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Muhammad Hamidullah and His Pioneering Works on Islamic Economics

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IN THE NAME OF ALLĀH,
THE MERCIFUL,
THE MERCY-GIVING

**MUHAMMAD HAMIDULLAH AND
HIS PIONEERING WORKS ON
ISLAMIC ECONOMICS**

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FOREWORD

Muhammad Hamidullah was a genius and a prolific writer. Anyone who has interest in the Qur'an's translation, Hadith literature, the Prophet's (peace be upon him) biography, international Islamic law, Islamic politics and archival heritage of Islam, cannot ignore Dr. Muhammad Hamidullah's contributions. But very few may be aware that he was one of the pioneers of modern Islamic economics.

Hamidullah started his writings on Islamic economics in 1930s. In fact, it is not easy to get records of some of his early writings. Some of his articles were published in journals that discontinued publication. This may be one of the reasons why his contribution to Islamic economics could not be fully known.

Prof. Islahi's three papers - "Hamidullah: Life and Works", "An Introduction to Hamidullah's Contributions to Islamic Economics", and "Zakah as the State Finance: A Critical Study of Hamidullah's Views" - give plenty of information about Dr. Hamidullah's personality and multifaceted achievements in Islamic sciences in general and Islamic economics in particular.

Professor Islahi has done a great service to Islamic economics by presenting collection of Dr. Hamidullah's papers with useful notes and making them available to interested readers.

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PREFACE

The title "*Muhammad Hamidullah's Pioneering Works on Islamic Economics*" must be a surprise for many who know him only as expert on Islamic international law, biographer of the Prophet, translator of the Qur'an in French language, and one who discovered and edited many valuable Arabic manuscripts of early Islamic period. I experienced this reaction during preparation of this work. Whenever, I mentioned to my friends, colleagues, and even experts of the discipline that I had been working on Dr. Hamidullah's papers on Islamic economics, most of them questioned with great surprise: "Had he contributed to Islamic economics?" In fact he was one of the pioneer writers on the subject and one who coined the term "Islamic Economics" by which this discipline is known worldwide today. Many firsts in this subject belong to him. For instance: the first and the earliest record of the interest-free financial institution in the modern period, advocacy of mutuality as the basis for Islamic insurance, mutuality based Islamic finance, proposal for establishment of international interest-free monetary fund, federation of currencies for Muslim countries, to name a few.

This project started with a simple but difficult task of preparing a complete list and bibliographical details of Hamidullah's papers on Islamic economics. His biographers have almost ignored his contribution to economics. Even the most comprehensive list of his works did not mention more than 2-3 titles related to Islamic economics. In most cases the bibliographical details were missing. The papers contained in this volume have been procured through numerous sources with painstaking efforts.

Hamidullah's writings on Islamic economics are spread over more than half a century and in various journals. Some of them discontinued their publications in their early stages. It was not easy to trace them. After searching libraries in Jeddah and Aligarh, and contacting friends, scholars and relatives of Dr. Hamidullah in America, England, India and Pakistan I succeeded in collecting all papers that were in my list.

The present volume consists of his papers on Islamic economics in English language only. He has also written many papers on the subject in Urdu, and a few originals or translations in Arabic, French, Turkish,

Persian, etc. Since Hamidullah's objective was to convey his ideas to maximum number of people, on different occasions and in different languages, he did not care if a story was already told. The readers will realize this while reading these papers. Such recurrence is not surprising especially when papers are written at different occasions and at different times. I hope his papers in English would be sufficient to understand what he has written in other languages.

The present volume has two parts. The first part contains three papers – "Hamidullah: Life and Works", "An Introduction to Hamidullah's Contributions to Islamic Economics", and "Zakah as the State Finance: A Critical Study of Hamidullah's Views". These papers are authored by me. The second part consists of thirteen papers written by Dr. Hamidullah on various topics related to Islamic economics. They are reproduced here with thanks and courtesy of their publishers.

The articles in this volume have been arranged in chronological order. Since these papers were written at different occasions and at different periods, no single method was followed. For example, references were mentioned sometimes as endnotes, sometimes as footnotes and sometimes in the middle of the text. Similarly, the references to Qur'anic verses were given sometimes within the text and sometimes along with footnotes or endnotes. I have brought all references to verses of the Qur'an in the middle of the text and all footnotes as the endnotes. In some of his works he gave numbers to paragraphs for reference purpose so that, unlike page-numbers, after change of edition they remain exactly same. In this collection we have removed them to maintain uniformity. Again, no standard transliteration system for Arabic words was followed in all papers. I have tried to bring them under one and the same system. Printing errors have been corrected but no attempt has been made to edit the language. I have tried to complete the references and provide their details, or give explanatory notes if necessary. All such additions are indicated by initial [aai] to distinguish it as addition by the editor. Bibliography part covers the whole volume.

Abdul Azim Islahi
Jeddah
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1

MUHAMMAD HAMIDULLAH:

LIFE AND WORKS

EARLY LIFE AND EDUCATION

The most distinguished Hyderabad scholar Muhammad Hamidullah was born on Wednesday 16th Muharrum 1326/ 19th February 1908 in the locality called Katalmandi, located in the old Hyderabad city. He was the youngest child in a family with three brothers and five sisters. His ancestral roots belong to the Nawa'it community,¹ an offshoot of the Konkani Muslims of India. The Konkani Muslims were the first Muslims to arrive in India in 699 CE from Arabia (Khalidi, 2000). The 15th century great scholar 'Ala al-Din 'Ali Ibn Ahmad al-Maha'imi (776-835/1374-1432), who authored famous exegesis of the Qur'an entitled *Tabsir al-Rahman bi-Taysir al-Mannan*, was among his ancestors. His great grandfather Muhammad Ghawth (d. 1238/1822) was a scholar of Arabic and Islamic studies. One of his important works is a commentary on the *Qur'an*, *Nathr al-Marjan fi Rasm Nazm al-Qur'an*, in seven volumes.² Hamidullah's paternal grandfather, Qadi Muhammad Sibghatullah (d. 1280/1863) was also a great scholar who wrote, among other books, a commentary on the Qur'an. Nawab Ghulam Ghawth Khan (1844-55), the ruler of Madras, appointed him as Chief Judge in 1272/1855. Hamidullah's father, Abu Muhammad Khalilullah (d. 1363/1944) migrated from Madras to Hyderabad where he was hired a clerk, eventually retiring as director of the Revenue Department in the Nizam's³ government. He set up a non-interest lending society which was among the earliest such institutions in Hyderabad. His two sons, Sibghatullah and Habibullah assisted their father in management of that society and after his death they looked after it.⁴

Hamidullah's ceremony of Bismillah was performed by a visiting dignitary at the beginning of 1911 when his age was 3 years.⁵ He received his early education through home schooling under the guidance of his sisters and his father. Later he was admitted in the Madrasah

Nizamiah⁶ where he passed the examination for the degree of Maulawi Kamil with distinction. After that he appeared in the matriculation examination in which he topped the list of successful candidates. In 1924, Hamidullah joined the Osmania University⁷ as a student and passed the B.A. in 1928 and L.L.B. and M.A. examinations in 1930 in the first division. According to Hamidullah (1968, p. x, 1941), he was in the first batch of the students when Public International Law was introduced in the Osmania University L.L. B. curriculum at the instance of the League of Nations.⁸ After L.L.B. He took the Muslim international law as the theme of a post-M.A. research scholar. When he exhausted the material available in the libraries of Hyderabad, he was allowed to proceed abroad to study in libraries of Hijaz, Syria, Palestine, Egypt and Turkey. In Egypt he met some Orientalists from Bonn University who invited him to get his doctorate from Bonn, Germany. Finally, he was permitted by Osmania University, for which he was preparing thesis, to proceed to Bonn and submit the same thesis for a doctorate. He did it in August 1933 after completing only two terms (nine months) in the University. There he selected only the last part of the work, dealing with the neutrality, to print and get the degree (ibid. p. xi). The topic of his thesis was *Die Neutralitat im Islamischen Volkerrecht* (Neutrality in Islamic International Law).⁹

After spending some time in Germany, he came to Paris in 1934 where he registered at the Sorbonne University for another doctoral degree on an allied subject "*Early Muslim Diplomacy*". In a short period of eleven months, Sorbonne University conferred on him the degree of D. Litt. The full title of his dissertation is *La diplomatie musulmane a l'epoque du Prophete et des Khalifes Orthodoxe* (Muslim diplomacy in the time of the Prophet of Islam and his orthodox successors).¹⁰

TEACHING AND RESEARCH

When he was in Germany, "In recognition of his outstanding ability and his proficiency in several oriental languages, he was appointed a lecturer in Arabic and Urdu at Bonn University."¹¹ Before his stay in Europe, Hamidullah had an opportunity to visit Istanbul. He visited the famous libraries and museums of Istanbul and saw thousands of rare Islamic manuscripts in Arabic, Persian and Turkish languages.

Hamidullah returned to Hyderabad in early 1936 and was immediately appointed a lecturer in Islamic *Fiqh* and later in International Islamic Law at the Osmania University. By that time he was a well known writer. In addition to writing in top Urdu journals, his work appeared on a regular basis in the prestigious research journal *Islamic Culture* which was edited by two famous translators of the Holy Qur'an, Muhammad Pickthal (1875-1936) and Muhammad Asad (1900-1992) at different times.

HAMIDULLAH BECOMES A STATELESS REFUGEE

When independence of India from British rule was near and clear and its division was around, the Nizam of Hyderabad appointed a delegation and commissioned Hamidullah to be its member to represent the State of Hyderabad at the United Nations to ensure its independence and determine its political future. India imposed an embargo on Hyderabad. He was sent with Moin Nawaz Jung (d. 1987) and some others. Of the other delegates only three - Shyam Sunder (d 1976), Mir Nawaz Jang (d.1994) and Dr Yusuf Husain Khan (1903-79) - actually made it. Breaking the embargo, this delegation left Hyderabad in a non-stop flight to Karachi. The plane was flown by the famous Australian pilot Sidney Cotton. Hamidullah had only 12 Kaldars (Hyderabad currency) in his pocket. From Karachi, the delegation took a commercial flight to Paris. Their objective was to lobby political support for Hyderabad (Mustapha, 2002, p. 20).

During the session in the UN, The Indian Ambassador announced that the Nizam of Hyderabad has agreed to Hyderabad merging with the Indian Union and its annexure into its union. "At this point, Hamidullah and his other delegation members became stateless refugees with the option of accepting either Indian or Pakistani citizenship. Hamidullah rejected both options and chose a life in exile in Paris. He refused to relinquish his dream to return to Hyderabad by refusing to give up his Hyderabad citizenship, making France his escape and sojourn in transit. Hamidullah, and other representatives on behalf of Hyderabad, continued to present the case to the U.N. Security Council, where the case is still pending final status today" (ibid. p. 22). The memory of Operation Polo haunted him for years. He immediately founded and established the Hyderabad Liberation Society in order to negotiate the recognition of

Hyderabad as an independent state but in vain. This political endeavor persisted for 19 years until the deposed Nizam of Hyderabad Nawab Osman (Uthman) Ali Khan passed away in 1967. Hamidullah's struggle subsided at this point but it was not abandoned completely, since the status of Hyderabad remains open with the United Nations. In France he lived as self-exiled and used only travel documents for international visits. Although he had to revalidate his residence permit every six months, undoubtedly a cumbersome affair, he never took the easy way out by acquiring French nationality that would have entitled him to a French passport. He did not surrender his Hyderabad citizenship waiting for his dream of regaining occupied Hyderabad to come true so that he could eventually return to his homeland. He is considered by some of his biographers as the last citizen of Hyderabad State (Athaullah 2003, 14, Faruqi, 2003, p. 42).

The government of Pakistan at its initial stages invited Dr. Hamidullah to help the Government draft the constitution of Pakistan. Hamidullah was one of the members who met in 1948 to decide the ideological bases for the newly born state of Pakistan (Ansari, 2003, p. 24). He also participated in Board of Islamic Education of Pakistan in 1949. The name seems to be misnomer as its task, however, was confined to furnishing advice on constitutional matters (ibid. p. 25). Although he was a guest of the Government of Pakistan, he did not accept to stay in the Prime Minister of Pakistan's guesthouse. Nor did he accept any type of reward, stating that he had come only to serve Pakistan (Abdullah, 1999, p. 23).

In 1980 the President of Pakistan, Ziaul-Haq, invited him to settle in Pakistan but he refused the offer, stating that he was waiting for the return of his Hyderabad citizenship and that he would continue to struggle for Hyderabad's independence while residing in France and one day would return to his native place which he loved by heart. But his dream was never realized. Again in 1992, Prime Minister Nawaz Sharif repeated the offer, but there was no change in Hamidullah's stance.

HIS DAYS IN FRANCE

Hamidullah took up an assignment in Paris with Centre Nationale de la Recherche Scientifique in 1954, which lasted till his retirement in

1978. During this period, he also lectured at several universities in Turkey. While working at that Centre, Hamidullah became visiting professor at the University of Istanbul, Turkey. He was also a member of the Oriental Studies Research Centre of France for over twenty-five years and the treasurer and active member of the *Jama`iyat al-Sadaqat al-Islamiyah* (Islamic Friendship Association) (Sa`id, 1992, pp. viii-ix; Mustapha, 2002 p. 23).

Hamidullah is known to have resided at 4 Rue de Tournon, Paris VI, alone in a small apartment on the fourth floor of an old building in Paris, where he had to climb 114 steps to reach his house. He descended all those steps at least three times daily (Athaullah, 2003, p.26).

In spite of all these ups and downs, his research and his writing proficiency and effectiveness did not decline. Similarly, his long residence in France, without family and many of the basic necessities of life, had no observable negative impact on his writing (Mustapha 2002, P. 24).

