'ilm usul ad-deen*, the science of the fundamental principles of the *deen* as distinct from other belief systems; the science of the tenets of belief. It can also be designated as '*al-fiqh al-akbar*', 'the greatest understanding'.
- Umma*: the body of Muslims as one distinct Community.
- wajib*: what is necessary, but not obligatory, in acts of worship in the *Shari'a*.

- wakala*: agency; power of attorney.
- wakil*: a person who is an authorised representative, agent or proxy.
- wali*: a guardian who is responsible for another person.
- waqf*: also *habous*, an unalienable endowment for a charitable purpose which cannot be given away or sold to anyone.
- yamin*: (plural *ayman*): oath. Oaths form a complementary role to evidence in Islamic law. If a person is accused of an offence without the evidence of sufficient witnesses of good standing, he or she may swear an oath as to his or her innocence to avert punishment.
- Yawm al-Akhira*: the Day After – the end of the world, and thus the Last Day, when everyone who has ever lived will be given life again, gathered together, their actions and intentions weighed in the Balance, and their place in either the Garden or the Fire confirmed. *Yawm al-Akhira* is also referred to in the *Qur'an* as *Yawm ad-Deen*, the Day of the Life Transaction; *Yawm al- Ba'th*, the Day of Rising from the grave; *Yawm al- Hashr*, the Day of Gathering; *Yawm al- Qiyama*, the Day of Standing; *Yawm al- Mizan*, the Day of the Balance; and *Yawm al- Hisab*, the Day of Reckoning. That Day will either be the best day or the worst day of your life, depending on who you are and where you are going. The *Yawm al- Akhira* is accurately described in great detail in the *Qur'an* and in the *Hadith*.
- zakat*: one of the five pillars of Islam, the wealth tax obligatory on Muslims each year, usually payable in the form of one fortieth of surplus wealth which is more than a certain fixed minimum amount, called the *nisab*. *Zakat* is payable on accumulated wealth, merchandise, certain crops, certain livestock, and subterranean and mineral wealth, such as, for example, gold and oil.
- zuyuf*: debased coins.

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