

R I B A

AND

COMMON INTEREST

A REJOINDER

BY

ANWAR AHMED MEENAI

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AND

COMMON INTEREST

A REJOINDER

BY

ANWAR AHMED MEENAI

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TABLE OF CONTENTS

Stop Press	(i)
Acknowledgment	(ii)
A Valuable Reading on <i>Riba</i> (Preface by Maulana Muhammad Wali Raazi)	(iii)
Foreword	(v)
Introduction	1
Points Raised by Justice Ahmed	4
Points to Ponder	11
What is <i>Riba</i>	15
Interest, Leasing and Mukhabra	24
What and Who is the Criteria	30
The Alternative	34
An Appeal	36

This book had been composed and was about to be sent to the press when the news of sad demise of Justice (Retd) Qadeeruddin Ahmed was received. May his soul rest in peace.

It is our considered opinion that whatever has been written by him in the matter of Riba is an honest mistake of interpretation and judgment. In view of the critical nature of the issue of Riba, the controversy that it has generated and the fact that it affects the life of every individual in today's world, it was considered necessary to publish this book so that those who take interest in the matter can appreciate the errors of judgment by the late Justice (Retd) Qadeeruddin Ahmed, while pleading the case for excluding commercial interest from the ambit of Riba.

May Allah pardon us all and forgive our sins. Amen.

Anwar Ahmed Meenai

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- Ms Elizabeth Fernandes
- Mr. Muhammad Arif • apkar pk

RIBA AND COMMON INTEREST

Errata

<u>Page No.</u>	<u>Line No.</u>	<u>Word is</u>	<u>Word Should Be</u>
iv	30	Ashaf	Ashraf
1	14	import are	important
5	30	act of	act or
8	07	world wide	worldwide
10	16	an	may
13	12	understand	understands
21	11	this	his
21	18	Hazar	Hazrat
21	24	Hazar	Hazrat
28	15	Say	Stay
29	11	Abdul	Abul
34	09	which	with
34	10	with	which
36	03	claim	claims
36	08	system	systems

A VALUABLE READING ON *RIBA*

The question of prohibition of interest (*riba*) has never been a point of debate among the Muslims of the past for the obvious reason that the Holy Qur'an and the Sunnah are quite eloquent and unambiguous on this point. The introduction of capitalist economic systems by the western colonial powers in the sub-continent and in other Muslim countries gave birth to many practices standing in clear contrast of Islamic injunctions. Among them interest or *riba*, has held a different and rather a significant place.

The Muslims allured by the apparent and petty benefits of interest began to accept it and became unknowingly trapped in a practice that was clearly prohibited by Islam. The ulema, or the religious scholars took up the challenge and produced valuable literature to explain various aspects of *riba*.

They have not only answered the objections and misinterpretations about the term *riba*, but have also sufficiently proved that banking interest was no exception to the prohibition of *riba*. My father, the late Mufti Muhammad Shafi, is included among these scholars. He wrote a book in Urdu providing irrefutable arguments against the misinterpretation of the term *riba*. These have been countered by those modern Muslim writers who find it easier to mold Islamic principles to fit their desires rather than molding themselves to the will of Allah as sincere Muslims.

There is no dearth of such writers among Muslims who have been recently forwarding arguments, if ever there can be truth in this category, and interpretations that may convince a Muslim of little or no knowledge of Islam but are sometimes ridiculous for men of knowledge.

I was very much pleased to read the article written by Mr. Anwar Ahmed Meenai which basically has been written by him to clear away any doubts that might have been created by an article written by Justice Qadeeruddin Ahmad, published recently in the daily Dawn. This article had emphasized that only one mode of interest has been prohibited by the Holy Qur'an while other kinds, which include bank interest, are not prohibited. In an effort to establish his point, Justice Qadeeruddin Ahmad has made many claims that are not supported by Islamic sources, nor can be acceptable to reason.

Mr. Anwar Ahmed Meenai has performed a great duty by objectively discussing the misleading points contained in the article in question. He has unknowingly relieved me of a burden that was placed on my heart since the moment one of my friends had read to me some extracts from the article under discussion. I have read this valuable material presented by Mr. Meenai, word for word, and feel great confidence that it will remove any possible doubts that might have crept in the minds of weak Muslims, and also has provided positive material that speaks for itself on the subject. I hope it will prove to be a concise and valuable document on the subject.

May Allah accept his effort to defend right against wrong.

Muhammad Wali Raazi

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FOREWORD

For quite some time, attempts are being made by the various pseudo scholars / pseudo economists to create doubts in the minds of common Muslims about the prohibition of interest (*riba*) and to put forth highly confusing arguments in favor of their claims. These efforts gathered a sudden momentum since the announcement of the famous judgment by the Shariat court. The latest in the series has been an article by Justice (Ret'd.) Qadeeruddin Ahmad published in the daily Dawn in four parts. Reportedly, this has since been published in the form of a pamphlet.

Muslim scholars and economists have produced a great volume of literature to remove any doubts in the minds of people that *riba*, prohibited by Allah includes the present day commercial interest whether on consumption or production loans. Notable among these scholars of the sub-continent who have written on this issue are Syed Abul A'ala Maudoodi and Mufti Muhammad Shafi. Economists of repute who have presented Islam's view point on the issue are Dr. Muhammad Umar Chapra, until recently an advisor to the Saudi Arabian Monetary Agency and Dr. Muhammad Najatullah.

Despite the fact that the arguments presented by those who believe that the present day bank interest does not fall within the ambit of *riba* or that *riba* refers to usury only, have been refuted from time to time and answered satisfactorily by the scholars as well as the economists, the

same arguments are presented from time to time to lead the common man astray. The detailed judgment by the Federal Shariat Court announced in 1991 has also very comprehensively answered the various doubts about the applicability of *riba* in modern economics.

This pamphlet is an attempt to summarize the arguments that are put forth in favor of the present day commercial interest, mostly in the words of those who have come up with these, and an answer to these in the light of the Qur'an, and sayings of the Prophet, peace be upon him.

One may form any opinion on any matter of religious significance. For an educated person, however, it is important to know and understand the arguments presented by the two sides so that one can form the right opinion in such matters.

ANWAR AHMAD MEENAI

Karachi 1995.

CHAPTER ONE

INTRODUCTION

It is our belief as Muslims that Qur'an revealed by Allah to His Prophet Muhammad, peace be upon him, contains a guidance for the mankind for all times to come. The book was revealed to the Prophet, peace be upon him, whose job it was to recite it to the people, elaborate upon its meaning, explain its true intent and implement its commands in the day to day life of the Muslim community. The Prophet, peace be upon him, was also entrusted with the task of training his disciples (RA) so that they could resolve the issues likely to be faced in the future in the light of the guidance contained in the Qur'an and the instructions of the Prophet, peace be upon him. These instructions are contained in his sayings and form an important (the second most important) source of Islamic jurisprudence. It may be mentioned that the Prophet, peace be upon him, was given legislative powers by Allah Himself. On the strength of these powers, the Prophet, peace be upon him, gave detailed instructions on various issues about which broad guidelines are contained in the Qur'an.

