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A Thorn by the Name of Rose: General Provident Fund, Interest Bearing Activity or Tohfa-e-Sultani

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Abstract

The paper addresses the question of legitimacy of pension fund given by the government of Pakistan to its employees at the time of retirement. The study is based on the hypothesis that since the fund amount is invested by the government in interest bearing investment areas so the profit is not Halal for the employees. But the government employees accept that money by having different justifications. Ulema have also expressed their opinion. The paper incorporates primary data covering the verdicts of the Ulema and of the researchers. Their opinions are then analyzed in the light of government rules and investment areas of General Provident Fund. The results show that the investment and profits of the fund is legitimized by giving different names thus violating the basic spirit of Shariah's objective for which interest is forbidden. The same practice is carried on indirectly and the responsibility is ill defined. It is therefore suggested that Ulema should get in depth knowledge of the problem and guide the people by considering different aspects of the matter.

Keywords: *General Provident Fund, Shariah, Pakistan*

Introduction

Poverty at world level has increased over time despite high growth and economic development. In the presence of very sophisticated technology the production is still not meeting the demands. Central banks create money that is not backed by equivalent production and assets. People have money but no satisfaction and with the passage of time their frustration is growing. The credit economy the world over has flourished and has reached to its climax. At least 95% of the billions of dollars transferred daily around the world are of purely financial transactions that

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has no link with the real world economy. According to a statistical report in England, 96.4% of the total capital supply consist credit money. Through fractional reserve lending banks create far in excess of 90% of the money and therefore cause over 90% of the inflation in the country (Usmani, 2005).

General Provident Fund (GPF) is a pension fund. A certain amount of the employee's salary is deducted every month and is kept by the government. At the time of his retirement that amount with some additional amount is given back to the employee. GPF that is deducted from the employees' salary is invested by the government. GPF is sent to State Bank of Pakistan in Govt. account called Public Account that also includes Group Insurance and Benevolent Fund. Group Insurance is given to State Life Insurance Company. Benevolent Fund is also invested and is used for the subscriber's welfare. It is non-refundable if not availed by the subscriber. The pension funds are invested in areas that contain interest.

Versus of the Holly Quran and the sayings of the Holly Prophet (PBUH) clearly condemn interest and declared it as one of the most obnoxious thing (Nazir, 2002). It has been observed that people don't care about the legitimacy of their financial transactions and future funds. For example, out of total 9453 accounts of the University of Peshawar (individual and joint, both personal and official) interest free accounts are only 1822 whereas interest based accounts are 7631¹. There are different justifications given by the people in favor of interest amount given by the government to its employee.

If we consider western economic system, the arguments given by people are easy to justify. But the problem arises when one has to follow Shariah and bound to earn and possess "Halal" money. Under such situation it is our obligation to take into account not only the 'thing' whether halal or haram but also the sources through which it is earned. So the study also focuses on the second mentioned area that "From where this additional amount is earned which later on is delivered to the employee by giving different justifications".

Hazrat Imam Ghazali quoted that there is difference of one hundred degrees between a worshiper and a learned man. Hazrat Abu Dardaa said: To learn one point is better than to pray the whole night. The Prophet (PBUH) said "There would come a time on people when the man will not care what is halal earnings and what is haram".²

Objectives of the Study

The basic research question is that the General Provident Fund is deducted from the salary of the employee and given back to him at the time of retirement. The amount that is given to him at his retirement is

always greater than the actual deducted amount from his salary. Now the subject of enquiry matter is to check the legitimacy of this additional amount that whether it is Halal or Haram.

Hypotheses

The research is based on the hypothesis that:

- People don't care about the legitimacy of their pension funds.
- Ulema do not study all aspects of the problem and simply guide the people on adhoc basis.

Methodology

The methodology is based on both primary and secondary data. Primary data includes verdicts of some Muftis mainly based in Peshawar but got Fiqha education from well known institutions. Primary information has also been collected from the officials of the relevant institute dealing with the pension funds. The primary data takes into account the consideration and opinion of researchers and scholars having renowned research work at home and abroad. Primary data is collected through two methods; one through questionnaires distributed among the ulemas and second through interviews from the researchers and academicians. The sampling is snow ball sampling considering the vast scope of the issue but time is a constraint. Secondary data is collected from articles and books. The results of the primary data are then compared and analyzed using descriptive analysis method.