HAMIDULLAH IN THE PROPHET'S LAND

Hamidullah had profoundly loved Prophet Muhammad (p.b.u.h.), Arabs and Arab lands. He wrote on various aspects of the Prophet's biography in English, Urdu and French. He visited places where the Prophet lived, traveled, or fought wars. He made on the spot study and discussed his finding in his works. During his first visit of the two holy places of Islam which dates back thirties of the last century, he received the credit of being the student of the Prophet's Mosque. In answer to a question by Sadida Athaullah (2003, p. 37), Hamidullah said: "It was my good fortune to be in Madinah al-Munawwarah before the Second World War and while there, I studied the Qur'an with a very old respected teacher. I made corrections on how I pronounced some words that used to trouble me at that time. He traced his teachers all the way to our beloved Prophet, *Sall-Allahu alayhi wa sallam*." The name of his Qur'an teacher at the Prophet's Mosque was Hasan al-Sha`ir (Momin, n.d., p. 82).

While writing on "the battle fields of the Prophet Muhammad", Hamidullah personally visited those places of events several times and prepared maps. He gives an account of it:

When I first left for the Hijaz in 1932, I succeeded to a limited extent, and could prepare the map of Uhud only. In 1939 I again visited the site and was fortunate enough to visit Badr and Ta'if also. Then I prepared map of Badr and revised that of Uhud together with that of Ditch. (...) In 1946 I had the opportunity of again visiting for a prolonged period the holy places of Islam, and the map of the Ditch (*Khandaq*) had to be prepared anew as during the sojourn I discovered several points of importance (Hamidullah, 1953, 14).

Most of us hardly know anything about the Prophet's visit to the eastern part of Arabia. The writers on his biography are generally silent. Hamidullah had much information about it. Here is an interesting story narrated by Ansari which is reproduced here in full because of its importance:

"One of the most inspiring encounters I had with Dr Hamidullah was the one in Dhahran/Khobar in 1974. He had come to Saudi Arabia at the invitation of the Saudi government. I was then teaching in what is now known as King Fahd University of Petroleum and Minerals, Dhahran. During this visit Dr Hamidullah delivered lectures at several educational institutions including one in my own university. To my wonder, at the ripe age of 66, Dr Hamidullah was still pursuing his field research on important sites in the Arabian Peninsula. He still had the same zeal and energy that he once displayed in his early thirties, and which had led to his book, *The Battlefields of the Prophet*.

One Thursday morning – Thursday being the first day of the week end holiday in Saudi Arabia - a few people including myself accompanied Dr Hamidullah to the oasis town of Qatif. The Mayor of the town was waiting for him in his office. Prior to our departure, Dr Hamidullah had clearly spelled out his exploratory interests. [See also: East Arabian memories by M. Hamidullah, *Impact International*, 27 December 1984 – 9 January 1985.]

The real purpose of this journey to Qatif was to visit a small village, called Zarah, only a few kilometres from Qatif and which was extremely close to another hamlet called 'Awwamiyah. Dr Hamidullah had come fully prepared for his on-the-ground research. He explained that during the years when the Prophet, *Sall-Allahu alalhi wa sallam*, was actively engaged in trading, which was before he reached the age of 40, he had made several voyages to the eastern part of Arabia, especially its coastal areas in connection with trade. He stressed that in the 6th and 7th centuries, trade fairs used to be held quite regularly in this region. In fact, the timing of these fairs had been so fixed that they were held virtually all along the year with little interruption.

As I recall this today, I feel overawed by Dr Hamidullah's instructional ability because a good deal of what he had said about these matters in 1974 is still fresh in my memory and I can reproduce much of it, including some of the quotations he gave verbatim from important texts.

On this occasion Dr Hamidullah also mentioned a statement of the Prophet, *Sall-Allahu alayhi wa sallam* that he had stayed by 'the spring of Zarah' (For this Hadith see Ahmad ibn Hanbal, *al-Musnad*, Hadith no. 17161., N.P. Dar Ihya' al-Turath al-'Arabi, 1991). All relevant details about the history and geography of the region were at his finger tips. Within a matter of minutes, Zarah had been identified on the maps, let alone the fact that several local people present there did not need any map to go to Zarah. A few moments later we were standing beside an artesian spring, along with Qatif's mayor at the place which had been trodden upon about 1400 years ago by our beloved Prophet! What an experience it was! A small mosque, built by the Ottoman Turks, stood beside the spring" (Ansari, 2003, p. 26).

Based on *Sahifah Hammam ibn Munabbih*, Hamidullah prepared Constitution of the Prophet's City State of Madinah. According to him, it was the first written constitution in the History of Constitutional Law. In his opinion, "it is possible to adapt the three branches of western classification of state, namely legislature, executive and judicial branches, with adding Islam to the content and a fourth branch related to *dawa* - teaching and spreading Islam".¹²

IN TURKEY

Dr Hamidullah visited Istanbul when he was research scholar during 1930s, and benefited from its rich libraries. After 1954, he came to Turkey almost every year during the summer term to give scheduled lectures and seminars. Many generations of Turks were enlightened by him during the course of these lectures and he trained many students. This lasted until 1978. These years were also the time when religious education in terms of Islamic education was reestablished and reshaped in a modern way in Turkey. With his lectures, conferences and works, Hamidullah played an important role in this period.¹³

In 1957 when he came as a lecturer and research guide, he was accompanied by Dr. Fuat Sezgin¹⁴ as translator and assistant. Like Hamidullah, Sezgin is famous for his discovery and editing of Arabic and Islamic manuscripts in European libraries. He had similar interest as Dr. Hamidullah. Dr. Salih Tug¹⁵ was another person who assisted Hamidullah. When he was in Turkey, he traveled a lot and lectured at various places with astounding interest from the young generation and public alike. He gave lectures and conferences in Ankara, Konya, Kayseri, Erzurum and many other places. Hundreds of students and young scholars have been positively affected by him all over Turkey. Among many others, Dr. Yusuf Ziya Kavakci¹⁶ is a distinguished student of Hamidullah who later on became dean of Marmara University, in Istanbul, College of Theology. Professor Dr Hayrettin Karaman, Professor Dr Bekir Topaloglu, Professor Ihsan Sureyya Sirma and Professor Dr Suat Yildirim, Dr Ekmeleddin Ihsanoglu, etc. also benefited from Dr. Hamidullah's presence in Istanbul.

AWARDS

In 1985, he was awarded Hilal-e-Imtiaz, the highest civilian award of Pakistan as a token of appreciation for his outstanding services to the cause of Islam. The award included a substantial monetary amount. But he donated the whole award money to Islamic Research Academy, International Islamic University, Islamabad, in recognition of which the Institute named its library after Dr. Muhammad Hamidullah.¹⁷

Another incidence. He was nominated for the prestigious King Faisal Award, but he declined it saying that "he feared that if he were to accept any worldly reward for his modest work, he may not get his due in the hereafter and be left with only his sins in his book of deeds and, therefore, 'I keep telling everyone I don't want these awards'" (Ahmad 2003, p.20). Professor Hamidullah's selflessness and complete detachment from worldly allurements was reminiscent of the example set by the Muslim scholars and sages of earlier times.

HIS LAST JOURNEY

Hamidullah lived in France since 1948 until he fell sick in 1996 and was hospitalized for hypothermia. His brother's great granddaughter Sadida Ataullah brought him to Wilkes Barre, Pennsylvania, USA for medical treatment. This was seven years before his demise. He breathed his last at Sadida's apartment.¹⁸ On Tuesday, 17th December 2002 (13th Shawwal, 1423 Hijri), he woke up for *Fajr* (Dawn) prayer and then after breakfast went back to sleep only to never wake again. At that time his age was 94. According to Sadida, he wished to be buried at Madinah. But in those given circumstances it was not possible. So he was buried where he died.¹⁹ His funeral prayers were held on Dec.18, 2002, about 1:30 pm. His student and close associate Yusuf Ziya Kavakci led the prayer. There were about 75 Muslim men and 5 women present when he was laid to rest in the Muslim cemetery of Chapel Hills Memorial Gardens.²⁰

HABITS AND CHARACTERS

Hamidullah was not in habit of eating anything in between the meals. He lived on a frugal meal of milk, rice, curd and fruits. Piety, humility and simplicity were eye-catching in Hamidullah's personality and character. According to Ghazi (2003, p. 23), "He [Dr. Hamidullah] had not eaten meat for 35 years in Paris because no *halal* meat was

available in Paris during the early 1950s and 1960s. The reason he did not buy kosher from a Jewish butcher, he explained: Jewish traders and shopkeeper in France regularly contribute to the welfare fund of the so called state of Israel. I cannot accept that my money is used even indirectly for the cause of a government which is massacring my innocent brothers and sisters in Palestine."

A highly self-respecting person, Hamidullah did not accept any gifts from any one. Though he himself never agreed to be reimbursed for expenses incurred, he always insisted on paying for expenses that others incurred in doing anything for him (Ghazi, 2003, p. 22). His French translation of the *Qur'an* has sold millions of copies and the publisher has become a millionaire. Yet, he did not take a single franc by way of royalty.

He remained a confirmed bachelor and led an extremely simple life. As Kademoglu described: "He was a person of medium height with a slim physique, he was recognized by his dignified beard which adorned his face and by his fur cap and neat double-breasted suit.²¹ Perhaps, this was his dress in Europe in public. At home or when he traveled towards the East like Pakistan, he wore *kurta*, pajama and with a cap made from fur like material (Momin, n.d., p. 160). The cape or headwear he used with European dress as well.

He was surprisingly prompt in answering the letters. His letters were so brief, just to the point. He always was used to be at the place of appointment a little ahead of time. He was never late. Hamidullah's sweet smile in his face and his deer looking eyes are always to be remembered by his students and friends. After Friday prayer used to sit in the main Mosque [le Mosque de Paris], by a fountain, surrounded by a beautiful rose garden, so Muslims could come and greet him freely. He remained a neglected scholar because he retained his individual freedom and identity. He didn't join any group or organization.²²

Hamidullah was a great supporter of Islam's empowerment of women. Once in answer to a question about western feminism, Hamidullah insisted:

Western feminists have nothing to offer [to Muslims]. The Prophet of Islam, *Sall-Allahu alalhi wa sallam*, was the first

'feminist'. [The] Currently sad state of Muslims cannot be alleviated by giving one segment of the population, men or women, more power. Men, women, children, family, community, [these] all are interconnected and trying to empower one segment of the population while blaming another group for their problems will sink everyone into deeper problems and lead to the dissolution of Muslim society (Athallah, 2003, p. 38).

He was perhaps the first Muslim scholar in France engaged in preaching and disseminating Islam. He worked hard for the advancement of Islamic learning, and to the dissemination of Islamic teachings in the Western world. He established an academic circle there in the French language for this purpose. He used to teach and lecture in Paris and around to help Muslims at least academic level to organize themselves benefiting from Western culture of freedom and civility. He had command to speak, debate and also present his side of Islamic view to the western orientalis in a very academic, gentle, honest and truthful way without offending anybody. Because of these characteristics he was equally endeared by friends and opponents.

HIS DEVOTION TO RESEARCH AND KNOWLEDGE SEEKING

Hamidullah's being single might have given him ample time and a lot of energy to spare for research in any area of interest in Islamic Studies. He had studied in the East, traveled the whole world and lived quite a long time in the West. He was expert of 9 languages, Urdu, English, French, Arabic, German, Italian, Persian, Turkish, and Russian. It is said that he learned Thai language at the age of 84.

He had a vast reservoir of knowledge and a computer like mind, from which retrieval was quick and orderly. His Bahawalpur lectures are solely based on his memory (Ghazi, 2003, P. 21). His contribution is multifaceted. He translated the Qur'an in French and some other languages, edited rare *hadith*-collections, wrote the biography of the Prophet, discussed *fiqhi* issues, completed researches on Islamic and International law, and dealt with the Islamic history and archaeology. His literary output has been phenomenal. In proportion to his contribution, his life and literary works do not seem to be as recognized as one might expect.

There is need to establish a world research academy in his name and encourage research and academic work on his pattern. So far we know only a small beginning - Muhammad Hamidullah Center for Islamic Scholarship and Dialogue (MHCISD). It is dedicated to preserving his immense work and is opening his archives for those interested in his works, during the Centennial year (2008) celebrations. The Center hopes to reprint all of Dr. Hamidullah's works, a catalogue of his publications and digitalize and preserve his papers for the benefit of the future generations.²³

STYLE OF WRITING

Since Hamidullah was not only a scholar but a preacher (*da'i*) also, he wanted to convey his ideas frequently and repeatedly till they reach maximum number of readers. Therefore we find he repeats sometimes his ideas in different languages in different styles and with different perspectives. For example he originally wrote on interest-free lending schemes in Urdu, English, Arabic, and French. It may have been translated in other languages as well. Thus, if one gets his any paper in one language, and could not find or could not read the same in another language, most probably he gets the theme and the message. Shedding light on Hamidullah's methods of writing Nadirah Mustapha observes: "He made a conscious effort not to project his thoughts without valid data and facts. His method enables the reader to digest the research and arrive at his or her own conclusions from the data presented. It is important to distinguish the uniqueness of the subjects he selects to discuss, the thoroughness of his research that incorporates a variety of sources in different languages, and the style of his presentation that makes his scholarship original and in a class of its own" (Mustapha, 2002, p. 147). He used to interpret the simple Arabic words in the text in their historic and civilization context, and point out their relevance today. Despite the few structural problems present in Hamidullah's works written in English language, it is not an exaggeration to say that his knowledge of his subject areas is extensive, his research is exhaustive, his style is unique, and the topics of his published literary works are enormously varied. These are all factors that make Hamidullah a scholar of formidable status and prestige in the field of Islamic Studies (*ibid.* p.152).