For the last 1400 years Muslim economists and scholars have been unanimous with respect to the prohibition of *riba* (interest). Unfortunately, in the middle of the nineteenth century when almost all the Muslim territories fell to the colonial powers of the West, the economic system developed by Islam was replaced by the capitalist system. While the military might of the Muslims was defeated in the battle fields, the Muslim intelligentsia surrendered, perhaps unwittingly, to the Western philosophy of life. The changes brought about by the new masters in the educational system brainwashed the new

generation in such a way that they adopted the value system of the West without studying it in depth and without pondering about the rationale of Islam's economic, moral and social philosophy. It has since been a sad state of affair. It has only been recently that there is an awakening in the Muslim countries that the Western systems imposed on them, due mostly to their own lethargy, are not taking them anywhere. These systems have also failed to resolve the problems facing the Muslims in particular and the West in general.

The prohibition of *riba* (interest) is one such problem. A large number of Muslims are today convinced that the economy of a country cannot function without the element of interest. Being Muslims and in order to reconcile their beliefs and actions, such persons believe and claim that *riba* prohibited by the Qur'an and the sayings of the Prophet, peace be upon him, refers to usury only and that the present day commercial interest does not fall in the ambit of *riba*.

In the discussions to follow, we will attempt to analyze the various arguments and claims made by such persons with special reference to the article by Justice (Ret'd) Qadeeruddin Ahmad published in DAWN in four parts on August 12, 13, 14 and 16, 1994.

Before proceeding any further with the discussion of the merits / demerits of the points raised and arguments presented, the reader's attention is invited to the basic fallacy in the claim that the concept of *riba* has not been clarified either by Allah, in the Qur'an, or by the Prophet, peace be upon him. Can it stand to reason for a minute that Allah would send a Prophet, peace be upon him, make it clear that he is the last of Allah's prophets, peace be upon them all, make it incumbent upon every Muslim man and woman to abide by all the teachings of the Prophet,

peace be upon him, and then cause the Prophet, peace be upon him, to pass away at a stage when a critical matter in financial dealings in the Muslim society is still shrouded in mystery. Not only this, but Allah would also (I seek His forgiveness) make a false claim by saying that today I have perfected *this religion for you*. When Pharaoh asked Hazrat Moosa, "Who is your Lord, O Moosa", the reply was, "Our Lord is the one Who created everything and then guided it". (Verse 50 - Surah Taha).

Also the claim that the practice of charging *Al-Riba* which obtained in pre-Islamic Arab society is found to be peculiar to those times to that territory and that it is no longer existing in any Muslim country, not in any well known country of the world, would mean that Qur'anic teachings are limited to a particular time and to a particular location. Whither the claim then which Allah wants His Prophet, peace be upon him, to make that "O people, I am the messenger of Allah towards you all" (Verse 158 - Al-A'raf). The same verse continues to say, "So believe in Allah and the Prophet, peace be upon him, who can neither read or write, who believes in Allah and His words, and follow him so that you may be guided the right path."

Can a Muslim ever imagine that Allah's knowledge is imperfect or that He is not aware of all that will happen or that His teachings are limited by time and space?

Would there be then any end to the modifications that one would want to introduce and innovations that can be made to the Islamic teachings? It might as well be said that pork is now hygienically processed and sold and that its consumption should be allowed. Someone may argue that only those form of theft or robbery of those commodities only should be considered a crime which were in vogue in Arabia at the time of revelation of Qur'an. The list will be endless.

CHAPTER TWO

POINTS RAISED

By Justice (Ret'd) Qadeeruddin Ahmed

- 1) The alternative methods that are suggested or prescribed do not adequately meet the requirements of the existing conditions and international commerce because of the involvement in it of foreign countries and non-Muslims.
- 2) Only one kind of *riba* out of two kinds (*Riba al-Nasia* and *Riba al-Fadl*) and according to Mr. N. A. SALEH (in his book, *Unlawful Gain & Legitimate Profit in Islamic Law*) one out of 3 kinds (*Riba al-Nasia*, *Riba al-Jahiliyya* and *Riba al-Fadl*) has been banned by the Qur'an.
- 3) The experts agree that this expression (*Al-Riba*) refers to the form of loan which was in vogue in Arab society before the advent of Islam.
- 4) All are agreed that only this kind of *riba* (*riba* of the ignorant era) and no other is directly forbidden by the Qur'an.
- 5) The Qur'an has condemned *Riba al-Jahiliyya* but has neither described it nor explained its modus-operandi. The Holy Prophet, peace be upon him, too has provided no elucidation in this respect.
- 6) The Qur'an does not tell us as to what the mechanism of *riba* or *Riba al-Jahiliyya* was and how that mechanism functioned. We are not told in detail of the manner in which a debt increased. Was simply an amount added to the dues or the capital amount itself was inflated? Th

language of the verses nevertheless indicates that the increase was enormous (doubled or redoubled, Surah 3; Verse 130). It also tells us that there was wickedness, serious injustice (Surah 2, verses 276 and 279) and iniquity (Surah 4 verse 160) in these transactions. But we are not told clearly as to what amount was doubled and redoubled. Was it the amount that was increased by reason of a default, namely; sood or interest or was it the capital amount itself that was doubled and redoubled?

- 7) The same language (i.e. threat of war with Allah and His Apostle) was used by the Prophet, peace be upon him, for those who lease out land to tillers on the condition that they would share the income with the tillers. The Prophet, peace be upon him, pronounced: "One who does not give up lease of land (mukhabra) for a share of its produce must be prepared for war from Allah and His Messenger, peace be upon him." This ban on leasing has been treated very different by the Muslims of the world from the ban of *riba* on loans.
- 8) The Islamic juristic science has by virtue of interpretation played a controlling part in telling the mankind of what Allah and His Prophet, peace be upon him, have conveyed to humanity.
- 9) The second caliph, Hazrat Umar said: "The verse of *riba* (or the verse which forbids *riba*) is among those which were revealed during the last days of the Prophet, peace be upon him. He passed away before explaining its implications." Note carefully that the observation of Umar the great refers to the verse of the Qur'an which prohibits *riba* and not an act of observation of the Prophet, peace be upon him. The Prophet, peace be upon

him, was not able to explain the implications of the Divine command since he did not live long enough to do so.

