

CONSENSUS ON RIBA I & II

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Consensus on 'riba'

By Prof. Khurshid Ahmed

NO two opinions are possible in the matter that the Muslim society and the usury system are opposed to each other and that they cannot flourish simultaneously. The entity and dominance of the one is the toll of the death knell for the other. These two concepts are at war with each other and no compromise is possible between them.

The individuals or societies dominated by the interest (riba) system will always be found devoid of real joy and happiness. The blessings of the Creator of the universe never shelter them. Whatever way of narration Allah and His Apostle have adopted about the ignominy and horror of interest (riba), there remains no room for the faithful to this slaughterer of faith, conscience and fraternity even for a moment.

Harmony could not be created between the sentiments of the Pakistani nation and the attitude of its leadership about interest. Quaid-i-Azam had expressed the desire to institute an interest-free financial system in his speech (July 1948) at the inaugural ceremony of the State Bank of Pakistan. From the 1956 Constitution to the Constitution of 1973 the desire to get rid of riba has been clearly expressed. The Islamic Advisory Council (1962 to 1965 and 1969) has again and again opined that riba must be finished in its every form and a substitutionary system be enforced, but those at the helm of the affairs did not make any headway towards it.

General Zia-ul-Haq entrusted to the Council of Islamic Ideology the assignment to formulate an interest-free system and the Council, with the cooperation of its 15 financial and banking experts presented its interim report in November 1978, and its complete report in June 1980. In the light of these reports, the government on February 10, 1979 took the first practical step to purge three financial institutions of interest system on which action was taken on July 1, 1979. From 1980 onwards other reforms were introduced, which continued topsy-turvy till 1984. In those days the flag-bearers of the interest system (both domestic and foreign) and others with vested interests strived continuously to distort these reforms and to create impediments. Ultimately all those steps which originated in 1979 were rendered ineffective from 1985.

On coming into power of the Islamic Democratic Alliance in 1990 and demand for the supremacy of Shariah gained momentum again. The Committee constituted by the Prime Minister for Self-Reliance presented its report in April 1991 and proposed a vivid strategy and

Action Plan to purge the domestic economy and international economic relations of riba. Moreover the Federal Shariat Court, after ten years of helplessness and restoration of its powers (in 1990), gave its historic verdict on December 7, 1991 under which 20 laws based on riba were declared ultra-vires. The government was given a period of six months for alternative legislation. But instead of acting upon this decision the government lodged an appeal in the Supreme Court and on the other hand ignored the self-reliance report.

This is the background under which the nation has, once again, demanded that the appeal should be properly disposed, and practical steps should be taken to get rid of riba. But instead of adopting this latter course, once again the way of new commissions and new committees is being resorted to. Lately, the government attempted to withdraw the appeal and has asked the Federal Shariah Court to review its earlier decision and also to indicate the alternative system. This is a strange logic that policy making and determining of the alternative courses on the rest of the

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affairs are the responsibility of the government and if it is the matter of enhancing its own powers, then suspending all the formalities, this work can be accomplished in a few hours, but deliverance from riba, according to this logic, is such a matter of which the real responsibility does not lie with the government but with the FSC and the nation, that they should provide the government with a ready-made alternative system so that it could move into action.

Actually the root cause of the disease is that the government and all the institutions having jurisdiction not only do not feel their own responsibility on this important issue but with ample dexterity toss it to others, though it is their duty to devise policies, acquire resources and take necessary steps to solve the challenges and problems confronting the country, including riba.

In his speech of March 31, 1997, the prime minister announced the setting up of yet another Commission, as if so far nothing has been done in this connection. We have received a questionnaire from two highly respectable persons (Malik Allah Yar Khan, Advocate Supreme Court, and Dr Syed Ilyas Ali Abbassi), in which some questions have been raised in connection with the Alternative Banking System in the light of talks with the Punjab chief minister. They say that the chief minister promised them

that the government was prepared to take action provided a working paper was given, suggesting an alternative riba-free Islamic economic system. Dr Asrar Ahmad too has given this glad tidings in a press conference some-time back that Mian Muhammad Sharif, Mian Nawaz Sharif and Mian Shahbaz Sharif have met him and though the chief minister Punjab asked for a respite of three years, yet Mian Muhammad Sharif said that riba should be put to an end within one year in the domestic economy of the country. (Jasarat Karachi April 14, 1997).

No doubt that search for alternatives was very important, but the impression that no alternative exists and the demand for an Islamic eco-

During the past fifty years productive discussion has been made on this topic that has led to a consensus that on the fiscal affairs of a loan whatever fixed addition is settled in advance and is a part of the agreement, is riba — whether this loan is for personal expenditure or productive requirements, is obtained by an individual or an institution, be it private or government, usury or through banks or insurance companies.

conomic system is made in some vacuity is based on ignorance or else it is an explicit deceit. Today interest-free alternative is not a mere fantasy. The fact is that in fifty years so much work has been done, that if a sincere and capable leadership has the determination and the will for the new system, then without delaying for a day an effective step can be taken. Today the actual hindrance is not the dearth of intellectual work or the non-existence of an alternative blueprint. Rather there is lack of faith and political determination in the leadership.