Results of the Study

The following is the opinion and verdicts of the ulema given about the interest of General Provident Fund. According to Mufti Ghulam-ur-Rehman and Mufti Najam ur Rehman³ "Government deducts a certain amount from the servant's salary and then at the time of retirement it gives some profit (interest) on it and the total amount is then given to that person. If that deduction is made with the willingness of that person then it is better to avoid it because of interest in it. But if the deduction is not made with one's willingness and also one is not happy at the deduction then in that case even if he accepts that amount with the additional amount, it is permissible for the person."

While discussing the answer in detail Mufti Siraj Muhammad⁴ said "GPF is not under the discretion of the person till his retirement so the additional amount that is called interest is a reward from the government and not interest". Further he mentioned that ulema are not considering it "Sood-e-Sharih but a gift of the government".

Mufti Shabir Ahmad Alazhari⁵ also mentioned that GP fund is the gift of the government.

In a question answer article by Mufti Muneeb-ur-Rehman, about GP fund he replied that whatever is given additional amount by the govt. at the time of retirement is government's gratitude and blessings because the govt. deducts from his salary on compulsory basis. But if the person asks the govt. to deduct more than the compulsory deduction then he should not take profit of this willingly deducted amount. And those who would follow the path of taqwa are better so they should take actual contribution only.

Rehmani (1983) quoted the verdicts of the ulema and mentioned that since the interest earned on the Provident Fund is not kept by the government but is given back to the employees so this is not interest but a gift of the government so it is permissible to accept. In the same way if one takes loan from his own money and earns profit although is given the name of interest but it is also not interest because it is ultimately returned back to the same person. Whereas interest is, that is taken by the lender himself.

Jamil-ur-Rehman (undated) elaborated that there are two types of deductions from the General Provident Fund; Compulsory deduction and Deduction at will. The writer quoted Mufti Muhammad Shafi, "that the amount received at the time of retirement; actual plus some addition, in both cases i.e. compulsory or deducted at the will of the employee is legitimate. This act of the government is its own and one sided act it does not matter if the person calls it interest or not but it is not interest". The writer further says that now the government has tried to give it the form of Bai Mudarabah in which one partner participate with money and other with his business services. The profit and loss is then shared between the two parties. So the mufti is of the opinion that deduction at will is a kind of Bai Mudarabah and compulsory deduction is like a forced Bai Mudarabah.

Mufti Muhammad Iltimas Khan⁶ quoted the verdicts of the ulema that deduction for GPF is compulsory so additional amount given by the govt. is whether interest or profit, it is allowed but if the deductions over and above of compulsory deductions is with the permission of the employee, then it is interest.

Professor Dr. Ziaullah⁷ is of the opinion that it is not interest but a help by the government to the poor.

Professor Dr. Dost Muhammad⁸ has in depth knowledge of interest based activities. He declared GPF as clear interest bearing activity. Further he described the role of International Monetary Fund and World Bank that since international finances are in the hands of powerful

capitalists so pure Islamic finance exists nowhere in the world but one can try to avoid interest.

Professor Dr. Bushra Hamid⁹ expressed her deep concern about the legitimacy of the pension fund that the additional amount given by the government is purely interest because the fund money is invested in interest bearing instruments and safest security instruments are selected for its investment. She further mentioned that not only there is interest involved but the interest is compound in nature (compound interest means interest on interest money). She has strongly rejected the plea that it is a gift of the government on the ground that government has invested employee's money in interest bearing activities.

Dr. Nasreen Ghufra¹⁰ also mentioned that the additional amount given at the time of retirement falls under the category of interest because no risk factor is involved on principal amount. The additional amount is not a gift of the government because the logic behind gift is wrong and carries all interest bearing activities. However, she is of the view that one should not leave this money to the institution but to give it to the poor.