HIS WORKS

He started writing at an early age; his first article appeared in 1924 in *Naunihal*, an Urdu magazine, about travel from the Nizam's Hyderabad to Madras. His deep cognizance and his deeply rooted intellectual experience in the Islamic tradition of learning made him a great scholar. He was fully aware of the primary sources of Islam. As a great researcher of this century, Hamidullah went to those original Islamic sources that were often buried in the dusty shelves of libraries in the Muslim world. Devoting his life to scholarship at the Centre National de la Recherche Scientifique, (CNRS), he published many important books and articles during a long and distinguished career. His books have been translated in many languages. For years, he gave lectures at various universities in France, Turkey, Egypt, Pakistan, Malaysia, and many other countries; he was also a popular speaker at conferences. All this added to his literary works. He authored over one hundred books in English, French, German, Arabic and Urdu, and about 1000 scholarly essays and articles on the various aspects of Islam and related areas (Momin, n.d., p. 134).²⁴ Hamidullah constantly improved and developed his works and books by adding new notes in each new edition. Sometimes he added many notes and explications in the books which were translated. In this way they became more useful and informative than the original ones.

Following is an introduction to some of his important works, and list of his edited rare manuscripts:

1. *Muslim Conduct of State*: It is a pioneering work in Muslim International Law. "Originally submitted as a Master's thesis to Osmania University of Hyderabad, this book was first published in 1941 from Lahore, and embodied the whole gamut of his findings on Muslim International Law. However, he kept adding new material and ideas in its subsequent editions (the current edition being the ninth). The Muslim Conduct of State represents a good model for the reformulation of Muslim International Law" (Ghazi, 2003, p. 17). It also deals with theory and practice of statecraft in the early Islamic period. It is one of his most popular works. It was used as a textbook in Islamic International Law.

2. *Introduction to Islam: Introduction to Islam* first published in 1957, which has been reprinted several times and has been translated into more than a dozen languages. It has gained such wide acclaim. Its contents are divided into chapters (which stand on their own as a monograph) which deal with related specific subject matter. In the opinion of Mahmood Ghazi, *Introduction to Islam* is "one of the most popular books which presents Islam in its totality to a modern educated man. Translated into more than one dozen languages, the book has appeared into many editions in various countries. It is the style of the author which has made the book so popular. The author deals with various aspects of Islam in a simple but vivid, easy but logical and brief but comprehensive manner (Muhammad Hamidullah, *Introduction to Islam* 3rd ed. (Islamabad, Sh. Muhammad Ashraf, 1968), Foreword, p. 4).

3. *Prophet Muhammad's biography*: His first book on *Sirah* (Prophet Muhammad's (p.b.u.h.) biography), published in 1935, deals with the diplomatic correspondence of the Prophet (p.b.u.h.) and his Companions.

4. A short treatise, entitled *The Battlefields of Prophet Muhammad* (p.b.u.h.) in English and Urdu, combines information gleaned from the classical sources as well as from field work and topographical maps relating to the sites associated with the Prophet's military expeditions. It first appeared in Lahore and was subsequently translated by the author himself into English and French. These translated versions incorporated some additional material. Dr Hamidullah visited Madinah, Makkah and Ta'if in the 1930s – perhaps on his way back to India from Europe - to determine the locations of the various battlefields. He measured the exact locations of these battlefields in the light of the data presented in the early Islamic texts, and prepared maps and graphs. The book also highlighted the political and diplomatic background of the various battles and examined their impact (Ghazi, 2003, p. 18).

5. Contribution to *Dairah Ma`arif-e Islamiyah*: Hamidullah's article "*Hilf al-Fudul*" in the *Dairah Ma`arif-e Islamiyah* (Urdu Encyclopaedia of Islam, published by the Punjab University in Lahore, Pakistan) provides detailed description of this pre-Islamic association. It was formed by Makkan people to reform the society and help the depressed. The Prophet

was a part of it before he became a Prophet. Even after the Prophethood he wished to support such a pact. This article is the best research one can find in any language on that topic. Its references even took more space than most of the other works on the same topic.

6. *Islam, Philosophy and Science*: Four Public Lectures Organized By UNESCO in June 1980 by Muhammad Hamidullah which he edited and published in 1981.

7. *Muhammad Rasulullah*: A concise survey of the life and work of the Prophet (1979).

8. *The Prophet's establishing a state and his succession* (1986). It is a collection of his papers written at his early stage of scholarship. But revised and improved later.

9. Translation of *Sharh al-Siyar al-Kabir* of Shams al-A'immah al-Sarakhsi in French for UNESCO. But unfortunately his wish of seeing it published by UNESCO was not materialized. So this huge work has been, thanks to Allah, published in Ankara, Turkey by Religious Affairs Foundation sometimes ago when he began to lose his health.

10. *Khutbat-e Bahawalpur*: His last major contribution was a lecture series which is known as *Khutbat-e Bahawalpur*. He delivered these 12 exceptional lectures in Rabi` al-Awwal 1400 Hijrah (March 1980) at Islamic University, Bahawalpur, Pakistan in celebration of the year 1400 of Hijrah. He completed the final revision of the book on 26th Ramadan 1408 (in 1988). Delivered in an easy-to-understand Urdu, and a style that is inimitably simple, informal and lucid, the lectures are strikingly free of academic jargon and pedantry. Dr. Hamidullah presented these 400 pages verbatim, without any notes whatsoever, to an audience of scholars and students at the Bahawalpur Islamic University. With his amazing memory, he represents part of a great tradition of early Islamic scholarship, when good memory was a scholar's essential asset.

11. *The Emergence of Islam*: It is English translation of his work "Khutbat-e Bahawalpur. The Islamic Research Institute in Islamabad, Pakistan, has published it in 1993. It is also very popular work and informative work. In the foreword Ansari (pp. ix) describes Hamidullah

as one of the most renowned Muslim scholars of the formative period of Islam's intellectual and institutional history. He observes: "Drawing upon his vast reservoir of knowledge, the learned author attempts to portray the genesis and growth of Islamic thought, society and state, and delineates the development of the institutions designed to give practical shape to Islamic worldview..... The author successfully draws a synthetic picture of Islam's unfolding in history - as a religion, as a community, as a state, as an intellectual tradition, and as a set of institutions that evolved under the inspiration of Islam's message."

12. In the opinion of Ghazi (2003, p. 22), "The Emergence of Islam is, perhaps, the best representative of the balanced, moderate and accommodative approach that is characteristic of Dr Hamidullah."

13. *The First Written Constitution of the World*, first published in 19???. Dr Hamidullah played a pioneering role in drawing attention to the Charter of Madinah, which he characterized as 'the first written constitution of the world'.

DISCOVERY AND EDITING OF SOME RARE MANUSCRIPTS

A highly significant and original contribution of Hamidullah pertains to the discovery, editing and translations of some rare and invaluable manuscripts relating to *Hadith*, *Sirah*, *Fiqh*, Islamic history, biographical literature and medicine. Following is the list of some important edited works:

1. *Sahifah Hammam Ibn Munabbih by Hammam Ibn Munabbih*: One of his great contributions to the hadith literature was the discovery of *Sahifah Hammam Ibn Munabbih*, the earliest hadith manuscript still extant today. Two copies of it were discovered; one in a Damascus library and the other in a library in Berlin. Hamidullah published it after carefully comparing the two manuscripts. This was an important discovery for the *hadith* scholars. It was published from Damascus in 1953; Urdu and English translations were published from Hyderabad in 1955 and 1961 respectively. He travelled from Berlin to Beirut to Damascus to prove that these were the precise copies of the *Sahifah*, which Abu Hurayrah (d. 58 A.H./677) had prepared for his pupil Hammam b. Munabbih (d. 101 A.H./719)..

2. *Sunan Sa'id Ibn Mansur* (a rare manuscript of this invaluable collection of *hadith* was discovered by Hamidullah in Turkey. It was edited by Mawlana HabiburRahman Azami, with an introduction by Muhammad Hamidullah, and Published from Dabhel, Gujarat in 1968.

3. *Kitab al-Nabat*, by *Abu Hanifah al-Dinawari* (d. 882 A.H), Cairo, 1973; the English translation of the book by Professor *Hamidullah* was published from Pakistan. Its recovery and editing is Hamidulla's another great contribution. He discovered some pages in San'a and some in a North African library, which he compared with other available copies to make a complete and authentic copy and added all the necessary references as well. This early and valuable work was as much a contribution to the study of botanical science as an example of his diligent and dedicated devotion to research and research methodology itself. (Kavakci , 2003, p. 35),

4. *Al-Watha'iq al-Siyasiyah*: His major Arabic book *Al-Watha'iq al-Siyasiyah*, first published from Cairo in 1941, contains the texts, with critical notes and references, of more than 300 documents, including correspondence, treaties, proclamations and assurances, pertaining to the period of the Prophet and the four Caliphs. It is really astonishing how one person could take this type of work up and managed it

5. *Kitab al-Mubtada wa'l-Mab'ath wa'l-Maghazi* by *Ibn Ishaq* (d. 151 AH), Rabat, 1976.

6. *Ansab al-Ashraf* by *Baladhuri* (d. 892 AH), Egypt, 1959.

7. *Kitab al-Riddah* by *Waqidi* (d. 807 AH), Damascus, 1964.

8. *Al-Dhakha'ir wa'l-Tuhaf* by *Qadi Rashid Ibn Zubayr* (d. 563 A.H.), Kuwait, 1959.

9. *Ma'dan al-Jawahir fi tarikhi'l-Basrah wa'l-Jaza'ir*, by *Shaykh Nu'man Ibn Muhammad*, Islamabad, Pakistan, 1973.

10. *Kitab al-Sard wa'l-Fard fi Saha'ifi'l-Akhbar*, by *Isma'il al-Qazwini*, the text, together with the English translation, was published from Islamabad, Pakistan in 1411 A.H.

11. *Ahkam Ahl al-Dhimmah* (two volumes) by Ibn al-Qayyim (d. 1350/751H). This is perhaps the best book in *fiqhi* literature on the private international law of Islam (Ghazi *Impact*, p. 18).

HAMIDULLAH'S WORKS IN THE FRENCH LANGUAGE

Residing about half a century in Paris, the French language would have become Hamidullah's first academic and research language. His contribution in this language is enormous but we cannot go in their details.²⁵ However, we must introduce here at least his 3 works just as illustration:

1. Translation of the *Qur'an*: Hamidullah is the only scholar in the world to have translated the *Qur'an* in three European languages: French, English and German. The French translation was done at the suggestion of Louis Massign on, a French Orientalist. It was first published in Paris in 1959. It remains the largest single most widely read translation of the Holy *Qur'an* in any European Language. Parts of the English translation of the *Qur'an* by Hamidullah were published from South Africa in 1960. The German translation, though complete, remains unpublished.

2. Hamidullah's magnum opus in the field of *sirah* (The Prophet's biography) is his French book *Le Prophete du l'Islam sa vie et son oeuvre*, which was first published in 1959 from Paris. New editions appeared with new data and other additions. Dr Hamidullah prepared the last edition, the fifth, in 1989. The book consists of two volumes. It is a treasure of information relating to the political, economic and social practices and institutions of 6th century Arabia (Ghazi, *Impact*, p. 18).

3. Imam Bukhari's celebrated work *al-Sahih* was rendered into French by some Western Orientalists. Professor Hamidullah compared the French translation with the original Arabic text and identified hundreds of errors in the translation. This book, comprising 600 pages, was published from Paris. He prepared a detailed and exhaustive index of Imam Bukhari's *al-Sahih* in Arabic and French.²⁶

HAMIDULLA'S WRITING ON ISLAMIC ECONOMICS – A NEGLECTED ASPECT OF HIS CONTRIBUTION

Hamidullah's major areas of interest, *sirat* (biography of the Prophet), history of the codification of Hadith, and Muslim International Law are known to all. His literary works address a wide range of subjects and concerns, such as political history, Islamic sciences, orientalism, tolerance and relations with non-Muslims, the status of women in Islam, social and political relations among a variety of nations, and the historical compilation of the Qur'an, *hadith* and *fiqh*. But very few know that Hamidullah was also among the pioneer writers on Islamic economics. He has not only written more than a dozen of papers on Islamic Economics, but he was also an active member of a forum organized by Nawab Bahadur Yaar Khan (d. 1944) to discuss contemporary socioeconomic problems.²⁷ He wrote on various aspects of Islamic economics beginning right from 1936. It was he who coined the term "Islamic Economics". Surprisingly enough, his biographers ignored this important aspect of his contribution. After Hamidullah's death, the *Fikr-o-Nazar* - a prestigious Urdu journal of the Institute of Islamic Research, Islamabad - published a special issue on Muhammad Hamidullah. It discussed his contributions as a translator of the Qur'an and its interpreter, his service to the *hadith* work, the Prophet's biography, *fiqhi* thought, Islamic and international law, his call to Islam in Europe, and political ideas. But nobody discussed his contribution to Islamic economics. It contains a detailed list of Hamidullah's works in English and Urdu which includes only two articles related to Islamic economics, namely "Budgeting and Taxation in the time of Holy Prophet", and "Islam's Solution of the Basic Economic Problems – the Position of Labour".

Momin (n.d., p. 135) in his detailed biography of Dr Muhammad Hamidullah classified his works into 7 areas – Qur'an, *hadith*, *sirah* (the Prophet's biography), Islamic law, Islamic state, Islamic history and archaeology, and linguistics. He also missed to mention the area of Islamic economics.

Similarly, in his work *Muhammad Hamidullah – Safir al-Islam*, al-Ghouri (2009) did not take notice of Hamidullah's contribution to Islamic economics, although he discussed his contributions in many other fields.

Tahir (2003, pp. 271-286) examined *tafarrudat* (unique opinions) of Dr. Muhammad Hamidullah but he did not note any such opinion related to economic aspect. The fact is that he had many as will be clear from the following chapters.

At the end, it seems worthwhile to give the list of Hamidullah's articles on Islamic Economics in English, French, Arabic, Persian and Urdu.