- 10) Solon the famous Athenian leader was given the task to terminate civil strife in Athens. He achieved the purpose by canceling existing debts and forbidding all future borrowing on personal security. The Prophetic discourse (his last sermon during pilgrimage) anticipated very briefly the prohibition of *Riba al-Jahiliyyah* which came a few months later in the form of the Qur'anic revelations.
- 11) The second caliph Hazrat Umar appears to have noticed that our knowledge of the subject was inadequate but did not attempt to augment it because obviously the issue was of too serious and delicate a nature for any Muslim to assume the responsibility of playing that vital role. The actual situation therefore remains that neither the Qur'an nor the Prophet, peace be upon him, has explicitly told us as to what precisely the prohibited transactions were which are referred to as *Al-Riba* in the Qur'an and are referred to as *Riba al-Jahiliyya* by the fuqaha.
- 12) Hazrat Umar was unable to solve the problem of discovering what exactly *Al-Riba* or *Riba al-Jahiliyyah* was. Hazrat Umar's simple and practical advice was, "therefore you should shun all those transactions which clearly involve *riba* as well as those regarding which there may be doubt that *riba* is involved in them". This was a stern decision which neither explained *Al-Riba* nor removed doubts yet put at rest anxiety by frankly recognizing the ambiguity.

- 13) Secondly, the lament of Hazrat Umar over the absence of prophetic guidance has been amply justified by a voluminous growth of indecisive literature on this subject which is the creation of juristic predilections.
- 14) With all this wealth of thought and wisdom the Muslim world of today presents no true image of the transaction of *Al-Riba*. It only offers by way of substitute the misleading concepts of interest, usury and sood.
- 15) *Riba* is essentially a concept which deals with economic problems and is meant to save the Ummah from cruel exploitation of the needy by the rich and the powerful.
- 16) The Encyclopedia Britannica tell us: "In ancient and medieval times, the main focus of iniquity into the theory of interest was ethical and the principal question was the moral justification of interest. On the whole, the taking of interest was regarded unfavorably by both classical and medieval writers. Aristotle regarded money as "barren" and the medieval school-men were hostile to usury. Nevertheless, where interest fulfills a useful social functions, elaborate rationalizations were developed for it."
- 17) The Prophet, peace be upon him, encourages debtors to voluntarily return more money or a better animal than was borrowed. He himself acted on this principle.
- 18) The need of clarifying the concept of *riba* has been so persistent that to this day it has not been differentiated from the concept of sood or interest although, they are clearly different in nature and far apart.
- 19) The Persian word *sood* means profit.

- 20) Muhammad Asad has pointed out that the word usury too is not a synonym of *riba*.
- 21) *Riba* is more often translated into English as "usury" than "interest", because the word "usury" means in the modern usage charging unconscionable interest rather than the ordinary interest.
- 22) Impartial observers who have a world wide reputation for their knowledge of Islamic thought like J Schacht and Mixime Rodinsen have noted in the *Shorter Encyclopedia of Islam* and in *Islam and Capitalism* respectively, that the concept of *riba* which has been banned by the Qur'an has not been precisely delineated by the Muslims.
- 23) The concept of interest also has features which are wholly absent from the concept of *riba*. For example there can be simple interest and compound interest (i.e., the maximum permissible rate of interest) as well as gross interest (i.e., interest inclusive of administrative costs and expenses).
- 24) Prof. Dr. Hamidullah has said that: "As far as my study [of the history of Fiqh] goes [I have found that] during the life of the Prophet, peace be upon him, and in the regimes of the four Righteous Caliphs there were Muslims who borrowed [money on interest] from non-Muslims."
- 25) Justice (Ret'd) Shaikh Aftab Hussain, a former Chief Justice of the Shariat Court, has, in an interview given to the daily Muslim, stated as follows: "For the last 1400 years except for the period of the first four Caliphs, interest was not forsaken. None of our ulema ever felt disgusted by the payment of interest of a Muslim to (non-

Muslim) money lenders. Not only ordinary Muslims but governments and Abbasi Caliphs used to take loans and hypothecate to the Jews the income of some territory which always far exceeded the Principal amount.

- 26) The Turkish Caliphs who presided over the destinies of the Ottoman Empire borrowed money in millions in the nineteenth and twentieth centuries at exorbitant interest rates from England and other European countries.
- 27) The transactions that are prohibited by the Qur'an are those in which there was injustice, wickedness, iniquity and demand for doubled and redoubled amounts of money. Lending money is not always an act of injustice or wickedness. It can be a blessing to a poor person in whose dark day nobody is prepared to pay any heed to his needs.
- 28) We arrive at the conclusion that *riba* is not modern interest if we carefully read together the two verses of the Qur'an, provided that the word usury, or interest or sood is not arbitrarily introduced into them in the place of the Qur'anic word, namely *Al-Riba*.
- 29) Qur'an: Surah 2, Verse 278:
..... But if you turn back, you shall have your Capital sums; deal not unjustly and you shall not be dealt with unjustly.
- 30) There seems therefore no doubt that according to the Qur'an the word *Al-Riba* does not mean the additional amount of interest or usury or sood. The context shows that it means the capital sum which was doubled or redoubled.

- 31) For us the choice is clear because we have in support of our view the acts of the Prophet, peace be upon him. It is well known that he sometimes paid more money to his creditors than was borrowed by him and termed the excess to be gift.
- 32) Neither the Qur'an nor Sunnah of the Prophet, peace be upon him, has left any elaborate guidelines for us in regard to it.
- 33) The practice of charging *Al-Riba* which obtained in pre-Islamic Arab society, is found to be peculiar to those times to that territory. It is no longer existing in any Muslim country, nor in any well known country of the world. We are led to the conclusion that *Al-Riba* was not what we now-a-days know to be usury or interest or sood.
- 34) I am add by way of abundant caution that the purpose of the above discussion is to understand as clearly as possible the meaning of the term "*Al-Riba*" as it is used in the Qur'an because only that which is forbidden by that term of the Qur'an must set our limit.
- 35) *Al-Riba* was not a system of charging interest, in the sense in which the term "interest" is understood and used today.

I hold no brief for the prevailing economic order but insist that the current misconception regarding *Al-Riba* needs rectification, substantially and urgently.

CHAPTER THREE

POINTS TO PONDER

In the foregoing pages, we have noted the salient points raised by Justice (Ret'd) Qadeeruddin Ahmad. These are not in order of any priority or logical sequence because they have been noted in the same order in which they occur in his article published in the daily "Dawn". In our reply and discussion to follow, we will however categorize the various statements and analyze these in the light of (i) the Qur'an, (ii) Sunnah of the Prophet, peace be upon him, (iii) understanding of the Prophet's companions (RA) and their implementation of these guidelines and principles in their lives and affairs and (iv) conclusions and opinions of the leading Muslim scholars over the last 1400 years and their consensus in this regard. Before doing this, however, it will be desirable to understand as to how Qur'an should be interpreted and who can be considered capable of taking up this important task.

I. HOW TO INTERPRET QUR'AN

Qur'an was revealed in Arabic which is not a dead language. Even today, Arabic is spoken by millions of people. The language can rightly boast of rich literary collection in both poetry and prose. Voluminous dictionaries (*lughaat*), are available which explain the roots of different words, their derivatives as well as their different meanings in different context and situation.