Dr. Naheed Ali¹¹ is aware of the fact that interest is one of the obnoxious thing but still on her way to find out whether the fund amount is invested in interest bearing instruments or not; if found then she will not take the amount which the govt. gives as a gift to the employee. She emphasized that one should solve this problem as early as possible.

Dr. Hafiz Sanaullah¹² has divided the total deductions in two parts; one that is deducted without the willingness of the employee (presently it is 8%) and second deductions with the willingness of the employee. He considers the first category legitimate but according to him only second category falls in interest.

Syed Mohammad Abbas¹³ has deep insight on the subject of interest and mentioned important points; Govt. is doing anyway wrong by investing it in interest bearing avenues, one should not take this matter for granted, should not wait till retirement and should solve it before his death because we all are accountable and piety requires a person to follow the right path and should leave all doubtful things. He is of the view that the origin of Fatwas in favor of the legitimacy of the fund actually comes from the time when Muslims were living under non Islamic govt. and were suppressed by the colonial rulers but now we are independent and can collectively solve this problem. Since his joining in the University he has withdrawn the right to take interest amount of his GPF.

Analysis of the Results

First we have to understand the purpose of the Divine order for which interest is forbidden. Interest bearing activities make the rich people

richer and poor people poorer. Rich people get richer at the cost of the general public money. It is a vicious circle that engulfs the society leading to poverty, inflation, debt trap, deficits, exploitation and unrest. The rich capitalist class then on the basis of their wealth becomes the masters. As a result two extreme classes emerge; one rich the masters and the other poor the economically slave class. Justice is not what is ordered by Allah but it is that which is formulated by the capitalist class. So, today the same rule of law operates. An economic activity that is based on such principles how it could be the gift of the government. GPF amount once taken by the government is invested in different interest bearing activities for example, as per balance sheet of the Finance Department, Govt. of NWFP, General Provident Investment Fund 2009, some of the investment areas are as follows¹⁴:

- Investment in Banks
- Term Deposit Receipts (TDRs)
- National Saving Centres
- Investment in Stocks and Money Markets
- Pakistan Investment Bonds (PIBs)
- Treasury Bills
- Continuous Funding System
- Term Finance Certificate (TFCs)
- Trading in Stocks
- Mutual Funds
- Bank of Khyber Portfolio
- Loans to Govt. Department
- Associates
- Pearl Securities (PVT) Ltd.

Section (9) of the Calendar of University of Peshawar describes “The account of the Fund shall be opened in a bank and amounts in excess of Rs. 1000/- at any time shall be converted into Government Securities, National Saving Certificates or Khas Deposits of the Post Office to secure the maximum rate of interest”. Further section (10) states that every year interest pro-rata¹⁵ on the basis of total balance shall be declared and credited to the account of each subscriber. Section (11) further confirms that the subscribers will be entitled to receive the full amount including “interest” to the credit of the subscriber at the end of his service or will be given to legal successors in case of his death. Whereas section (13) again confirms that it is interest by stating that “If a subscriber gives in writing that he would not claim interest or any amount of interest remains unclaimed for more than six months it shall be credited to the University

Employees Benevolent Fund”. “The administration and management of the Fund shall vest in a Board of Trustees to be appointed by the syndicate”. This section also mentioned that the Vice Chancellor, Registrar and the Treasurer are the members of the board¹⁶.

This money generates interest which is illegitimate (Haraam) and is distributed among the people at the time of their retirement. Now here one can say that he does not care where his money is invested and from where the government brings profit. We have to see the Shariah rules about the negligence and ignorance of the person about incoming profits he receives. The element of ignorance is not acceptable in the case of GPF because one can easily check the accounts of the government. These are not secrets and areas of investments are clearly mentioned by the government. The element of negligence as an excuse is also not acceptable. According to the sayings of the Holy Prophet (PBUH) as described by Imam Ghazali “The Holy Prophet (PBUH) once said to Wabasai: consult your conscience even though the Faqihs give you decision (thrice)”. The Prophet (PBUH) said it thrice to stress and convince the people that you are responsible even up to the level of your conscience although you have the decision of Faqihs. It’s not that he did not consider important the decision of the Faqihs but he knew that it may be possible that either all the circumstances are not properly studied by Faqihs or there may be some other elements involved that creates misunderstanding. The other examples include the Islamic business rules (see rules of different types of Bai) in which the Bai becomes null and void and the profit from the Bai becomes Haraam if the person does not get knowledge that his money is invested in illegitimate business. His ignorance is not accepted.