English

1. "Islam's Solution of the Basic Economic Problems – the Position of Labour", (1936),
2. "property" in The Prophet's conduct of State (1941),
3. "Islamic Insurance" (1946),
4. "Interest-Free Co-operative Lending Societies" (1948-49),
5. Political significance of zakah 1950
6. *Islam and Communism – A Study in Comparative Thought*, Paris, (1950),
7. "Haidarabad's Contribution to Islamic Economic Thought," (1955),
8. "A Suggestion for an Interest- free Islamic Fund", (1955),
9. "Budgeting and Taxation in the Time of Holy Prophet" (1955),
10. "The Economic System of Islam" (1957),
11. "Revenue and calendar" in *Emergence of Islam* (1985),
12. "Financial Administration" in *The Prophet's Establishing a State and His Successions* (1986).
13. Review on *Public Finance* by S. A. Sidiqi (1948),
14. Review on *Conversion and the Poll Tax in Early Islam* by Daniel C. Dennet
15. Review on *Homo Economist Islamicus* by J. Hans (1955).

Arabic

16. "*Bunuk al-Qard bidun Riba*" (Interest-free Lending Banks), (1962),
17. "Al-Mizaniyah wa al-Dara'ib fi asr al-Nabi (pbuh)" (Budgeting and Taxation in the Time of Holy Prophet), (1958).

French

18. "Al-Ilaf, ou les rapports économie-diplomatiques de la Mecque pré-islamique" (Ilaf – Pre-Islamic Arabs' economic and diplomatic Relations) (1957),
19. "Banques de prêt sans intérêt" (Banks without interest) (1962),
20. *Le monde musulman devant l'économie moderne*, (Muslim world in the face of modern economics) (1961),
21. *Le problème des origines des sûretés personnelles dans l'Islam*, (The problem of personal surity in Islam) (1974),
22. *Le système économique* (The Economic system) (1975),
23. *Le système économique de l'Islam* (Economic system of Islam) (1966).

Urdu

24. "Tijarat ka ta'alluq Aan-Hazrat (pbuh) aur Khulfa-e Rashidin se" (trade as related to the Prophet and his caliphs) (1927),
25. "Nahr-Suez ki scheme Hazrat-e Umar ke zamane mein" (The Scheme of Suez Canal at the time of Hadrat Umar) (Khurdadtir 1340 F/1930.),
26. "Siyasi Ma`ashiyat" (Political Economy) (Translation from French), (Khurdadtir 1340 F/1930.),
27. "Anjumanha-e bilasudi ki Ahammiyat aur Hyderabad mein unki halat" (The importance of interest free lending societies in Hyderabad and their condition), in *Majallah Taylasaniiyin* (1941),
28. *Jahiliyat-e-Arab ke ma`ashi nizam ka athar pahli mamlakat-e-Islamiyah ke qiyam par* (Impact of the Economic System of Arab Jahiliyah Period on the Establishment of the First Islamic State), (1943),

29. "Hyderabad ke Nizam-zar ki Islah aur `Ashar nizam ki tarwiji" (The reform of monetary system of Hyderabad and development of metric system) (1944),
30. "Anjumanha-e Qarzah-e-besudi" (Interest-free Loan Societies), (1944),
31. "Anjumanha-e Qarzah-e-besudi ka maqam tanzim-jadid mein" (The place of Interest-free loan Societies in the new organization), (1354 F./1944),
32. "Islami sikkon ka wifaq" (Federation of Islamic Currencies) (1949),
33. "Ilaf – Jahiliyyat mein Arbon ke ma`ashi -o- sifarti ta`alluqat" (Ilaf – Pre-Islamic Arabs' economic and diplomatic Relations) (Tr.Muhammad Hasan, al-Balagh) (1968),
34. "Petrol aur ibtida-e Islam" (Petrol and beginning of Islam) (1980),

Persian

35. "Bank bidun-e ribh barai-e qarzah-e hasanah" (Interest-free banks for qard hasan), (Persian Tr.) (1341/1962),
36. "Bankha-e istiqrazi-e bi-murabahah" (Banks lending without interest), (Tr. Ali Asghar Hariri), (1970).

For details refer to the bibliography at the end of this collection.

NOTES

1. It is said that the *Nawa'it* (singular = *na'it*) were a branch of Banu Hashim who had subsequently moved to a place called Na'it in or around Basra from where they migrated to India. They landed at the Coast of Malabar, Bhatkal, Goa, etc. They came around the same time as the famous traveler Ibn Battutah (1303-77).
2. It was written at the behest of Mawlana Abdul-Ali Bahrul-Ulum (d. 1225 H.). It has been published by Jamiah Nizamiyah, Hyderabad (Momin, n.d., 24).
3. "Nizam" was the title of the sovereigns of Hyderabad State since 1724.
4. For more details see A.R. Momin (n.d., p. 51). See also his article "Dr Muhammad Hamidullah (1909-2002)" available at:

<http://www.renaissance.com.pk/Febobti2y4.html>

Accessed on 25-5-2013.

5. *Bismillah* ceremony is one of the innovations in the Indian subcontinent. It is performed to mark a child beginning education or learning Islam. It means a child should start his education by knowing how to read the Qur'an and say the prayers properly.
6. Madrasah Nizamiyah was founded by a religious scholar Hafiz Anwaru-'llah Faruqi (d. 1336H) in 1872 which was later in 1935 named as Jamiah Nizamiyah. In 1891 he established Da'irat al-Ma'arif al-Uthmaniyah which edited and published a number of rare and valuable manuscripts.
7. Osmania University (Jamiah Othmaniah) was first established as Dar al-Ulum in 1781 by Nawwab Mukhtar al-Mulk, the prime minister of Hyderabad Deccan's ruler Nawwab Asif Jah IV which was transformed into a University in 1918 under Nawab Osman (Uthman) Ali Khan (d. 1967), Nizam of Hyderabad Deccan. It was the first university to offer instruction in Urdu, State's native language. Indeed, it would be interesting to read Hamidullah's own account of this university:

"[In the] centre of India [was located the state of Hyderabad (Deccan) as big as Italy, with over 20 million inhabitants. It was well known for the attention it gave particularly to the reform of Islamic education. In its university founded along Western lines with about a dozen faculties, there was also a faculty of Islamic Theology. The university imparted teaching, at every level and in every faculty, through the medium of Urdu, the local language (with its script in Arabic characters). Specialization began in the school stage, when Arabic language, Fiqh, (Muslim law), and Hadith (documents on the life and sayings of the Prophet), were obligatory beside other subjects such as English language, mathematics and other courses of modern education. In the university stage, the students of the Faculty of Theology learned not only English of a high standard, but also Arabic and subjects concerned purely with Islamic studies were prescribed. Moreover comparative studies became the vogue. With the *Fiqh* was modern jurisprudence; with *Kalam*, the history of Western philosophy; with Arabic, also Hebrew or some modern European language, French or German in particular. When the students prepared their theses, they were attached to two guides - one a professor of the Faculty of Theology, and the other a professor from the Faculty of Arts and Letters or Law as the case may be. This provided the means of mastering simultaneously both the Islamic facts and modern Western trends on the same subject. After thirty years of experimentation and obtaining very happy results, there remains nothing now but a distant memory of it all. For, when the British left the country for good in 1947, dividing the country between Muslim Pakistan and non-Muslim *Bharat*, this latter not only incorporated its neighbouring indigenous States but even disintegrated and dissolved them in other administrative combination, creating linguistic 'Nationalities' fraught with disintegration" (*Introduction to Islam*, Ch. 14, cf. 505).

It may be noted that Osmania University was named after Hyderabad's ruler Osman (Uthman) Ali Khan (d. 1967). It has nothing to do with Ottoman caliphate (Khilafat-e Osmaniah).

8. Hamidullah mentioned this in the preface of his book *The Muslim Conduct of State* (1968, p. x, 1941).
9. Published from Bonn and Leipzig in 1935, it was the first attempt to make a systematic exposition of both the basic concept and the laws of neutrality in Muslim International Law. Ghazi (2003, 17) notes the following points of importance of this work:

"The work is significant in several respects. First, it brings to the fore an aspect of Muslim International Law that had hitherto been almost unknown both in the Islamic countries and the West. Second, this work dispels the misgiving that Islamic law recognizes only one category of relationship between the Islamic state and other states, that of war and belligerency. Third, it attempts to develop a systematic theory of the concept of neutrality in Muslim International Law. Fourth, it shows that the legal concepts and practices in the field of Muslim international law should be viewed in the context of contemporary historical data and vice versa. The work was promising on all these counts."

10. It is important to note that the dissertation was immediately published from Paris in two volumes. "The book was a pioneering effort to illuminate the political and diplomatic background of the initiatives taken by the early Islamic state in conducting its relations with other states" (Ghazi 2003, p.17). Its second part was later published as *al-Watha'iq al-Siyasiyah* in Arabic from Beirut in 1941 with certain additions and improvements.
11. "Dr Muhammad *Hamidullah* (1909-2002)" by A.R. Momin, available at:
<http://www.renaissance.com.pk/Febobti2y4.html>
Accessed on 25-5-2008.
12. Yusuf Ziya Kavakci, "Muhammad Hamidullah - The Giant World Class Islamic Scholar of Our Time"
http://www.iant.com/hamidullah/biography/Bio_Hamidullah_march14.doc
Accessed on 12-9-2008
13. Kademoglu, Mahmud Rifat, "Remembering Muhammad Hamidullah",
<http://www.thefreelibrary.com/Remembering+Muhammad+Hamidullah-a0119627464>
Website retrieved on 6-9-2008.
14. A Faisal Laureate Dr. Fuat Sezgin specializes in the history of Arabic-Islamic science. He is professor emeritus of the History of Natural Science at Johann

- Wolfgang Goethe University in Frankfurt, Germany and the founder and honorary director of the Institute of the History of the Arab Islamic Sciences there.
15. Tug is an eminent Turkish Islamic scholar. His thesis is on Islamic Finance System in the early Islam, the time of Prophet Muhammad (p.b.u.h.) and his Companions.
 16. Yusuf Ziya Kavakci, Hamidullah's student from Turkey, Former Dean and Professor of Islamic Law at the College of Islamic Studies, Ataturk University, Erzurum, Turkey, who migrated to USA and became director and imam at the Islamic Centre of Dallas, Dallas, Texas.
 17. Once when Prof. Zafar Ishaq Ansari (2003, p. 27) wanted to reconfirm from him about the grant of Pakistan Government, Hamidullah replied: 'If I would take it here in this world, what would I get there in the Next World?'
 18. Sadida's apartment was in the complex of Cedars of Baymeadows (near the intersection of Old Baymeadows and South side), in Jacksonville, Florida, U.S.A.). After Hamidullah's death she shifted to Catonsville, Maryland. She is the executive director of M. Hamidullah Center for Islamic Research, a non-profit organization.
 19. http://www.saphirnews.com/Hamidullah-a-Istanbul-comme-a-Paris_a5770.html
Accessed on 17-05-2013
 20. Chapel Hills Memorial Gardens is located at 850 Saint Johns Bluff Rd, Jacksonville, Florida 32225. It is just across the Craig Municipal Airport, near the intersection of Atlantic Blvd. and St. Johns Bluff Rd., Jacksonville. This graveyard is under the Hardage Giddens Funeral Homes and cemeteries. It is about 20 miles (approx. 32 kilometers) away from the International Airport of Jacksonville, Fl. and also about four miles (approx. 6,5 kilometers) away from the Islamic Center of North Eastern of Florida. This center is located on the same road. Its address is 2333 St. Johns Bluff Road, S., Jacksonville, Florida 32246. This Islamic graveyard is newly acquired and the ustadh is the 5th one buried here. His grave is next to the grave of Armaan A. Sulaiman (Athaullah, 2003, p. 15).
 21. Kademoglu, Mahmud Rifat, "Remembering Muhammad Hamidullah",
<http://www.thefreelibrary.com/Remembering+Muhammad+Hamidullah-a0119627464> Website retrieved on 6-9-2008.
 22. Ibid.
 23. For more information one may visit: <http://mhcisd.org>
 24. There is a little problem of an exact count about the actual number of books authored by Dr Hamidullah since many of these were translated into several other languages as well. His biographer Momin (n.d., p. 134) states that Hamidullah authored more than 100 books and over 1000 articles. He has a list of his publications which spread over 80 pages. At the end of her thesis Nadira Mustapha

(2002, pp. 161-206) provides a very comprehensive list of Hamidullah's works in different languages and translations.

25. Nadira Mustapha provides a comprehensive list of Hamidullah's original works or translations in various languages in her Master thesis *Muhammad Hamidullah and Islamic Constitutional Law* (pp. 172-77). She includes about 90 French books and articles. Of course, some of them are translations.
26. See Momin's article "Dr Muhammad Hamidullah (1909-2002)", available at : <http://www.renaissance.com.pk/Febobti2y4.html>
Accesses on 25-5-2008.
27. It was early 1990s when this writer got a tract entitled *Islami Ishdirakiyat* (Islamic Socialism), by Abdur-Razzaq Khan who wrote:

"The founder of Mjlis-e Ittihadul-Muslimin Nawab Bahadur Yaar Khan formed a committee which comprised by intellectuals of various schools of thought, Islamic scholars, socialist leaders and liberals. Following were the members:

1. Mawlana Manazair Ahsan Guilani, Head of Theology Department, Osmania University
2. Dr. Muhammad Hamidullah, Professor of International Law
3. Janab Mazharuddin Siddiqi
4. Professor Anwar Iqbal Qureshi, former head of Economics Department, Osmania University
5. Professor Abdul-Qadir, head of Economics Department, Osmania University
6. Mr. Makhdoom Muhiuddin M.A. (Communist leader)
7. Dr. Raziuddin, Vice Chancellor Osmania University
8. Dr. Yusuf Husain Khan, Head Department of History Osmania University
9. Dr. Muhammad Yusufuddin, Professor of Theology
10. Professor Ghulam Dastaguir Rashid, Head of Persian Department, Osmania University

The founder himself was the convener of this committee. In its meeting, current socioeconomic issues were presented and discussed and a comparative study of capitalism, communism and Islam was done" (Khan, n.d. pp. 3-4). This aroused curiosity in my heart to know more about this forum, about its members, topics of discussions and outcomes. For this I wrote a letter to Dr. Muhammad Hamidullah. But I received no response. Knowing that 'to reply a letter was like an obligation for him', as I read about him and that he never ignored a query, I think, most probably, my letter or his reply was lost in transit.