Qur'an itself is neither a dictionary nor an encyclopedia. Since it was revealed in a language fully understood by the people unto whom it was addressed, it relied on the fact that they would clearly understand the meanings of

terms which they are already familiar with. The book was revealed to a Prophet, peace be upon him, whose job it was to explain the true intent of the message and guide by example.

The correct way of interpreting the Qur'an is, therefore, to assign the same meanings to the term used, as appear in the authentic dictionaries. If a term is susceptible to more than one meanings, then those meanings should be given more weightage as are in conformity with other verses in the Qur'an which have used the same term.

II WHO SHOULD INTERPRET OUR'AN

Not everybody is or can be a doctor, engineer, architect or an expert in the legal field. Likewise, not every Muslim can become an expert in interpreting the Qur'an. True, every Muslim can and must read the Qur'an and take guidance from it, but to interpret a verse or set of verses rightly requires the following:

- 1) An unconditional and sincere belief in the revelation, its truth and a sincere desire to follow it. This means that there should be no desire to circumvent the requirements of the Shariat but that it should be followed in letter and spirit. Objectives, principles and values should be the ones which the Shariat stands for.
- 2) A thorough knowledge of the Arabic language, its grammar and literary works since Qur'an has been revealed in this language and the original sources for finding out the traditions of the Prophet, peace be upon him, are also in Arabic.

- 3) An in-depth knowledge of Qur'an and Sunnah so that one is aware of not only primary but even the secondary requirements and their application. One must understand the objectives and principles of Shariat. A clear idea of how Shariat wants to reform the lives of the individuals as well as the society (i.e., the overall scheme of things) and the priorities in the order of importance, is a must. The lines along which different institutions are to be organized and the rationale for so doing must be understood. In other words, knowledge of Qur'an and Sunnah should be so thorough that one clearly understand the true intent and spirit of Shariah.
- 4) Knowledge of the work carried out by researchers and scholars in the past on Qur'anic interpretations. This knowledge not only guides one to the right path but also ensures a continuity. Interpretation does not and should not mean that no attention is given to the works done in the past.
- 5) Knowledge of the different circumstances, problems which different sections of the society face in their lives because the various principles, regulations are to be applied to these circumstances, problems.
- 6) Good moral character of the interpreters in terms of Islamic values so that Muslims have faith in the interpretation and have respect for the laws. It is unlikely that laws developed by persons of questionable morals would command any respect from the masses.

If the task of Qur'anic interpretation is undertaken by persons who can barely read the text, understand it through translations

(and mostly English translations at that) and have little or no knowledge of the Sunnah, then such law making / interpreting would be futile and not acceptable to the Muslim masses.

CHAPTER FOUR

WHAT IS RIBA?

IS RIBA AN UNDEFINED AND UNTRANSLATABLE TERM?

Let us now look at the claims by Justice (Ret'd) Qadeeruddin Ahmad that *riba* is undefined and untranslatable.

When we read verses No. 278 and 279 in Al-Baqarah, we get the following message:

“O you believers, fear God and give up whatever is left of *riba* if you are believers. If you do not desist, then take notice of war with God and His Messenger; and if you repent (and desist) you have the right to claim your *Ras-al-Maal*. In the ayat, the plural, *Ruoos-e-Amwalikum* has been used. *Ras al Maal* is singular. It literally means the amount originally invested in the business by the entrepreneur, i.e., his capital. In the case of loan, it means the principal amount, i.e., the amount originally lent. It is very obvious that Qur'an stops the Muslims from claiming anything over and above the principal amounts, in the case of loan transactions.”

The term *riba* means to increase or to foster growth or to look after with a view to develop. The increased amount, in excess of the principal claimed by the lender from the borrower, has been called *riba* and which is what interest is.

In verse 30 of Surah Ar-Rome, the text is, “And whatever you give by way of *riba* so that there is an increase in the wealth of the people is no increase in the eyes of the God.” In this Ayat again, the term *riba* has been used to denote increase in the amount of the loan, in excess of the principal. Interest, whether

on commercial or personal loans is an increase in the sum repayable, in excess of the amount borrowed.

It again needs to be emphasized that Qur'an is neither a dictionary nor an encyclopedia. It has used Arabic terms which were well known to the people to whom it was addressed. These terms were always assigned an agreed upon meaning unless the context suggested otherwise or the Prophet, peace be upon him, guided his followers to the intent not readily apparent. Qur'an has used many other terms like *Shirk*, *Kufr*, *Zina*, *Khamr*, *Maisir* and *Sarq* to cite a few but these have not been defined anywhere in the Qur'an. Yet with the help of Arabic dictionaries, the explanations offered by the Prophet, peace be upon him, and the ramifications worked out by the Muslim jurists and scholars, each of these terms is fully understood. The Prophet, peace be upon him, his companions and other people around him did not need any dictionaries, since Arabic was their native language. Today, however, people whose native language is not Arabic, may refer to the dictionaries and attempt to ascertain the true meaning of an Arabic term, its root and its intent in different contexts.

Qur'an and Sunnah enunciate the basic principles on which the policies are to be devised and actions based. They do not provide voluminous details of matters relating to each principle.

Notwithstanding that the claims made by Justice (Ret'd) Qadeeruddin Ahmad with respect to *riba* are baseless, the important question which he fails to answer is the meaning of the term *Ras-al-Maal* (the plural of which is *Ruoos-e-Amwaaal* used in ayat 279). If really the Qur'an must set our limit, then it is categorically stating that the lender is entitled to claim his *Ras-al-Maal*. Mr. Yusuf Ali, whose translation has been relied upon by Justice (Ret'd) Qadeeruddin Ahmad, has translated the term

as "capital sums". But the question is how does one define the capital sum. And more importantly, how does one prove that capital sum includes "reasonable" amount of interest which is not *riba*. By restricting the lender to claiming the *Ras-al-Maal* only, the Qur'an has categorically and explicitly decided that anything in excess of *Ras-al-Maal* is *riba* and this is precisely what present day interest is, by whatever name called in any language. Immediately after restricting the lender to claiming the *Ras-al-Maal* only, the Qur'an has pronounced *La Tazlimoona wa la Tuzlamoon* (Do not deal unjustly and ye shall not be dealt with unjustly). This phrase further emphasizes the previous statement that claiming anything in excess of *Ras-al-Maal* is unjust. Similarly, borrower's refusal to pay back the *Ras-al-Maal* is unjust.