The matter of deductions from the fund i.e. with the will and without the will of the subscriber is also made complicated and molded in personal favor. It is simple to understand that if you are contributing your money in a Haraam activity as explained above, you are responsible whether with your willingness or without your willingness because if any thing is deducted without the willingness of the person there is no compulsion by the government to accept that profit which is in fact interest. As described by the Government of NWFP (2008) “Mark up shall not be credited to the account of a Muslim subscriber if he informs the Accounts Officer that he does not wish to receive it (Section 5)”. So the person is not bound by the government that he must receive the interest. In the same rules it is mentioned that it is a mark up which is fixed by the government from time to time. According to the Government of NWFP (2008) “The rate of subscription to the Fund would be that fixed by the government from time to time” (Section 3). The rate on GPF

is determined by the Finance Department with the State Bank of Pakistan. The rate of interest given to the subscribers varies from time to time; it was 15.93% in 1990, increased to 17.5% in 1998 and in 2009 it become 15%. So it carries fixed rate.

Another important point is raised by the people and the ulema that the subscriber has no authority to use that fund till retirement. Now we have to see the extent up to which the person can take any money from the fund. It is absolutely wrong that he can not withdraw the money from his GPF. It is clearly mentioned in the rules¹⁷ that he can withdraw up to 80% from his account both refundable and non-refundable. He is liable to pay back in thirty six installments. The servant /subscriber need not to pay back if his age is up to forty five years. Further if the person has to pay insurance installments he can nominate the insurance company as his Wakeel to draw the money from his GPF account. In past, this was also in practice by a large number of subscribers. So people use to take this money from time to time for different needs. So the authority to a given extent to use the fund by the subscriber is allowed by the government.

Another justification is that the government has tried to give it the form of Bai Mudarabah in which one partner participates with money and other with his business services. The profit and loss is then shared between the two parties. So the mufti is of the opinion that deduction at will is a kind of Bai Mudarabah and compulsory deduction is like a forced Bai Mudarabah.

Bai Mudaraba is a business deal in which one party contribute with money and other with business skill and services. There are Islamic rules to conduct this business deal and violation of any one of the rules makes the deal null and void and according to the sayings of the Holly Prophet (PBUH) when the deal becomes null and void it is no more legitimate. In case of GPF investment in Mudaraba business is concerned, many of the rules are violated. For example, one is not allowed to invest the money in any interest bearing areas as mentioned above, profit and loss both are borne by the person etc. In Modarabah share the profit and loss is determined but not the amount in monetary terms is predetermined. Further if the person who is contributing with money bounds the Modarib with some conditions that restricts his power to trade smoothly then even in that case the Modarabah deal becomes null and void. So just giving the name of Bai Mudarabah does not make the thing legitimate. It is interest bearing activity which is given the name of Bai Mudarabah or gift by the government. Further, in Islam there is no permission of forced Bai Modarabah.

Another justification is “It is “government reward”, “Help to the poor” and “gratitude and blessings”. These all justifications have no sense at all because to give a gift and to help some body, illegitimate activities are created and sponsored thus resulting in inflation, poverty, income inequalities, economic exploitation, under debt economy and much more. If a father is a serial killer, finances his child with that money and justifies that he is helping his child, his justification suits his children because they don’t care from where his father is earning the money but not to the king whose rules are violated and his kingdom is ruined. If the govt. gives us one glass of blood to drink by saying it is a gift, shall we do that? The Prophet (PBUH) as quoted by Imam Ghazali has given the example of a man who is dealing in interest is like a person who stands in a river full of blood.