2

AN INTRODUCTION TO HAMIDULLAH'S CONTRIBUTIONS TO ISLAMIC ECONOMICS

HAMIDULLAH'S ARTICLES ON ISLAMIC ECONOMICS

Dr. Muhammad Hamidullah is among the pioneer writers on Islamic economics. Spread over more than fifty years he wrote scores of papers in English, Urdu, Arabic, French and Turkish. The present volume contains his 15 articles/book-reviews written in English language. Arranged in chronological order, the first paper was written in 1936 and the last one appeared in 1986. They are briefly introduced below before we examine his Islamic economic thought in general:

1. "Islam's Solution of the Basic Economic Problems – the Position of Labour"

Dr. Hamidullah wrote the first significant article on Islamic economics in 1936 entitled "Islam's Solution of the Basic Economic Problems – the Position of Labour". He was first to use the term Islamic economics in this article which became identifying term for the discipline developed in the subsequent period. He starts the paper with a criticism on '*laissez faire*'. He discusses inadequacy of the concept like any skilled professional economist and shows how Islamic economics is different from *laissez faire* economics (Islam's Solution 1936, p. 214). He is also critical of communism on which he later wrote a full tract (*Islam and Communism* 1950). In his Analysis of the subject Hamidullah demonstrates insight and skill of a professional economist. He felt in thirties of the last century that the world needs a new economic order and that new economic order or "new economic system" is provided by the religion of Islam. To him "both *laissez-faire* and socialism are untenable extremes. For efficient and equitable Economics the elimination of their defects and a proper balance of the two, such as Islam offers, seems well worth considering" (Islam's Solution p. 233). He discusses various

characteristics and important features of Islamic economic system. He favours joint-stock companies in agriculture as solution to our agrarian and humanitarian problems. Dr. Hamidullah had intention to write separately on agriculture but we did not come across such an article in his writings.

2. "Property"

Muslim Conduct of the State is one of the earliest works of Hamidullah. Its German edition was published in 1935 from Berlin, and the first English edition appeared from Hyderabad in 1941. Since then its several revised editions have been published and it has been translated into many languages. Its third Chapter is on "property" a topic which attracted the attentions of Muslim scholars only in the second half of twentieth century. Thus, it is one of his important pioneering writings. It may be noted that while the focus of other writers is on individual and state property rights, Hamidullah discussed it from an international Islamic perspective and shows deep insights in the subject. For example, the classical jurists held that the enemy territory included the Salt Sea (Open Sea) and the like. On this Hamidullah comments that "It is clear from this discussion that the opinion of these jurists was based on the difficulty of exercising power over it with their small sailing boats. They admit implicitly "that Muslim jurisdiction extends to what they can control. In later times the Turks', for instance, have exercised their jurisdiction over the Black Sea, and no Muslim jurists have denied the validity of it" (Property p. 172).

3. "Islamic insurance"

Hamidullah is also among the earliest writers on Islamic insurance and perhaps first to write on the topic in English. Authored in 1946, it was published in Muslim Year book of India and Pakistan (1948-49). The same was republished in *Islamic Review*, (London, March-April 1951), with certain modifications, which is included in this volume. At that time *ulama* and economists in Hyderabad state were preparing an outline of mutuality-based model of Islamic insurance. However, that could not be implemented due to political upheavals. To Hamidullah (Islamic insurance 1951, p. 45), "Insurance essentially means the distribution of a burden or hardship over as large a number of people as

possible, thus lessening the burden of each as much as practicable so that none of them feels it". He criticized the conventional insurance on the same basis on which most of *ulama* rejected it today – *riba* (interest), *gharar* (excessive uncertainty) and *maysir* (game of chance). Much before our contemporary scholars, Hamidullah suggested establishment of Islamic insurance on the basis of mutuality as an alternative of conventional insurance.

4. "Interest-Free Cooperative Lending Societies"

Dr. Hamidullah's fourth article "Interest-Free Cooperative Lending Societies" is very significant in the sense that it not only sheds lights on needs and importance of interest-free lending institutions but he presents the earliest record of implementation of such a model in modern period. Many people think that interest-free financing institutions are product of 20th century and some others think that it developed as a result of petrodollar wealth, but Hamidullah tells us that such initiative was taken by a *sufi* in Hyderabad as early as 1891 and a number of such organizations worked until the first half of 20th century in Hyderabad (Interest-Free ... p. 93). Hamidullah's original writing or translations appeared on the same topic in Arabic, Urdu, French and Persian.¹

5. "Political Significance of Zakah"

The fifth article in this collection is entitled "Political Significance of Zakah". Hamidullah talks in this article about the place of zakah in Islamic fiscal system and its importance in Islamic economics. He sees very dynamic role for zakah in Islamic economic system. He considers its receipt as the state revenue and only tax collected from Muslims. In times of emergency and national distress only he allows imposition of "additional taxes or increased rates of zakah" (*Political Significance* p. 1) He further elaborated his stand in some other articles. He has many unique opinions about it which we shall discuss in the next chapter.

6. *Islam and Communism*

"The objective of this short study" says Hamidullah "is to find out how far Islam may tolerate the teachings of Communism" (*Islam and Communism* p. 3). There are various forms of communism - Marxism, Leninism, Stalinism, Titoism, Maoism, etc. Hamidullah proves from the original writings of Marx and Lenin that "a true Communist cannot

believe in God or His Messengers and His commands, and the Hereafter" (Ibid. p. 5). In his opinion, Islam does not prescribe a particular form of government. "For it all depends on the *ummat* (community of the faithful) to decide from time to time how to be governed" (Ibid. p.9). Similarly, Islamic economic teachings can accommodate various provisions of communism while maintaining its just and moderate system. "Islamic emphasis is more on the moral aspect than on the economic one" (Ibid. p. 11).

7. "Haidarabad's Contribution to Islamic Economic Thought and Practice"

This is a very informative and illuminating article. He reveals many firsts of Hyderabad state in the field of Islamic economics. As against many Western countries Hyderabad state "did not confer the privilege of issuing currency notes on a private bank, property of a few moneyed capitalists, but reserved the right to the government, to the nation" (*Haidarabad's Contribution* p.74). It was "the first Muslim country to issue currency notes on the basis of nationalization" (ibid.). At another occasion he says: "England had to adopt after the Second World War, viz. issue by the State, and not by private banks, profiting a few capitalists" (Book Review... p. 143). Hyderabad was also first among all the Muslim states to innovate, just after the First World War three-year planning and triennial planned budget. It also promoted Public-private partnership in Hyderabad. "So some Muslim and some Hindu capitalists were allowed to share with the government in financing the corporation." Hamidullah calls this experience of mixed economy as "enviable miracle of Haidarabad" (*Haidarabad's Contribution* p.78). In addition, Hyderabad showed the way how interest-free lending institutions could be established and how to organize insurance based on mutuality free from interest, *gharar* and *jahalalah*. Last but not the least it showed the way how to make up deficiency of *fuqaha* and economists in matter of economics and *fiqh* respectively to develop discipline of Islamic economics. "Economists (in the modern sense) are not *fuqaha'*, and *fuqaha'* have no knowledge of economics, in general. Without the combination of the two it is not possible to study Islamic economics" (Ibid.). Osmania University's solution was to arrange joint supervision of Shari`ah and economics professor. Its result was very encouraging.

8. "A Suggestion for an Interest-Free Islamic Monetary Fund"

In this short article Hamidullah argued for establishment of an Interest-Free Islamic Monetary Fund on the pattern of International Monetary Fund. According to Hamidullah, abolition of *riba* is not enough. To make it successful there should be provision of interest-free financing. He observes: "Islam is not the only religion that has denounced interest on loans in vehement terms (*cf.* The Qur'an, 2: 275-279, etc.), but it is the only one, to my knowledge, that has provided a way out of the dilemma" (A Suggestion p. 11). He argues for the state arrangement of interest free loan at national level as well as international level. "It goes without saying that a government alone is the best qualified in an organized society – and not private individuals – to forego interest on loans advanced to anybody." Provision of interest free loan is requirement of the Qur'anic teaching, it was performed by the government in the past. "There is no reason" he stressed "why this institution should not revive and adapt itself to modern needs." He argued that an Interest-Free Islamic International Monetary Fund will "loosen the foreign grip on the economic independence of the Muslim States" and save them from their machination. Dr. Hamidullah's dream was fulfilled to some extent by establishment of Islamic Development Bank (IDB) in 1975 with its headquarters at Jeddah and other private banks in various Muslim countries during the same period and subsequent years.

9. "Budgeting and Taxation in the Time of the Prophet"

In this article Hamidullah maintains that there was "gradual evolution" of financial aspect of the administration, "beginning with persuasion and recommendation and culminating into obligations and duties enforced with all the power that society could command" (Budgeting and Taxation p. 83). He takes zakah as the reference points and discusses its collection and expenditure in quite detail. We shall revert to it in the next chapter and examine his unique opinions in this regard.

10. "The Economic System of Islam"

In his famous book *Introduction to Islam*, Dr. Hamidullah presents Islam in its totality to a modern educated man. Economic life being a

major aspect of man, a chapter on "The Economic System of Islam" was a natural choice. He introduces in this article various provisions of Islamic economics such as inheritance system, importance of bequests and wisdom of limiting it to one-third, public revenue and expenditure. Since he considered zakah as the main source of state revenue, he discusses its various heads of expenditure in details. As we mentioned above, due to its importance we devote the following chapter to this topic and examine his unique opinions in this respect. Social insurance is another topic which he dealt in detail in the article. He argues for an insurance based on mutuality, free from interest, excessive uncertainty, and game of chance. Only then one can avoid defects of conventional insurance. According to Hamidullah the major defect of both conventional insurance and Western banking is one-sided risks. It is the principal of mutuality that will also be utilized to establish interest free-banks. He sheds lights on its various provisions.

11. "Revenue and Calendar"

In March 1980, Dr. Hamidullah delivered a series of twelve lectures at Islamia University, Bahawalpur, Pakistan. These lectures were translated from Urdu and edited by Afzal Iqbal under the titles *The Emergence of Islam*. "Revenue and Calendar" is the eleventh lecture. The fact that out of various topics of Islamic economics, Dr. Hamidullah chose to deliver lecture on Islamic finance, more specifically "revenue" shows that he gave utmost importance to this aspect of Islamic economics. Hamidullah further states that in Islamic state both solar and lunar calendars are used for tax collection depending on the nature of the assets. "Agricultural taxes are received in a particular season while other taxes follow a different schedule with the result that the treasury is not empty at any time of the year. This is not true of a solar year" (Revenue and Calendar, p. 307). He points the advantage of the use of lunar calendar that at the completion of 30 years the state would receive revenue of an extra year as compared to solar year. He argues:

"Since the lunar year is shorter than a solar year by eleven days, a government which observes the solar system will receive taxes thirty times in thirty years while the one which goes by the lunar calendar will

receive taxes thirty-one times during the same period. Every thirty years, therefore, such a government will secure one year's additional revenue. Is there a finance minister who will not wish to have additional income?"

12. "Financial Administration in the Muslim State"

In this article Dr. Hamidullah limits his investigation to the single Qur'anic verse 9: 60 which promulgates a sort of law of State-expenditure, mentioning the categories of recipients. At the end he declares that "the zakah is a tax, and in the time of the Holy Prophet and the rightly-guided caliphs there was no tax on Muslims other than the zakah" (Financial Administration ... p. 103). Due to the importance of this, we shall devote the next chapter for discussion of his views on zakah and public finance.

HAMIDULLAH'S BOOK REVIEWS

13. *Public Finance* by S. A. Siddiqi.² This is the second book on public finance in the first half of twentieth century, the first being *Mohammedan Theories of Finance* by Nicolas P. Aghnides (1916) a Ph D. dissertation from the Department of Political Science, Columbia University about which Hamidullah remarked as "now-out-of-date book" (1948, p. 415). As far the book under-review is concerned, he regards it as "a very welcome new addition to the meager literature on the subject." However, "the author does not take the trouble of referring to older, classical authorities, and is sometimes misled by degenerate late authors (Ibid.). He gives examples and advises him to consult works on the subject done in the Osmania University.

14. *Conversion and the Poll Tax in Early Islam* by Daniel C. Dennet, Jnr. In his review of this book, Dr. Hamidullah commends the unbiased, sympathetic and just treatment of the subject by its author who died at the young age of 40. However, "the title is a bit misleading, for it deals more with the revenue system of early Islam than the *jizyah*." The author had knowledge of Arabic language which he used to consult primary sources, and did not rely "on hearsay evidence of even such well-known Arabists like Wellhausen and Carl Becker" (1951, p. 44). In the opinion of Hamidullah "The work under review is direct, and a

successful, challenge to the theories of Wellhausen (*Das arabische Reich und sein Sturz*), Carl Becker and Leone Caetani, among others, who all maintain that the downfall of the Umayyad Caliphate was due to taxation tyranny and economic maladministration" (Ibid). According to Hamidullah the author "rightly deploras the method of his forerunners (pp. 8-11) that they first present a hypothesis, then cite their evidence, and finally, dismiss as spurious all evidence in Islamic sources which contradict this hypothesis. They go so far as to accept part of a sentence in a work and reject the rest. Obviously any and everything can be "proved" in this way with the greatest ease" (Ibid.). Hamidullah notes that an important distinction of the book is that its author also benefitted from the papyrus. His following remark is worth to be quote: "The papyri substantiate so many of the statements of the Arab historians and jurists that we are warranted in placing greater faith in the historical sources than has been the practice in the past" (Ibid. p. 45). In the opinion of Dr. Hamidullah: "The book is to remain a reference work for long ..." He strongly recommended its translation into Arabic, Urdu, Persian and Indonesian.