In the ayat immediately following the above quoted verse 279, the Qur'an says: "And if the borrower is in financial difficulties give him time to repay until his circumstances improve and if you remit by way of charity (i.e., write off the *Ras-al-Maal*) it is better for you, if you appreciate" (2:280). Can there still be any doubt in anyone's mind that *riba* is anything in excess of *Ras-al-Maal* (whether called interest, sood or usury) and Qur'an has urged upon the lenders to even remit the *Ras-al-Maal* if the borrower is in difficulties. It is a categorical indication of the mentality that Qur'an wishes to foster and inculcate in Muslims. Would it be compatible that on the one hand the lender is being asked to remit even the *Ras-al-Maal* and on the other hand he is allowed to charge a "reasonable or conscionable" interest. In today's world, the lenders are allowed to legally enforce their right to claim what they or the court thinks is a "reasonable" interest. And then is there any definition of "conscionable" and "reasonable" interest? In Pakistan, today, the commercial rates of interest range between 10% to 22% per annum [p.a.]. In the not too distant past, lease financing was available at 28-32% p.a. The

State Bank of Pakistan decided to bring down the maximum permissible interest rate from 21% to 19% and then in November, 1994, to 17.5% p.a. Commercial banks were trading the "ceiling" among themselves at 30% p.a. and above until such time that the State Bank of Pakistan intervened and restricted the maximum to 15% p.a. Can anyone tell us which is a reasonable rate among the ones cited above. And also who will decide as to what is a "conscionable" or a "reasonable" rate?. The banks, the courts or the central bank of the country.

GUIDANCE PROVIDED BY THE PROPHET, peace be upon him.

The claim that the Prophet, peace be upon him, provide no elucidation in this respect (i.e., in respect of *riba*) borders blasphemy. Towards the completion of his mission, the Qur'an categorically stated, "Today I (Allah) have completed for you your *deen* and perfected my blessings and chosen for you Islam as *deen*." During the pilgrimage in the year 10 A.H., the Prophet, peace be upon him, delivered a sermon and asked everyone present: "Have I conveyed to you the message of Allah in its entirety?" The unanimous reply from more than 100,000 companions (RA) was "Yes" to which the Prophet, peace be upon him, is reported to have raised his finger to the sky and said that may Allah be a witness to this declaration by his companions (RA). It was on the same occasion that the Prophet, peace be upon him, declared that all amounts of interest, including those due to Hazrat Abbas Ibne-Abdul Muttalib, are null and void, and not to be claimed.

Even more blasphemous is the claim that the Prophet, peace be upon him, tacitly and by implication approved the payment of interest (which Justice (Ret'd) Qadeeruddin Ahmad thinks is not *riba*) because on a few occasions he has been reported to have returned voluntarily something better or more than borrowed.

A person, who was the judge of the high court cannot be oblivious to the obvious difference between voluntary and compulsory. What the Prophet, peace be upon him, did was in keeping with the principle of *Ihsan* which is an important cornerstone of Islamic teachings as far as dealings between members of the society are concerned. Present day interest, on the other hand, is a contractual obligation. Can it be proved that Prophet, peace be upon him, or any of his companions (RA) ever borrowed with a promise and a contractual obligation to repay with something better or more than the quantity borrowed? If this cannot be proved and certainly it cannot be proved, does it not show a complete lack of ethical responsibility that facts are being distorted to lead the common Muslim astray?

To claim that Hazrat Umar (RA) did not know what *riba* was, is to say the least, a ridiculous claim which again points to the desire to somehow or the other impose an opinion on Shariah rather than accept simple injunctions of Qur'an & Sunnah. Hazrat Umar (RA) accepted Islam at the age of about 30 years. Prior to it and even after having embraced Islam, he earned his livelihood through trading. At this time the practice of charging *riba* was common and well known among the merchants in Makkah as well as other parts of Arabia. *Riba* clearly meant an increase in the sum payable in a loan or credit transaction, in relation to time, as is amply evident from the following definitions, and explanations offered by the leading Muslim scholars.

According to Qitada, during the period of ignorance, a person would sell something to another and allow a moratorium for settlement of the price. If the buyer did not pay on the agreed date, the tenor was extended and the price increased. This was *riba*.

According to Mujahed, during the period of ignorance, *riba* was that one person would borrow from another and promise to repay more if he was given a certain period of time to repay.

Research carried out by Allama Abu Bakr Jassas shows that during the period of ignorance when people used to borrow from each other, it was agreed that for a specified time period a specific amount more than the sum borrowed would be repaid.

Imam Razi has said that during the period of ignorance, people used to lend for a specific period. Interest was charged from the borrower on a monthly basis. Upon maturity of the term, the repayment of the principal amount was required. If the borrower was unable to pay, the loan was rescheduled and the amount of interest increased.

These forms of business were in vogue in Arabia and the Arabs used the word *Al-Riba* for such transactions. And this is what was prohibited by Qur'an.

Anyone who has the slightest fear of Allah and accountability on the day of judgment would see that all definitions quoted above, though referring to different kinds of transactions involving *Al-Riba*, have one thing in common — the element of increase in the amount borrowed for a specified time period allowed for repayment. Compare to this the claim by Justice (Ret'd) Qadeeruddin that: "Maulana Maudoodi has referred to views of Qitada, Mujahed, Abu Bakr Jassas and Imam Razi. They reveal erudition, sincerity and devotion to the Divine purpose..... With all this wealth of thought and wisdom the Muslim world of today presents no true image of the transactions of *Al-Riba*. It only offers by way of substitute the misleading concepts of interest, usury and sood." Is it too difficult for anyone to see for himself that the definitions quoted by Maulana Maudoodi clearly define *Al-Riba*?

In a similar fashion the learned judge has also misquoted Mufti Muhammad Shafi. In his book entitled *Masala-e-Sood*, he has categorically stated that: "Upon hearing verses of the Qur'an everybody realized that Qur'an referred to the obvious and well known meaning of the term *Al-Riba*, i.e. charging of anything in excess (of the principal) in credit or loan transactions, considered it prohibited and gave it up immediately."

To claim that verses clearly prohibiting *Al-Riba* which form a part of Surah Al-Baqarah were revealed only 9 or 30 days before the death of the Prophet, peace be upon him, is a misrepresentation. In this book *Masala-e-Sood*, Mufti Muhammad Shafi has categorically stated that around 8th year after migration of the Prophet, peace be upon him, to Madinah, the verses in respect of *Al-Riba* were revealed and *Al-Riba* was clearly prohibited.

THE MYTH OF HAZRAT UMAR'S IGNORANCE

Justice (Ret'd) Qadeeruddin Ahmad has taken the plea the one of the most eminent authorities, viz. Hazar Umar (RA) lamented the lack of prophetic guidance and therefore cut the Gordian knot by saying: "Shun all those transactions which clearly involve *riba* as well as those regarding which there may be doubt that *riba* is involved in them." The underlined portion is itself enough to refute the claim of Justice (Ret'd) Qadeeruddin Ahmad. If really Hazar Umar (RA) did not know what *riba* or *Riba-al-Jahiliyya* was, how could he advise, "shun all those transactions which clearly involve *riba*."? The people around him were neither deaf nor dumb or afraid of questioning him on any matter. If really Hazrat Umar and no one else present at that time knew what *riba* or *Riba-al-Jahiliyya* was, either he would have himself said that I cannot define *riba* or someone would have asked him that please define *riba* because what is it that

you want us to shun? And really if this was the case, Hazrat Umar's advice can be considered the most ridiculous one. On the one hand he is not aware of what is to be avoided and on the other he says, "shun all those transactions which clearly involve *riba*".