Main Findings and Suggestions

Islam clearly condemns interest and interest bearing activities. According to our religion it is our duty to know that whether the money we earn is Halal or not but also the sources through which it is earned. Shifting the responsibility to other’s shoulders is not the right way to follow the right path. We would be accountable before Allah not according to the knowledge but also the level of knowledge given to us and acquiring the knowledge is again our duty. Further it is our duty to pass this knowledge to others. By declaring a forbidden thing as gift of the government is not the solution. The government itself has declared it as interest in its accounts and mentioned that the Muslim subscriber is not bound to take it. Further the government accounts and investment avenues are not the secrets so one can easily get the information about the legitimacy of the accounts. The results show that some verdicts of the ulemas are self contradictory and are given without the detailed knowledge of Islamic rules of businesses like Bai, Bai Modarabah, responsibilities and obligations of the subscriber regarding his investments and profits. The fatwas should be given after getting the full information about the matter. The related aspects and consequences of our activities should be properly studied by the ulemas. It is easy for them to advise the government to invest all these funds in Shariah Halal businesses rather than changing the names of obnoxious things and interpreting them in personal favor. We should not be the part of any wrong things directly or indirectly.

Conclusion

Although we all live in an integrated financial world being ruled by powerful capitalists but as a muslim our duties are different. It is our obligation to strive for the right path. It is not very difficult to get the

correct information and to follow the right path. Allah has not forbidden any thing which was difficult to leave and for which there was no alternative way. Those who make efforts in the way of Allah their hearts are blessed with peace and satisfaction. We all know that if our money is Haram, our zakat or charities are not accepted. So we have to make an effort at least up to the level of our conscience and of our knowledge with which Allah has blessed.

Endnotes:

- ¹ National Bank of Pakistan, University of Peshawar, Campus Branch, 23rd Dec.2009.
- ² See Bukhari Sharif, vol.1 translated by Allama Waheed Zaman.
- ³ Both Muftis studied at Daru Uloom Haqaniya, Akora Khattak and are teaching at Jamia Usmania, Peshawar (2nd Feb. 2009).
- ⁴ He studied at Darul Uloom Deveband and teaching at Speen Jumaat, Peshawar (28th Feb. 2009).
- ⁵ He studied at Jaamiah-tul- Azhar (Egypt) and teaching at Markaz Darul-Uloom Islamia, Rahat Abad Peshawar (2nd Feb. 2009).
- ⁶ He is Lecturer at Islamiyat Dept. University of Peshawar. He did specialization in Islamic Jurisprudence from Jamiah Binori Town, Karachi.
- ⁷ He has done Ph.D from Al-Azhar University, Cairo (Egypt) and teaching at Shaykh Zayed Islamic Centre, University of Peshawar.
- ⁸ Director, Shaykh Zayed Islamic Centre, University of Peshawar. He is a member of the Shariah Board, Bank of Khyber. He served in a bank for 12 years, but left the job being interest based.
- ⁹ Professor Dr. Bushra Hamid is teaching Business Management and Finance at the Institute Of Management Studies, University of Peshawar.
- ¹⁰ Dr. Nasreen Ghufraan is Associate Professor at the Department of International Relations, University of Peshawar.
- ¹¹ Dr. Naheed Ali is Professor at the Department of Zoology, UOP. She was a member of National Commission on Status of Women and was Chairperson of the department.
- ¹² Presently he is the Treasurer, UOP. He also served as Director, Planning and Development Department, UOP.
- ¹³ He is Principal, Quaid-e-Azam College of Commerce, UOP. and member Shariha Supervisory Committee, Bank of Khyber since 2005.
- ¹⁴ See General Provident Investment Fund, Government of NWFP Finance Department, Balance Sheet As at June 30, 2009
- ¹⁵ Pro-rata means calculated according to how much a thing has been used.
- ¹⁶ Source: The Calendar of the University of Peshawar 1991-92, section 6, pg. 366.
- ¹⁷ See sections 12 and 13 of Government of NWFP, General Provident Fund Rules 2008.

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