15. *Homo Economicus Islamicus* by Dr. J. Hans. While making a review of Hans' *Homo Economicus Islamicus*, Dr. Hamidullah reminds us certain facts which are very significant for the student of Islamic economics. He appreciates the author's admission that at "long last the non-Muslim world too is seeing the wisdom of many Islamic laws of economics, such as the evils of interest (cf. Prof. Lord Keynes's opinion considered as heretic)". At the same time Dr. Hamidullah points out many shortcomings of this book. For instance, the author expressed the meaning of zakah as 'to be liberated (*sich befreien*), to purify'. Hamidullah corrected him: "It is a half truth; it means 'to grow, to purify.'" Lamenting the discrepancy between Islamic economic teachings and practices of Muslim countries he says: "The evil is that the economists among them do not specialize in Muslim law, and Muslim jurists are not economists. A collaboration was required, which had begun in the Osmania University with its faculties of Muslim Theology and of Economics. The results were very encouraging, as the doctorate theses, prepared under the joint guidance, show. Since the invasion and occupation, one is deprived of this enlightened centre of learning and cool thinking" (Review on *Homo Economicus Islamicus* p. 144). Dr. Hamidullah refutes the author for his claim that "the Qur'an does not

refer to workers and capital", or "that labour organizations are new in Muslim countries". Hamidullah proves the errors of the author. Hamidullah further remarked: "The author deals very briefly with the famous *hadith* 'gold with gold . . . equal with equal'. There is another: 'Don't sell a dinar for two, a dirham for two', purporting to abolish inflations and the discount of exchange business which is one of the sore points of modern body-economics. Here again the holy Prophet has led the world, which alas is so slow to recognize its own ills and evils" (Ibid.). It is a new interpretation of *riba'l-hadith*. No doubt this shows Hamidullah's great economic insights into the economic matters.

INTRODUCTION TO HAMIDULLAH'S ECONOMIC IDEAS

Innovation of the term "Islamic Economics"

Islamic economics is a well recognized discipline at present. But a majority of scholars are not clear when this term was first used and how it got currency. In one of his articles, Kahf attributes it to Professor Manazir Ahsan Gilani. He says: "It (the term Islamic Economics) dates back to the late 1940s when it was used for the first time by a professor of Islamic studies in Osmania University, in India the late Sayyid Manazir Ahsan Gilani in an Urdu language book published in 1947 that he gave the title "Islamic Economics".³

But to the best of our knowledge it was Dr. Hamidullah who coined the term "Islamic Economics" in his paper - Islam's Solution of the Basic Economic Problems nearly a decade before Gilani (*Islam's Solution*, 1936, p. 217). Hamidullah notes the following as the characteristics of Islamic economics as compared to *laissez-faire* of capitalism and totalitarian communism:

"Thus Islam gives an economic system that (1) is automatic, which is what the purely equalitarian or socialistic systems are not, (2) tends to equalise distribution which the *laissez-faire* system cannot, (3) provides a method of production which leads to maximum output with minimum disutility which the equalitarian systems do not, (4) provides stable business and industrial conditions which the *laissez-faire* economics cannot, (5) and maximises both the national dividend and the social welfare arising from it to a degree

which neither of the two can. In it private enterprise does not interfere with increasing equality of distribution; rather each promotes the other" Ibid. p. 214. ... "The communistic system only emphasises distribution. It neglects production. Islamic economics, having them both in view, finds itself unable to sacrifice these institutions. It approves them with limitations" (Ibid. p. 218).

Hamidullah on economic crisis

In the eyes of Hamidullah, the most important feature of Islamic economics is that its operation eliminates economic fluctuations altogether (Islam's Solution, p. 220). In recent years we have passed through worst kind of financial crisis. One of the most important factors behind this crisis has been excess lending. In the opinion of Chapra (2009, p. 13) the crisis was due to "an unhealthy expansion in the overall volume of credit, to excessive leverage, ... and speculative investment". Jean Claude Trichet, President of the European Central Bank, has rightly pointed out that "a bubble is more likely to develop when investors can leverage their positions by investing borrowed funds".⁴ It is interesting to note that while analyzing the causes of crisis in his own time, Hamidullah uses the same word "bubble" though the situations were very different:

"A wave of optimism spreads. Lending institutions become overconfident and lend more and more to the speculators and to the less competent enterprisers coming into business. Very soon the credit bubble expands to its full capacity" (Islam's Solution, p. 220).

In his survey of contemporary literature Siddiqi (1981, p. 64) comments:

"Hamidullah pointed out that the institution of interest introduced an essential duality of interests between the capitalist and the entrepreneurs, which is a source of fluctuation in the system. By abolishing interest and bringing the capitalist and entrepreneurs together on the basis of profit-sharing, Islam ends this duality and harmonises the interests of the two classes."

He further shows how borrowing on interest creates conflict of interests and results into financial crisis (ibid. p. 221):

"The disease is only of the essence of the institution of lending on interest. Islamic capitalistic economy eliminates lending on interest but retains capitalism and thus gets rid of all crises" (p. 222).

Hamidullah's use of the phrase "Islamic capitalistic economy" may not be agreeable to many Islamic economists. Obviously Hamidullah does not mean to say that Islamic economics is capitalism minus interest in all aspects. Nor does he endorse philosophy of capitalism. What he means is related to lending institution i.e. the bank only.

Prohibition of *riba* needs arrangement for interest-free lending

According to Hamidullah, all religions have prohibited *riba* (usury and interest). However, "It is evident that mere prohibition of interest does not suffice to eradicate it, if provisions are not made to organize institutions for interest-free lending on a nation-wide scale" (Haidarabad's Contribution ... p. 74). At another occasion he says:

"The distinctive trait of Islam is that not only has it forbidden this kind of gain, but it has also remedied the causes leading to the existence of this evil institution in human society" (...) "Public Treasury organized interest-free loans, in addition to and for supplementing the loans offered by charitable men or organizations, to help those who are in need of them. The principle is mutual aid and cooperation" (The Economic System ... pp. 130-31).

He says that Lord Keynes pleaded for zero percent interest, but even the economists of his homeland did not take it seriously ("*Bunuk al-Qard bidun Riba*" pp. 16-17). In his opinion, there are three ways to fight interest: Nationalization of lending, using endowments (*awqaf*) for lending purpose, and establishment of cooperative and mutuality societies for this purpose. To him the last one is more easy and effective in implementation. It can meet the needs of individuals as well as governments (ibid. p. 21). At present while some Muslim economists have argued for using *waqf* institution for lending and financing purpose,

and establishment of Islamic banking and finance on the basis of cooperation and mutuality, they have not grasped yet the idea of nationalization of lending institution.

Risk-sharing, not the risk-shifting

Today it is much emphasized that the financial crisis may be avoided if instead of risk-shifting to others, risk sharing is adopted in financing the projects. It is noteworthy that Hamidullah stressed risk-sharing long ago while discussing the reason for prohibition of interest. He argues:

"The basis of the prohibition of interest is also the unilateral risk. In games of chance and lotteries, there is a great temptation for quick and easy gain, it is possible that circumstances should not have been propitious enough for earning sufficiently to be able to pay the promised interest, the lender not participating in the risks of the exploitation" (The Economic System ... p. 131).

While discussing Islamic banking he makes it clear: "If the bank participates in the profit of its debtors as well as in their risks, Islam allows such banking activities, otherwise not" (Ibid. 132).⁵

Describing the negative impact of fixed charge on money borrowed for production purpose, Hamidullah observes:

"If you have spare money you can become a partner or purchase a share and partake of both positive and negative profits. You are not allowed to give a blow to the entrepreneur in his worst moment and destroy his resisting power and not only ruin him but create social havoc. There is the huge injustice in the institution of interest and the strong tendency to get out of control" (Islam's Solution ... p. 223).

Postponement of diminishing returns in agriculture

Hamidullah wrote in his paper "Islam's Solution of the Basic Economic Problems" (p. 224) briefly on agriculture. However, he proposed to write a separate paper on this aspect of the economy. It could

not be traced whether he did it. Agriculture which is known for the law of diminishing returns, he predicted:

"Employment of powerful machines and adequate chemical manures may overcome Nature's resistance, and indefinitely postpone the operation of the law of diminishing returns" (Ibid. p. 225).

It may be noted that the law of diminishing returns which was quoted in support of Malthusian theory of population has not worked as predicted. Hamidullah's proposition that this law may be indefinitely postponed by using powerful machines and adequate chemical manures has proved accurate beyond doubt as has been experienced for several past decades.

Federation of the currencies of the Muslim countries

In 1949, Hamidullah wrote an article in Urdu entitled "*Islami Sikkon Ka Wifaq*" (Federation of the currencies of the Muslim countries). He gave the summary of that article while commenting on *Homo Economicus Islamicus*. Proposal was about "forming a new bloc by the side of dollar, sterling, franc, etc. From Morocco to Malaya-Indonesia, including the Central Asian colonies, if Muslim countries gradually realize this union (and they are in a favourable position for their products of petrol, jute, tin, cotton, etc.), they would secure their economic independence better than in any other way of merger with other blocs or floating in loneliness as in Egypt, Saudi Arabia, Syria, etc." (*Islamic Quarterly*, 1955, Vol. 2, P. 145). He advised the economists of Pakistan who was going to organize its first economic conference to constitute a committee of experts and think over the feasibility and difficulties of this proposal (*Islami Sikkon ka wifaq* p. 20). It is not known whether any step was taken by the Muslim economists at that time. Europe made such a block by introducing Euro zone comprising 16 European countries. GCC countries⁶ also have such a plan but some of them got out of it before its implementation. One can imagine Hamidullah's economic foresightness on his proposal at the time when no such a block was existing.⁷

Mutual and cooperative financing

Hamidullah stressed on micro-financing based on mutuality and cooperation in which "members paid a small percentage monthly towards expenses of the establishment, like stationery (the staff consisting of honorary workers). The surplus of this was preserved as reserve fund, to cover unforeseen losses. This reserve fund was later put to enhanced utility: a store as organized on commercial basis, where members of the society purchased on credit their requirements in non-perishable goods. The benefit was used to remunerate the workers and also to strengthen the reserve fund further" (Haidarabad's Contribution ... p. 75).

In one of his earliest papers in Urdu entitled "*Anjumanha-e Qarzah-e-besudi*" (Interest-free Loan Societies), Hamidullah gives an account of interest free lending societies in Hyderabad. He says that some people have surplus money, while some others are in deficit. It is humanistic to help one's needy brother. But very few people would be ready to do this 'painful good deed' without charging anything in return. That is the reason that all religions and past civilizations prohibited charging interest (*Anjumanha-e Qarzah...* 1944, 53: 3, p. 212). Islam not only prohibited interest, but also provided means to abolish it altogether and ordered that a part of government revenue should be allocated to help the indebted. As a proof, Hamidullah presents the verse which stated the heads of expenditure of zakah: "Surely (the government revenue) zakah (etc.) are meant for the poor, the needy, the collecting officers, reconciliation of hearts, freedom from captivity, and indebted" (Qur'an 9: 60). Hamidullah argues that since the poor and needy have been mentioned in the beginning of the verse, the 'indebted' does not refer to starving poor. Rather it means 'the well-to-do' who is temporarily in need of finance (ibid. p. 213).

According to Hamidullah, "Islam is the first system to lay down the provision of interest-free loans for the needy, even the well-to-do" (*Bunuk al-Qard...* 1962, p. 19). This is so because "Mere prohibition of interest, without providing how to meet the requirements of the needy, has proved useless in all civilizations. Islam was the first to lay down that it is among the first duties of the State to provide interest-free loans for the needy, even well-to-do; and the Qur'an has earmarked this item among the expenditures of the Muslim State. In the time of the Caliph

Umar, the State treasury lent moneys even to the person of the Caliph himself - of course to others also - on providing security of repayment" (Ibid. p. 20).

Hamidullah feels that there is no Shariah prohibition if unconditionally and without predetermined amount, the bank pays certain extra amount to its depositors. He observes:

"Confidence is born of confidence. If the savings banks of a government declare at the end of the year (and not at its beginning) that they are in a position to pay such and such percentage of profit to the clients, not only would this be lawful according to Islam, but the public also would have no hesitation in depositing its savings with governmental banks, in spite of the silence in the beginning with regard to the quantity of the expected profit. For one has confidence in the public administration" (The Economic System ... p. 132).

Perhaps he is inspired by the report that without prior fixing, the Prophet returned extra amount and encouraged that practice, stating that the best people are the ones who are most generous in repaying their debts (*khiyar al-nas ahsanuhum qada'a*).⁸ Imam al-Shafi'i considered such repayment above the borrowed amount reprehensible if it becomes habitual, to the point of being conventionally expected as the Shari'ah rule is "something commonly known is just like a condition".⁹ That is why the Islamic economist do not agree with this suggestion because once it becomes a known custom, it is just like a fixed and conditional charge.

Hamidullah gives First written record of Islamic banking

Writers on Islamic banking and finance have different opinions about the date of establishment of interest-free lending societies and Islamic financial institutions. Some of them say it dates back forties of the twentieth century. Some others say it started during fifties or sixties of the last century. Dr. Hamidullah gives us its earliest record as 1891 when Sayyid `Umar Qadiri, a religious and mystic dignitary of Hyderabad-Deccan conceived the idea of interest-free loans on a co-

operative basis, and put it to practice. Its name was Mu'aiyidul Ikhwan Society¹⁰ (Interest-Free p. 493).