A deception which is again and again practised in different ways is about the concept of riba. The government advocates also raised this question before the Federal Shariat Court, and into the appeal lodged in the Supreme Court the question was included: Does the interest of a bank come within the definition of riba?

Allah be praised, during the past fifty years productive discussion has been made on this topic that has led to a consensus, that on the fiscal affairs of a loan whatever fixed addition is settled in advance and is a part of the agreement, is riba. Whether this loan is for personal expenditure or productive requirements, is obtained by an individual or an institution, be it private or government, usury or through banks or insurance companies. Therefore to begin this discussion afresh is not based on learning and sincerity, but is synonymous to complicate, postpone the matter or to practice deception.

The Islamic Advisory Council is unanimous that Riba in its every form was forbidden and the increase or decrease of the rate of interest did not affect its forbidding.

The committee of bankers that worked under the chairmanship of the Governor of State Bank and gave its report in 1980, took the same stand. Likewise the scholars of the country and economic experts and bankers agreed upon it. Above all the Federal Shariat Court has in its verdict of December 1991, affixed the stamp of affirmation on this position that makes the last word on the subject.

The last unanimous opinion expressed by the Assembly of Islamic Fiqh of India in its seminar of the top scholars is: "Interest whether received on the loans for personal expenditure or on commercial and business loans, is in the eyes of Islamic Shariah, forbidden." The Islamic Fiqh Academy established at the official level by the organization of the foreign ministers also considered this matter in December 1985 and arrived at the same conclusion. In the official documents of the IMF the position of the Muslim Ummah described on this problem is as follows:

"It seems appropriate that the beginning of the study of Islamic Banking system should be made from the definition of its basic terminology. Riba is an Islamic legal term which is tantamount to an accepted addition before the use of money. Controversy is found in the past whether Riba means interest or usury but now there is a consensus of opinion among the Muslim scholars that this technical term is applicable to every form of Interest and its corroboration is not merely excessive interest. Therefore in the forthcoming discussions A Riba @ and Interest will be used as synonyms and the Islamic Banking System will mean the system in which the payment or receipt of Interest will be prohibited, whereas an interest giving or conventional bank will mean an institution in which interest is received or given on the use of monetary fund (International Monetary Fund Staff Papers, Vol xxxiii No. 1 March 1986. Islamic Interest-free Banking, a Theoretical Analysis by Mohsin S. Khan p-4-5).

To be concluded

(The writer is former senator and chairman Senate Finance Committee.)

Consensus on 'riba' —II

Real hindrance is the lack of will

By Prof. Khurshid Ahmed

THE dispassionate analysis of the academic discussions of half a century absolutely lays bare the fact that the questions and doubts raised about Interest (Riba) are unreal and the Quran and Sunnah have prohibited Riba in its every form, be it the ancient banking form or the modern banking, be it related to the consumption loans of the needy or commercial and production loans, may they fall within the sphere of private limits or government, semi-government limits, and whether provided at a lesser or exorbitant rate.

The second great success achieved in the last thirty years covers the principles and rules, way of working, financial Instruments of interest-free banking and the proposal and drafting of the strategy of investment. In this connection investigations have been made with great endeavours and a chart of alternative system has been prepared with deep foresight. At least two dozen research books have been published in which the features of the new system have been explained. Among them some of their authors have received the Islamic Development Bank and the King Faisal Awards.

In Pakistan the report of the Council of Islamic Ideology (1980), which is based on the report of the economic and banking experts, occupies the position of a milestone. In this report, a very realistic blueprint has been presented to purge Pakistan's domestic economy of interest. A Committee of the Central Bank also worked on this subject in 1981 under the Chairmanship of the governor of State Bank and the blueprint provided by it is also very close to the blueprint of the Council of Islamic Ideology. The report of the Council

of Islamic Ideology was discussed in an International Seminar and its recommendations were, on the whole ratified.

In 1989 the International Institute of Islamic Economics held a workshop on the subject as to how interest can be eliminated from government dealings. The report of this workshop (Elimination of Interest on Govt. Transactions) has also been published. After that in June 1992 the Commission for Islamization of Economy submitted its interim report, which has, however, not been published so far. It was even not presented in the Senate and National Assembly as required under the law.

The whole of this work presents a vivid outline of an alternative system in the light of conditions prevailing in Pakistan.