The fact of the matter is that Prophet, peace be upon him, explained to his companions (RA) that in addition to the excess amount charged on loan or credit sale, the term *riba* also included what is now known as *Riba-al-Fadl*. Imam Bukhari has reported on the authority of Hazrat Ibn-e-Saeed (RA), "the Prophet, peace be upon him, said that if gold, silver, wheat, barley, salt and dates are exchanged with its own kind then the exchange must be of equal quantities and in one sitting, i.e., the transaction should be complete before the persons involved part company and each of them should have taken delivery of the respective merchandize. Any difference in quantity or deferment of delivery by one party is tantamount to *riba* and both parties are equally involved in this violation".

This was the *riba*, i.e. *Riba-al-Fadl*, about which Hazrat Umar (RA) faced the difficulty in outlining the details because the saying of the Prophet, peace be upon him, specified six commodities. It is not apparent if the principle outlined applies only to these six specific commodities or similar products can be included on which the principle may be applied. The fact is that the companions (RA) of the Prophet, peace be upon him, did not ask him for further details about what he had told Hazrat Ibn-e-Saeed (RA). Later on, Hazrat Umar (RA) expressed the wish that it would have been better if he or other companions (RA) had found out further details from the Prophet, peace be upon him. The gist of the matter is that in addition to the well known and commonly accepted meaning of *riba* (i.e., charging excess on amount loaned or offered as credit), the Prophet, peace be upon

him, also outlined a principle which elaborated that there is an element of *riba* in some forms of sale / purchase transactions. As such, the two kinds of *riba* are (i) *Riba-al-Nasia* or *Riba-al-Qur'an* and (ii) *Riba-al-Fadl* or *Riba-al-Bai* or *Riba-al-Naqd* or *Riba-al-Hadis*.

It may be pointed out that *Riba-al-Jahiliyya* included both because in the period of ignorance it was common for people to exchange, e.g. 1 Kg of good quality dates with say 2 kg of inferior quality dates.

Readers who take interest in the matter may kindly read pp 16-26 of the book *Mas'ala-e-Sood* by Mufti Muhammad Shafi, Third Edition, published by Idarat ul Maarif, Karachi in August, 1991.

The explanation offered by Urdu Daaer-e-Maarif-e-Islamia may be the personal opinion of some scholars of the present day or the past. It has nothing to do with well known and commonly accepted meaning of the term *Al-Riba* as used in the Qur'an and elaboration outlined in the sayings of the Prophet, peace be upon him.

CHAPTER FIVE

INTEREST, LEASING AND MUKHABRA

Justice (Ret'd) Qadeeruddin Ahmad has also pointed out that the Prophet, peace be upon him, strongly admonished those who lease out land to tillers on the condition that they would share the income with the tillers. He threatened them by saying that this practice was tantamount to *riba* and that they would be at war with Allah and His Prophet, peace be upon him, if they did not give it up. The retired Judge then remarks, "this ban on leasing has been treated very differently by the Muslims of the world from the ban on loans. They have zealously expanded the ban with reference to loans but have rather casually narrowed down the ban on the leases of land. The Islamic juristic science has by virtue of interpretation played a controlling part in telling to mankind of what Allah and His Prophet, peace be upon him, have conveyed to humanity."

Once again an attempt has been made to confuse the issues and cast aspersions on the capability of all Muslim jurists during the last 1400 years. It would appear that they have unanimously decided to misrepresent Allah and His Prophet, peace be upon him, or have not been able to comprehend the simple instructions issued by the Prophet, peace be upon him, which have now been understood only by Dr. Ziaul Haq (the author of *Islam and Feudalism*) and Justice (Ret'd) Qadeeruddin Ahmad.

By looking at the sayings of the Prophet, peace be upon him, in which he is reported to have instructed that no landlord should give his land to tillers except without any consideration (i.e., should not share in the produce at all) it is noticed that these

sayings have principally been reported by six companions (RA) of the Prophet, peace be upon him, whose names are:

- 1) Hazrat Rafe bin Khadeej
- 2) Hazrat Jabir Ibn-e-Abdullah
- 3) Hazrat Abu Saeed Khudri
- 4) Hazrat Abu Hurairah
- 5) Hazrat Zaid bin Sabit
- 6) Hazrat Sabit bin Zahhak

These sayings have been reported in the compilations of Bukhari, Muslim, Ibne Majah, Tirmizi, Abu Dawood & Nisai.

Justice (Ret'd) Qadeeruddin Ahmad has himself remarked that this ban on leasing has been treated very differently by the Muslims. It will therefore be only appropriate that the reporting by the above-named companions (RA) is critically reviewed in the light of Prophet's own practice, peace be upon him, and that of the majority of his companions (RA). To fully appreciate the Islamic policy in this regard, it is important to understand the following:

- 1) The Prophet, peace be upon him, was not only an instructor or a judge but was also the head of the Islamic State and the entire administration was in his hands.
- 2) Leasing of land does not concern a handful of people only that a mere 6 out of more than 100,000 companions (RA) would have a knowledge of this extremely important matter which affects the lives of thousands of people and their economic well being. As such whatever policy would have been adopted in this regard would have been well known to the majority of companions, because after the expedition of Khyber every participant

in the Muslim army had been given a piece of agricultural land.

- 3) Anyone who knows the impeccable character of the Prophet, peace be upon him, his personality and the lives of the Righteous Caliphs (RA) as well as the companions (RA) of the Prophet, peace be upon him, and their obedience, cannot believe that the Prophet, peace be upon him, would preach one thing and practice another or that he would say something is wrong yet not eradicate it, or say that something is right but not take any steps to implement it. It is also not acceptable that the Prophet, peace be upon him, would want to stop a certain practice and desire the implementation of another but that his companions would not obey his directives. Even more unacceptable is the thought that the four Righteous Caliphs (RA) would be aware that the Prophet, peace be upon him, had desired the eradication of a certain practice or the implementation of a reform and none of them (RA) would take any steps to implement the directives of the Prophet, peace be upon him.