Hamidullah described its modus operandi:

"The Secretary and his friends and numerous disciples contributed towards its capital by handing over to the society the hides of animals sacrificed during Baqrid festival¹¹ as also other charitable endowments. They also deposited with it their moneys for safe custody, for fixed periods or as current account. With such meagre resources in the beginning, the society has come to stay as a flourishing institution in the metropolis of the Nizam. The founder-secretary was succeeded by his learned son Maulana Syed Muhammad Badshah Husaini, under whom the society has lent during the past few years about half a million rupees, on the security of valuables such as ornaments of precious metals and the like, without charging any interest, and receiving back the amount in easy instalments" (Ibid).

Hamidullah has given account of some other similar societies which were established and functioned in Hyderabad in early twentieth century and upto its middle. The same details he gave in many other articles in various languages. No doubt, those details are very important for a student of modern history of Islamic banking and finance.

International Monetary Fund for Muslim Governments

On the pattern of International Monetary Fund Dr. Hamidullah suggested establishment of interest-free Islamic Monetary Fund for Muslim countries in 1955. In this way they could be saved from begging "aids" from other countries and falling their prey of interference and meddling in their affairs (*"Bunuk al-Qard ... 1962, p. 21*). Arguing for such an organization he said:

"Today not only private citizens but even governments are in constant need of borrowing money, in millions and billions, to finance programmes of construction and other developments. There is an international monetary fund in

America; yet as could be expected, it is not interest-free. An Islamic monetary fund could and should be established, yet not in any spectacular way and not even despising the modesty of its start" (A Suggestion ... 1955, 43: 6, p.11).

Thus, he gave the idea of institution like Islamic Development Bank (IDB) twenty years before its establishment in 1975. He insisted that in such an institution Muslim Governments of Soviet Union should also be included: "There is no reason why even Turkestan, Azerbaijan, Kazan, etc., should not join this fund" (ibid). His dream was realized after disintegration of the U.S.S.R. in 1979. Now Muslim states of former Soviet Union are also members of IDB.

Mutuality-based insurance

Hamidullah is also a pioneer writer on mutuality-based Islamic insurance. Perhaps he was first to write on Islamic insurance in English as early as 1946 and he was first to point out basis of Islamic mutual insurance in *ma`aqil* provision of early Arab-Islamic system which was based on mutual cooperation.

According to him early Muslims needed only protection from payment of blood money and ransom from captivity. It was so urgent a matter that when the Prophet (pbuh) reached Madinah, he paid attention to it and in the first year of his migration, he made provisions for it in the Constitution of the City-State of Madinah. He based this insurance on a system called *ma`aqil*. It worked in pyramidal hierarchy.

Dr Hamidullah is against the conventional insurance. To him it "falls under the same prohibition as interest. One sided risk and gain without proportionate responsibility in such a commercial contract are reasons thereof." (Haidarabad's Contribution... p. 76) According to him, Western insurance is "either through speculating and gambling and taking risk in expectation of greater benefits", where "the risk is one-sided, i.e., on the side of the company". Islamic insurance is "in a spirit of mutuality, fellowship and avoidance of one-sided risks". Islam is against the contract that is "based on one-sided risk" (Ibid.). Islamic provisions of insurance were based on mutuality. "They were called *ma`aqil*, and concerned mainly insurance against tort and legal damages" (Islamic insurance 1951, p. 45).

To Hamidullah "Insurance essentially means the distribution of a burden or hardship over as large a number of people as possible, thus lessening the burden of each as much as practicable so that none of them feels it" (Ibid). As noted above, much before our contemporary *ulama*, Hamidullah suggested establishment of insurance on the basis of mutuality as an alternative of conventional insurance. In spite of so much discussion individually and collectively no commonly acceptable substitute could be found. There is near consensus that mutuality is the way of Islamic insurance.

Basically as an organization of mutual cooperation, Hamidullah sees there is no harm to invest the collected amount in some economically profitable activities so that the capital is enhanced:

"Such a branch could engage in commerce with the help of unutilized funds remaining at its disposal, so that the capital is augmented. A time might come, when the members of a branch could be fully exempted from paying further contributions, or might even receive amounts of the profits of commerce" (Hamidullah, *Introduction to Islam* P. 129).

Thus, he does not enter into a discussion whether the mutuality based Islamic insurance is an act of exchange (*mu`awadah*) or voluntary donation (*tabarru`*), and whether a *gharar* is involved that might incur the deal as invalid. Perhaps he thinks the element of *gharar* is so insignificant that it would not lead to a dispute or result a big loss to any party – contributors or beneficiary. It is its nature of mutuality that makes the *gharar* tolerable. This *gharar* becomes effective and turns into a game of chance if the insurance is organized by a capitalist to earn profit who deprives the policyholder from profit or surplus of insurance company. He says:

"Without entering into technical details, it may be pointed out that capitalistic insurance, in which the insured person does not participate in the benefits of the company in proportion to his contributions, is not tolerated in Islam as this would constitute a form of game of chance" (Ibid).

In the above passage by capitalistic insurance he means commercial insurance in which profit goes to stockholders. As far as policyholders are concerned, they get only compensation for losses incurred.

Elimination of *riba*, *maysir*, *gharar fahish* from *takaful* is still regarded the most important element of Islamic insurance. Mutuality is considered as the most accepted method. Augmentation of insurance fund through investment methods is justified.

Labour organizations in Islamic System

While reading Hamidullah's reflections on Islamic economics one will notice that he gives some new interpretations to old and well-known facts. This is very clear when he proves existence of labour organizations in Islamic system and qualities of labour in Islamic economics. Hamidullah infers from the story of Moses and the pious man of Madyan (Qur'an 28: 26-27) the employer and employee relations. Islam requires that an employer should not be hard to his employees, "and the qualities required of the worker are in a nutshell 'strong and honest'" (Book Review, 1955, p. 144). In addition, for a particular kind of office there may be some other relevant qualities needed. For example, in the Qur'an (12: 55) a would-be employee describes his qualifications as trustworthiness and knowledge with regard to finance and accounts: 'I am trustworthy and well versed in (this) science'.

According to Hamidullah labour organizations have always existed in Muslim countries, "and all *fiqh* books for instance speak of them in the chapter on *ma`aqil* or insurance against heavy damages to pay. The *Chaudhri* of Indian Islam, the '*arif* elsewhere, are heads of trade guilds" (Ibid. P.145). In this way he refutes the claim of Hans who said that there is no reference in Islam to labour and capital that the labour organizations did not exist in Muslim countries (ibid.).

The economic policy of Islam with respect to distribution

According to Hamidullah the Qur'anic verse: ". . . so that this (wealth) may not circulate solely among the rich from among you. . . ." (Q. 59: 7) determines the economic policy of Islam with respect to distribution. Since natural talents are not equal among different men and

women, the just system of Islam calls for equitable distribution and not equal distribution. He reiterates:

"Even if one were to start a group of persons with complete equality, the spendthrift will soon fall into difficulties and will again look on the fortune of his comrades with greed and envy. Further, on philosophic and psychological grounds, it seems that in the very interest of human society, it is desirable that there should be grades in wealth, the poorer having the desire and incentive to work harder. On the other hand, if everybody is told that even if he works more than what is required of him as his duty, he would get no reward and would remain as those who do not do more than their duty, then one would become lazy and neglectful, and one's talent would be wasted to the great misfortune of humanity" (The Economic System ... p. 121).

As against communistic and socialistic slogans, to Hamidullah, "the Islamic formula of distribution seems to be: to the poor according to their needs, to the rich according to their services" (Islam's Solution ... p. 231).

According to Hamidullah the wisdom of limiting the bequest to one-third is also to prevent concentration of wealth. He remarks: "... the right of testamentary bequests is operative only within the limits of a third of the property, in favour of persons other than creditors and heirs. The aim of this rule seems to be two-fold: (1) To permit an individual to adjust things, in extraordinary cases, when the normal rule causes hardship; and a third of the property is sufficient for fulfilling all such moral duties. (2) Another motive of the law of the will is to prevent the accumulation of wealth in the hands of a few, a thing which would happen if one should give all this property, by will, to a single person excluding totally one's near relatives. Islam desires the circulation of wealth among as large a number of people as possible, taking into account the interests of the family" (Ibid. p. 124). He suggests that "In countries where the Islamic law of inheritance is not applied by governments, yet the right of testament is recognized, the Muslim inhabitants can (and must) utilize this facility, in order to fulfill their religious duty with regard to the disposition of their property after their death."

On Socialism and Communism

As we noted above, an important monograph of Hamidullah is entitled *Islam and Communism: A Study in Comparative Thought*. In this he examines various aspects of communism and Islamic stand towards them. In the beginning of the paper he makes clear:

"Although Islam and Communism are not the same thing, it is possible that they do not differ in each and every thing.....Economic betterment is the common goal the ways leading thereto may differ. The pros and cons are to be weighed against each other before making the choice" (*Islam and Communism*, P.1)

Hamidullah favors competition and freedom of enterprise. He argues: "The past history of man shows that every advance and every discovery of the means of comfort came into existence through competition and desire for amelioration and also through the existence of grades of wealth or poverty among men one above the other" (Ibid. P. 2). This does not mean there is no place of control and interference in Islamic economy. He makes clear that "In normal times, Islamic polity makes least interference in the economic freedom of individuals. Free trade is its motto, though cut-throat and unfair competition is not allowed. In abnormal times, in periods of need and emergency, the interference proportionately increases" (Ibid. p.18).

In Hamidullah's opinion both capitalism and communism are extreme systems. Islam's a middle and moderate economic system. "Economic History has plainly demonstrated that both *laissez-faire* and Socialism are untenable extremes. For efficient and equitable Economics the elimination of their defects and a proper balance of the two, such as Islam offers, seems well worth considering" (Islam's Solution p. 233).

Dealing with the political aspect of communism, Hamidullah gives his own political thought. He examines the idea of a single "World State", world political system, world capital, separation of church and state, etc. (*Islam and Communism*, pp. 6-9). Finally, he concludes that the "Political doctrine of Communism offers no difficulty for Islam" (Ibid. P. 9). However, he makes clear that "Statecraft or politics, even when separated from religious office, do not become independent of, but continue to remain subject to the provisions of the Qu'ran and the Sunna.

It is only a separation of officers, not separation of authority, which is derived only from God" (Ibid). According to Hamidullah the main difference between Islam and communism is that Islam emphasises more on the moral aspect than on the economic one" (Ibid. pp.10-13). In the opinion of Hamidullah the root cause of evil in both capitalism and communism is "materialism". Materialism has been responsible for the degeneration of Capitalism. Similarly, "Communism, that is collective ownership of the means of production, may as such not lead to anything unbearable what I fear for it is its alliance, or rather conspiracy, with materialism" (Ibid. P. 17).

In the opinion of Dr. Hamidullah, the Arabic term *Ishtirakiyah* is more correct in its meaning than the English term socialism. "In the discussion of the etymology of the Western and Islamo-Arabic equivalents (*socialism* and *ishtirakiyah*), it is noteworthy that in 'socialism' the emphasis is merely on the question of belonging to a society, which may be hierarchic; whereas the Arabic word is more expressive, meaning sharing, participating with others" (Book Review *Homo Economicus Islamicus* p. 143).

A plan to turn Empty Quarter of Arabia into green farm

Hamidullah writes about a scheme to irrigate the desert continent of Arabia. The promoting engineers think it possible to divert part of the final course of the Euphrates: instead of falling in the Persian Gulf, it could, by constructing upstream dam or dams and preparing a guided and controlled course, be taken as far as the Red Sea, if not even to the Arabian Sea, passing through the Empty Quarter" (*Islamic Quarterly*, 1955, vol. 2, P.144). This will turn the desert of Arabia into a very fertile land. This would realize "the prayer of the holy prophet Abraham, who, seeing 'a valley without any cultivation by the side of Thy sacred house', had hoped one day it would be possible for his children living there to eat delicious fruits (*w'arzuqhum min al-thamarat*) (Ibid.).¹²

CONCLUDING REMARKS

At the time when Hamidullah started writing on economic issues, the sun of communism was rising. At the same time capitalism dominated a major part of the world. Generally scholars were divided into these two camps. Hamidullah, through his criticism of the two systems and proving the viability and vitality of Islamic system restored the confidence of his

readers into Islamic economic system. To him both have some merits which are supported by Islam without sharing their shortcomings. The main principles of Islamic economics are derived from the revealed sources and *ijtihad*. Thus, the Islamic economic system is distinguished from the so called mixed economy which combines the elements of free enterprise and control but completely depends on faulty human reasoning affected by emotions and sensations. At a time when capitalism and communism were struggling to take rest of humanity into their hegemony, Hamidullah presented a convincing Islamic alternative, the middle way between the two extremes of capitalism and communism which received strong support from the later writers on Islamic economics.

In the area of insurance Hamidullah was first to suggest mutuality as the solution. At present hardly anyone will differ about its validity and feasibility. Although a few variants of Islamic insurance are found, the real *takaful* (as the term itself suggests) is one which is based on mutuality.

Hamidullah's works are also a rich source of Islamic economic history. He has enumerated many firsts in Islamic economics by Hyderabad state like issue of first paper currency among the Muslim states, its issue by the state authority, not by the private capitalist banks, triennial budget and three-years planning, Public and private partnership in selected industries, and joint supervision of Shar`iah scholars and economic expert over researches on Islamic economics. Most importantly, he gave details of earliest experience of Islamic finance through interest-free lending societies in Hyderabad which started in the last quarter of the nineteenth century. Unfortunately, majority of unaware writers repeat that it developed during forties to sixties of the twentieth century. There is need to rehabilitate information provided by Hamidullah in the literature on history of Islamic economic thought.

Hamidullah's suggestion for establishment of Islamic international bank could be realized in the form of Islamic Development Bank and his proposal of the federation of currencies for Muslim states is still under consideration and preparation by some Muslim governments. All these show that Hamidullah's thinking had pragmatic orientation.