Regarding the foreign loans, clear guidance exists in the above mentioned reports of the Institute of Policy Studies and the self-Reliance Committee. Even an outline exists in the Self-Reliance Report (1991) which tells how to execute this job, and on the other hand with the help of a proper economic model a complete programme has been given to eliminate Riba from the economy in three years. The difficulty is that those demanding an alternative system neither study these reports nor intend to act upon them. They therefore refute the existence of these documents and are continuously harping upon, "where is the alternative?"

No doubt much work has yet to be done and many stages have to be covered, but whatever has been attained by way of implementation is sufficient to bow before the prowess of Islamic banking system.

After the First World War, Dr. Muhammad Hamidullah had carried out research work and had shown how investment to the extent of billions of rupees was being carried out through equity-based venture system. During the last forty years the experiments

include the Mit Ghamr Bank of East is 55 per cent, of the countries Egypt, which had been working of the Gulf Council 23 per cent and from 1963 to 1967 and after that it that of South Asia is 15 per cent. adopted a new form in the shape of We do not say that these banks Nasir Social Bank (1971).

In 1975 the first regular commercial bank Dubai Islamic Bank was established. The same year Islamic Development Bank (Jeddah) was established with the co-operation of 28 Muslim countries; the members now are 50.

After these pioneering banks more than a hundred interest-free banks were setup. Two major financial groups DMI and Al-Baraka are performing the services of interest-free banking in numerous countries. According to a recent report of the International Association of Islamic Banks, at present 17 financial institutions are working in the Gulf Council countries, 22 in the rest of the Middle East, 30 in Africa, and 47 in South Asia.

In Europe and America, 4 interest-free banks or financial institutions are working. The total capital of these banks is around 6 billion dollars. In the existing deposits there are 77 billion dollars and their total assets are worth 166 billion dollars. From the point of view of the distribution of capital the share of the banks of the Middle

are standard banks from every aspect, but it can be claimed without any fear of refutation that despite all their weaknesses, they have proved before the world that Interest-free banking is possible and from the viewpoint of its performance and profitability, it is no way lesser than the conventional banking modes. What an irony then that in existence of these experiences, our politicians are asking for an alternative system?

Our proposal was that not only banking but the whole economy should be purified of interest. The beginning should be from those institutions whose system can be changed immediately. For that we had selected The National Investment Trust, the Mutual Fund of the ICP and the House Building Finance Corporation.

Thereafter we gave the scheme of establishment of Bankers-Equity for industry and bound the Agricultural Bank, Small Industries Corporation, Co-operatives and other institutions to provide capital to the small farmers and small businessman.

Our proposal was to first reform the commercial banks and that real attention should be to conform the bank assets with the Islamic injunctions, so that avenues should open for the use of the capital and interest purged, whereas to make the deposits in harmony with Islamic teachings was comparatively easy. The government reversed the sequence and concentrated entire attention to change the deposit system and did not exact the legal structure that was necessary for the reform of the assets.

Our proposal was, that company law, the tax system, the corporate law authority, stock exchange, all of them should be so changed that a new economic infra-structure comes into existence. Simultaneously interest should be eliminated legally. All the protection and incentives enjoyed by interest should be provided to the investments based on profit and loss. Suitable institutes should be established for training the officials of the banks and financial institutions and effective arrangements made for the education of the masses. The State Bank had to perform a central role in this whole work, but the government

took neither of these steps. Having the original system intact, PLS

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accounts were opened in Commercial banks and a new lease of life given to interest with the name of Markup. Moreover, the government itself continued to issue Interest Bonds and Certificates, within and outside the country. This

practice continues till today, so much so that now whatever loans are obtained under the scheme of repair debt, beautify the country, (Qarz utaro, Mulk Sanwaro) 90 per cent is interest based.

This is the reason we think that the real hindrance is the impairment of thought and foresight of those in authority and the lack of their will and determination. Unless these are rectified, mere proposals of alternative systems cannot bring any change. Such is the state of government departments, commissions and committees that reports exist on which no one bothers to act and new committees are composed.

Only as a lesson and an eye-opener for those who complain for the alternative and avoid facts, let me append an extract from the report of the Board of Directors of an affiliate institution of the World Bank — The International Finance Corporation. It reveals that at one stage the international financial institutions were considering that if Pakistan eliminates interest and is not prepared to adopt any other course excepting Real Islamic Banking system and Investment, how should they make

their modes and dealings in uniformity with it. The "credit" goes to our leadership that it assured IFC etc. that the talk of Islam is only a joke, and not to practice.

Therefore they need not worry. Vide IFC Report No IFC/P-587 of December 1987, "A change to Islamic modes of financing has been considered by IFC but this would be contrary to the Government (of Pakistan) intentions for foreign loans. Adoption by a foreign lender of Islamic instruments could be construed as undermining Government policy to exempt foreign lender from the requisit."

The Report further notes: "We have been advised by senior Government officials that steps will be taken to rectify this situation in all probability."

(Concluded)