The three points outlined above are such that no person with average intelligence and knowledge of life of the Prophet, peace be upon him, would dare refute them. Now if it is claimed that during a period of about 50 years, i.e., from the era of the Prophet, peace be upon him, up to the middle of reign of Hazrat Amir Muawiya (RA), no one other than the 6 companions whose names have been mentioned above knew that the Prophet, peace be upon him, has prohibited the leasing of agricultural land, the reader ought to be surprised. Yet, not only is it true but the fact is that the Prophet, peace be upon him, himself, the leading companions (RA) and members of family of the Prophet, peace be upon him, engaged in the leasing of land

and this practice continued during the regimes of the four Righteous Caliphs. It may come as a surprise but it is true. The proof of this is that Hazrat Abdullah Ibn-e-Umar (RA) used to lease his lands during the lifetime of the Prophet, peace be upon him, and the four Righteous Caliphs (RA). He continued with this practice until about 60 A.H. when the era of Hazrat Amir Muawiya (RA) was coming to an end, when he learnt that Hazrat Rafe bin Khadeej (RA) reported that the Prophet, peace be upon him, did not approve of this practice. He went to see Hazrat Rafe bin Khadeej (RA) and after hearing his report, Hazrat Abdullah (RA) is reported to have remarked: "I know for a fact that during the life time of the Prophet, peace be upon him, lands were leased." Even though Hazrat Abdullah stopped leasing his lands thenceforth, lest the Prophet, peace be upon him, might have said something of which he did not have the knowledge (i.e., like his great father (RA) he also preferred to err on the side of caution), on one occasion he said, "Rafe bin Khadeej has deprived us of the gain from our lands" (Reported by Muslim). Can it be expected from a person of the calibre of Hazrat Abdullah Ibne Umar (RA) that he would even think of this remark, knowing that Allah's Prophet, peace be upon him, has decreed otherwise. And then the most important thing to bear in mind is that his sister (Hazrat Hafsa RA) was wife of the Prophet, peace be upon him. His father (RA) was not only the closest companion of the Prophet, peace be upon him, and Hazrat Abu Bakr (RA) but was also the head of the Islamic State for 10 years. Is it possible to believe that these people (RA) would be unaware of what the Prophet, peace be upon him, had decreed in respect of leasing of lands. Also, can anyone believe that during the reign of Hazrat Umar, (RA), his son would indulge into something that would have been declared prohibited by the Prophet, peace be upon him, and Hazrat Umar (RA) would not take notice of such a violation?

It has been reported by Bukhari, Muslim, Ahmad, Tirmizi, Ibn-e-Majah, Nisai and Abu Dawood on the authority of Hazrat Abdullah Ibn-e-Umar (RA), Hazrat Abdullah Ibn-e-Abbas (RA) and Hazrat Anas bin Malik (RA) that the Prophet, peace be upon him, attacked Khyber. Part of the territory fell to the Muslims after fighting while part of it was conquered after the Jews surrendered and made a treaty with the Prophet, peace be upon him. The Prophet, peace be upon him, earmarked half of the territory for the needs of the Islamic State. The other half was distributed among the soldiers who were 1500 in number. Of these, 300 who were riding camels or horses, received 2 parts as against one part for the others. That made up 1800 parts. The Prophet, peace be upon him, was then inclined to turn the Jews out of Khyber but then the Jews approached him and requested that they be allowed to stay in Khyber on the condition that they would continue to till the lands and the produce would be distributed equally. Realizing the shortage of manpower among Muslims who could manage the agricultural activities, the Prophet, peace be upon him, acceded to their request. He made it clear to the Jews that they will be allowed to stay in Khyber as long as the Islamic State deemed it proper and would be turned out later if the circumstances warranted. These conditions were then agreed. Since the land was owned 50% by the State and 50% by the army, the 50% of the produce received from Khyber was equally distributed between the State (25%) and the persons who owned a piece of land (25%). The Prophet, peace be upon him, also received his share as an ordinary shareholder and distributed equally among his wives (RA). This continued for the lifetime of the Prophet, peace be upon him. Hazrat Abubakr continued with the same arrangement during his regime. Hazrat Umar stuck to it for the initial period of his rule but then, in view of the undesirable and anti-state activities in which the Jews indulged, he decided to activate the clause which

permitted the Islamic State to turn out the Jews from Khyber. The Jews were then shifted to Areeha and Taima.

This is a well known and one of the famous events of the life of the Prophet, peace be upon him, and the first two Righteous Caliphs (CA). It can be clearly seen that the Prophet, peace be upon him, has leased his own land and that belonging to the State as well as on behalf of the 1500 soldiers who participated in the battle of Khyber. Is there any doubt left in anyone's mind that it is perfectly legitimate to lease the land?

Readers who wish to go into further details may kindly study the book *Masala-e-Milkiyat-e-Zameen* by Syed Abdul Ala Maudoodi.

CHAPTER SIX

WHAT AND WHO IS THE CRITERIA?

Justice (Ret'd) Qadeeruddin Ahmad has also played up the point that during the reign of the Righteous Caliphs, some companions (RA) of the Prophet, peace be upon him, borrowed money on interest, from non-Muslim lenders and that the Abbasi Caliphs and rulers of the Ottoman empire also borrowed on interest. With respect to the companions (RA) of the Prophet, peace be upon him, he has made contradicting claims. On the authority of Prof. Dr. Hamidullah, it is claimed that during the life of the Prophet, peace be upon him, and in the regimes of the four Righteous Caliphs there were Muslims who borrowed (money on interest) from non-Muslims. The words "money on interest" appears in parentheses and may have been added by Justice (Ret'd) Qadeeruddin Ahmad. In the same paragraphs, it is claimed on the authority of Justice (Ret'd) Shaikh Aftab Hussain, a former Chief Justice of the Shariat Court, that for the last 1400 years, except for the period of first four Caliphs, interest was not forsaken. Notwithstanding the obvious and glaring contradiction between the two statements, one wonders as to why should Dr. Hamidullah's claim be accepted on face value without studying his arguments. Prohibition of *riba* was legislated in stages, like many other changes introduced in Islam. The obvious proof is that the verse 130 of Aale Imran was revealed in 3 A.H. which prohibited charging of *riba* doubled and multiplied (the term *Az'aafum Muza'afa* qualified the term *riba* and is not defining it) while the final prohibition contained in verses 278-279 of Al-Baqarah was revealed in 6 or 7 A.H. before the conquer of Makkah. Can anyone prove that even after this last revelations, the Prophet, peace be upon him, condoned the borrowing by Muslims on the basis of interest, from non-

Muslims? Isn't the statement by Justice (Ret'd) Shaikh Aftab Hussain a proof that this practice was started after the period of the first four Righteous Caliphs? And this brings us to the important question as to who is an authority on Shariah?

It is clearly stated that the authority to legislate and order belongs only to Allah. *"The decision is for Allah only. He tells the truth and is the best of Deciders"* Verse 57 - Al-Ana'am" and *"His verily is all creation and commandments"* Verse 54 - Al-A'raaf.

Based on Allah's sanction we obey the Prophet, peace upon him - Verse 64 of Al-Nisa' reads: *"We sent no messenger save that he should be obeyed by Allah's leave."* The Qur'an clearly states that Prophet Muhammad, peace be upon him, has been given legislative powers by Allah. *"Those who follow the Messenger, the Prophet who can neither read nor write, whom they will find described in the Torah and the Gospel [which are] with them. He will enjoin on them that which is right and forbid them that which is wrong."* Verse 157 - Al-A'raaf

No one else has any authority to legislate or to add anything to Islam or to delete anything from it. This includes all the companions (RA) of the Prophet, peace be upon him. The Qur'an clearly states, *"The sayings of (all true) believers when they are called towards Allah and His Prophet, peace be upon him, to decide between them is only that they say: we hear and we obey"* Verse 51 - Al-Noor.

The obedience to those in authority in a Muslim state (called *Oolil Amr*) enjoined in Verse 59 of Al-Nisa is subject to the authority's own obedience to Allah and His Prophet, peace be upon him. The verse clearly says, *"Therefore if you have a dispute concerning any matter, refer it to Allah and the Messenger."*

The reason that the consensus of all or a majority of the companions (RA) of the Prophet, peace be upon him, is a principle in Islamic Fiqh, is that they (RA) gained first hand knowledge of the different matters from the Prophet, peace be upon him. Given their honest character, they (RA) are, even remotely, not expected to attribute anything wrong to the Prophet, peace be upon him. The likelihood that a statement made by any companion (RA) of the Prophet, peace be upon him, would be based on something sanctioned by the Prophet, peace be upon him, himself is considered so strong that Imam Abu Hanifah has said, "If a statement of a companion (RA) of the Prophet, peace be upon him, comes to my knowledge in an authentic way, I take it and give up my own opinion. In such matters there is no need to resort to Qiyas, i.e. deduction of a ruling based on similarities."

The above details have been recorded to prove that the action of any companion (RA) not sanctioned by the Prophet, peace be upon him, or that of any other authority including the Abbasi Caliphs and Muslim rulers of the Ottoman Empire cannot overrule the clear injunctions of the Qur'an and sayings of the Prophet, peace be upon him. This is where Islam is radically different from Western democracy.

The statement by Justice (Ret'd) Qadeeruddin Ahmad, on the authority of "impartial" observers like J. Schacht and Maxime Rodinson that the concept of *riba* which has been banned by the Qur'an has not been precisely delineated by the Muslim is an indication that he prefers the opinion of the Christians and the Jews of West to those of all the leading scholars of Islam over the past 1400 years.

Similarly his statement that Solon, the famous Athenian leader achieved the termination of civil strife by canceling existing

debts and forbidding all future borrowings on personal security and then equating this with the prophetic discourse which, according to Justice (Ret'd) Qadeeruddin Ahmad, preceded Qur'anic revelations, is not only confusing but also misleading. It is very well known that the Prophet, peace be upon him, did not legislate on any matter until and unless he had clear instructions from Allah to do so. The Qur'an says, "*Nor does he speak of his own desire; it is naught save an inspiration that is inspired which one of mighty powers has taught him.*" Al Najm - Verses 3-5. The claim that the verses relating to the prohibition of *riba* were revealed just before the death of the Prophet, peace be upon him, has already been refuted. It is well established that the Verses 278-279 of Al Baqarah had been revealed in 6 or 7 A.H. much prior to the conquer of Makkah (8 A.H.) and even prior to the expedition of Khyber (Moharram 7 A.H.) It has been reported by Allama Sarakhsi in his book *Sharah Al Seer al Kabeer* that during the expedition of Khyber, the Prophet, peace be upon him, instructed two of his companions to refund any interest that they had charged.

CHAPTER SEVEN

THE ALTERNATIVE

Even though it is beyond the scope of this pamphlet, it may be pointed out that the only option to earn money from money, acceptable to Islam, is the profit and loss sharing in legitimate business. The inability to come up with an alternative system cannot be blamed on the Muslim scholars of today. With their knowledge of the religion, they can enunciate the principles and outline them. They can even guide Muslims as to applicability of these in given circumstances. It is then up to the Muslim bankers and economists to come up with which forms of investments and establishment of banks which conform to the principles of Shariah. Lethargy on the part of the Muslim governments and masses is the biggest impediment in the way of an interest free economy. This requires hard work and innovation as well as experimentation. Human nature resists change. Man is by nature risk-averse. Interest based system is the easy way out. Other impediments, often pointed out, are the difficulty in ascertaining the true profitability of a business enterprise and the heavy taxation to which corporate profits are subjected. Both are man-made factors which cannot be blamed on Islam. If as a nation, Muslims have become corrupt and dishonest then it is their own fault and not of the religion. It is very much possible to come up with investments (for example, in real estate) where several people with limited means pool their resources for a definite period of time and invest in real estate. Profits / losses at the end of the tenor of the investment can be shared in proportion to the investment made by each participant. For that matter any business can be totally equity financed — from a small grocery shop to a gigantic project. The tax structure has to be rationalized.

Many contemporary scholars consider that it is perfectly legitimate to own and trade in the shares of the companies whose business activities are legitimate. There are institutions like ICP and NIT where a small investor can entrust his money to a mutual fund which invests in the stock market and obtains capital gains as well as dividend income from companies. The total income is then divided among the investors.

The important thing is the will on one's part to shun all that is prohibited no matter what the apparent material loss be. Without this will, the best the Muslim community will do is to think of ways and means to legitimize *riba*.

AN APPEAL

Those who fear Allah and are convinced of the accountability in the life to come in the Hereafter, would agree that the claim about *riba* not being present day interest are baseless and have been refuted by the Muslim scholars, based on clear evidence from the Qur'an and the sayings of the Prophet, peace be upon him.

Unfortunately, Islamic system in their entirety are not being practiced in any Muslim country today. This is especially true of the economic system which, though it values and safeguards individual ownership of wealth, inculcates values and puts obligations on those who possess wealth, which are materially different than the present day capitalist system.

There is no short-cut available. All Muslim countries have to struggle very hard to re-enter the fold of Islam in its entirety as ordained by Allah (verse 208 of Al Baqarah). It is incumbent upon every Muslim, man or woman, to acquire knowledge of the basic and essential requirements of Islam and spread this knowledge, individually and collectively. No single individual may bring about the change and until such time that every individual mends his ways, the system will not change.

In the economic system imposed on Muslim countries by their colonial masters, it is indeed very difficult, rather nigh impossible to avoid interest based dealings. The least that an individual can do is to realize that he is transgressing Allah's law and repent his inability to change the whole system. In no circumstances, however, should an effort be made to justify this transgression from Qur'an or Sunnah. The important thing is to form an opinion based on Qur'an and Sunnah rather than

impose an already formed opinion on Allah and His Prophet, peace be upon him.

May Allah enable us to see His path and abide by Islamic teachings in all spheres of our life. Aameen.

Due date														

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