Hamidulla's ideas on zakah as the only tax and his liberal interpretation of its heads of expenditure are generally not accepted by majority of *ulama* and mainstream Islamic economists. In our opinion his reflection on zakah and public finance needs a separate discussion, which is done in the next chapter.

NOTES

1. In Arabic: "*Bunuk al-Qard bidun Riba*" (Interest-free Lending Banks, *al-Muslimun*, Damascus, vol. 8, no. 3, Dec. 1962, pp. 16-21; in Urdu: (1944), "*Anjumanha-e Qarzah-e-besudi*" (Societies of Interest-free Loan), *Ma`arif*, Azamgarh, 53(3), March, pp: 211-16; in French: (1962), "Banques de prêt sans intérêt," *Pensée Chi'ite* (Paris), 12; and in Persian: Bank-ha-e istiqrazi-e bi-murabahah" (Banks lending without interest), (Tr. Ali Asghar Hariri), *Waheed*, Tehran, Second print after the author's review of the translation, 1970.
2. S. A. Siddiqi is pioneer writer on Islamic finance. It is a pity that his life account is not available. From the preface of his work it is clear that he lived in cant Lahore. I contacted many scholars to inquire about him but none could tell me anything about him. I am sure there must be still some people living who had met him. I wish someone could write about him.
3. http://monzer.kahf.com/papers/english/methodology_malaysia.pdf
Urdu title of the book is "*Islami Ma`ashiyat*".
4. Cited in Chapra (2009), "The Global Financial Crisis: Can Islamic Finance Help?"
5. Recently a very valuable work entitled *Risk Sharing in Finance: The Islamic Finance Alternative* has appeared by four international experts of finance: Hossein Askari, Zamir Iqbal, Nouredine Krichene, and Abbas Mirakhor in which they present the Islamic Finance as an alternative to the debt-based risk-shifting conventional finance. Hamidullah's views have great support in the book. It is published by John Wiley and Sons (Asia), Pte. Ltd. Singapore, 2012, 285 pp.
6. GCC or Gulf Cooperation Council is a political and economic union of Arab Gulf states, namely Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.
7. It may be noted that federation of or union of the currency has many economic and political advantages. For example: Many firms become wary when investing in other countries because of the uncertainty caused by the fluctuating currencies. Uncertainty caused by fluctuations of exchange rate is eliminated within the countries having federation of currency. After federation or union of currency investment would rise as the currency is universal within the area. It will enhance business and trade not only through the wiping out of exchange rate fluctuations, but it will also help to lower costs to industry because companies will not have to buy foreign exchange for use within them. It will increase profitability of the domestic firms as the transaction costs will be eliminated in buying and selling

foreign currencies to do business. It will be easy to accurately compare the prices of goods, services and resources across the countries in that federation because there will not be distorting effects of exchange rate differences. One can buy things without wrecking his brain trying to calculate what price it is in his currency. Trade and everything else should operate more effectively and efficiently within the federation. Single currency in a single market seems to be the way forward. Countries with federation of currency can be self-supporting and so they could survive without trading with anyone outside their area. They can survive on their own, with or without the help of countries with strong monetary units. Federation of currency will be a step towards political integration and peaceful living. Needless to say that it has some negative aspects as well but they can be remedied with mutual cooperation.

8. Narrated by al-Bukhari in the chapter of *istiqlad* (borrowing) and Muslim in the chapter of *musaqah* (fruitsharing) on the authority of Abu Hurayrah.
9. *Al-urf al-ma`ruf ka'l-shart al-mashrut* (a commonly known custom is like a condition agreed upon) (Ibn Taymiyah, *Majmu` Fatawa* 30: 98).
10. Means "Society for the Help of Brothers".
11. `Id al-Ad`ha (the festival of sacrifice) celebrated on 10th of Dhu'l-hijjah, the last month of Islamic calendar.
12. Tr. "...and provide its people with fruits..." (Qur'an 2:126). It is part of the prayer of Prophet Ibrahim (peace be upon him). The complete verse is: *And (remember) when Ibrahim (Abraham) said, "My Lord, make this city (Makkah) a place of security and provide its people with fruits, such of them as believe in Allah and the Last Day." He (Allah) answered: "As for him who disbelieves, I shall leave him in contentment for a while, then I shall compel him to the torment of the Fire, and worst indeed is that destination.*

It may be noted that generally it is understood as provision of fruits by imports. But Hamidullah takes it as a prediction. A day will come when the Makkan people will eat their own grown fruits.

3

ZAKAH AS THE STATE FINANCE:

A CRITICAL STUDY OF HAMIDULLAH'S VIEWS

IS ZAKAH A TAX?

Zakah and the state finance had been one of the most discussed topics of Dr. Hamidullah. In his first article "Islam's Solution of the Basic Economic Problems" (1936), he devoted a full section on zakah. In 1950 he wrote "Political significance of zakah" and in 1986 he authored "Financial Administration in the Muslim State" in which he showed the place of zakah in an Islamic state. His article "Budgeting and Taxation in the Time of the Prophet" (1955) also mainly deals with the zakah revenue and administration. In fact, as it appears from his overall writings, for Hamidullah zakah is the main source of revenue for an Islamic state, and the administration of its revenue and expenditure is the administration of public finance.

But those who have any knowledge of zakah institution, understand that zakah is one of the five pillars of Islam. Thus, it constitutes a form of worship. But at the same time it is a financial obligation. This confers upon zakah a unique place in the whole financial charges. Visualizing importance of zakah as being worship and financial duty at the same time Hamidullah observes:

A political philosopher will not fail to discern therein the advantage that the payment of the tax when it becomes a part of the religious belief, a pillar of the faith, the conscience of the Muslim is thereby impressed so that he should not try to cheat the government but pay tax as scrupulously and punctually as he performs prayer and fasting for instance; even when there is no government pressure or government presence, even when the government forgets to demand payment, one must pay the tax. (Financial Administration...p. 102)

However, the word zakah does not mean worship. Nor does it mean financial duty. Zakah means purification and growth. So why is zakah called zakah? Obviously, this name has been given because of the objective and effect of zakah on the inner-self of the zakah payer and on his assets. Hamidullah's focus of attention is the economic aspects of zakah.

There are enough reasons to understand that zakah causes growth of income and the economy: a) First of all it is levied on productive assets (*al-amwal al-namiyah*) - property that has ability to grow either by itself, such as livestock, agriculture, or by its utilization, like precious metals, money and merchandise, etc. b) Again, there is cost consideration behind the rate of zakah – for example where higher quantity of labor is involved, the less is the rate and vice versa. This provides incentive to work and invest. c) Mostly it is collected after passage of a complete year to give full time for utilization of zakatable asset for productive purpose. d) Resources engaged in production process are exempt from zakah levy, and e) These positive factors along with a negative factor that payment of zakah will reduce the asset each year by two and half a percent and a day may come that a man may turn a zakah-recipient from a zakah-payer. It is said that zakah is therefore, "an antidote to hoarding" (*The Emergence of Islam* p. 304). Perhaps these are reasons that Hamidullah thinks that zakah will force "people to employ their wealth for increase, and not to indulge in idle hoarding" (*The Economic System* ... p. 125).

A system of zakah eliminates possibility of lockout in the industrial units, a frequent occurring in modern day economy. The reason is that, as noted above, assets used in production process are exempted from zakah, so the employers cannot defeat laborers at their just demand for fair wages by closing the firm as this would invite huge zakah tax because now the assets would be treated as property not used for productive purpose (*Islam's Solution* ... p. 216).

Based on one of the literal meaning of zakah and its effect on the economy, Hamidullah gives it the name of 'growth tax' (*Ibid.* p. 215). To him, "the immediate purpose of this institution is to relieve the poor and to help them to grow in prosperity by giving them better resisting and competing power" (*Ibid.* p. 216). "The tax [zakah] tends to guarantee subsistence and thus eliminates one intrinsic weakness of *laissez-faire*

economics" (ibid.). This is zakah's function at micro-level. But in most of his writings, Hamidullah emphasizes zakah's function at macro-level.

The Muslims who migrated from Makkah to Madinah, they left their all belongings in Makkah. Their rehabilitation and economic empowerment was a big challenge. The Prophet solved this problem through the establishment of fraternization (Budgeting and Taxation ... P. 84). The next step was "centralized charity system"¹ "which was made a state duty. In the beginning people themselves brought zakah to the Prophet. Later he appointed collectors" (Ibid. P. 84).

Hamidullah maintains that "the zakah is a tax, and in the time of the Holy Prophet and the rightly-guided caliphs there was no tax on Muslims other than the zakah" (Financial Administration ... p. 103). At another place he says: "the *sadaqat* [plural of *sadaqah*, another name for *zakah*] were the only taxes of the State in the time of the Prophet and the Orthodox Caliphs" (The Economic System p. 128). According to Hamidullah the word tax is fully applicable to *zakah* because it fulfills all the elements of a tax. That is, charging "a particular sum during a fixed period at a fixed rate on a fixed item and we may compel even those who decline to pay it" (*The Emergence of Islam*, p. 109).

It may be noted that the zakah bases (i.e. zakatable items) have not been mentioned in the Qur'an. They have been prescribed in *ahadith* (traditions of the Prophet). Similarly, rates of zakah have been fixed by the Prophet (p.b.u.h.). The Qur'an paid attention to the expenditure of zakah and mentioned in *Surat al-Tawbah* (9: 60) eight types of recipients of this revenue. A modern state needs huge resources for its innumerable existing programmes and for a variety of future plans. To claim that zakah is the only tax for a Muslim state and that their headings of expenditure "seem to be well applicable to our own times in a progressive welfare State, having concern for the well-being of its subjects" (Economic System ... p. 128) cannot stand unless two things are done which are not accepted by the majority of scholars. One: permission to change the rates of zakah, and two, liberal interpretation of its heads of expenditure. Hamidullah has tried to prove the two.

ARE THE ZAKAH-RATES CHANGEABLE?

Muslim scholars of the past are unanimous in regarding the rates of zakah as permanently fixed by the Prophet. This permanence has been regarded as a virtue as it rules out tampering with the law of zakah by the ruler. A successful fiscal policy depends on regular and stable fiscal resources. Zakah's fixed and permanent rates and fully defined zakatable assets ensure regular and stable revenue to meet various objectives of the fiscal policy.

But a number of contemporary writers, mostly economists, consider these rates open to modification by the state. Hamidullah seems to be the forerunner of this group. He argues in favour of change in rates of zakah if circumstances so demand. In his opinion the reason is that "the *zakah* and *sadaqah* comprised in fact the entire state-income at the time of the Prophet in so far as it was collected from the Muslim subjects. There is no reason to believe that the items taxed and the rates charged were meant to be unchangeable even with the exigencies of times and circumstances" (Budgeting. P. 85); as against all forever; they are changeable. He supports his stand saying that "The Qur'an is silent as to the rates to be charged on different taxable [zakatable] articles' belonging to the Muslims. This silence may be taken as an indication of the elasticity of the Muslim law on the subject" (Ibid.). At another occasion he says: ".....it is interesting to note that the Qur'an, which gives precise directions with regard to budgetary expenditure, has enunciated neither rules nor rates of the income of the State. While scrupulously respecting the practice of the Prophet and of his immediate successors, this silence of the Qur'an may be interpreted as giving a latitude to the government to change the rules for income according to circumstances, in the interest of the people" (The Economic System ... P. 124). Again, in his Bahawalpur lectures he remarks: "In fact, if our interpretation is correct, the Qur'an leaves it to the discretion of the state to reduce or increase the rates to be levied" (The Emergence of Islam p. 298).

But one can contend that the Qur'an's silence was explained by the Prophet whose duty was to explain what was sent for the people (Qur'an 16:44) and show things in practice.

He also supports his stand by the Second Caliph Umar's lowering the rate of custom duty. He says: "Classical Muslim scholars have clearly recognized that the Caliph 'Umar is reported to have lowered the existing rate of import duty on consumer goods going to Madinah from 10 to only 5 per cent" (Budgeting and Taxation ... pp. 85-6).²

There is clear statement in *Kitab al-Amwal* of Abu Ubayd that custom duty was innovation of the Second Caliph. It was not zakah prescribed by the Prophet (Abu Ubayd, P. 532, report nos. 1666, 1667). Had it been fixed by the Prophet, the Caliph may not have dared to change it. Thus, this report does not stand in support of Hamidullah view about permissibility of the change in zakah rates. The Caliph allowed his governors to extract custom duties from the foreign merchants crossing into the Islamic state and from the enemy lands, just as Muslim merchants were charged when they crossed the border. The rate was also the same which they were charged. Otherwise, it was one-tenth of the total value of the goods, imposed once a year or in a single entry. Custom duties or tolls were later extended to *ahl al-dhimmah* (protected non-Muslims) and Muslim merchants of the Islamic state who also wanted to use highway. The rate charged from *dhimmis* was five percent, while it was two and one-half percent from Muslim traders (Ibid. pp. 530-31, report nos. 1658-1660).

That the zakah was the only tax in the Islamic state may be correct so far the time of the Prophet is concerned. During the time of Orthodox Caliphs *kharaj* (if a Muslim acquired *kharaji* land), and *ushur* (custom duties on importing goods) were charged even from Muslims. *Kharaj*, *ushur* and *jizyah* were charged from *ahl al-dhimmah*. Booty (*fay'*) and spoil of war (*ghanimah*) were obtained from enemies.

Dr. Hamidullah admits that "in later times, on occasions of extraordinary need, the jurists have admitted the legal possibility of imposing supplementary charges, on a strictly provisional basis, for occasional exigencies. Such taxes are called *nawa'ib* (calamities)" (The Economic System ... p. 128).

In spite of holding the view that zakah bases and zakah rates can be changed if more fund is required for government expenditure, Hamidullah does not want to impose his ideas on others. In his article

Islam and Communism he seems to have adopted the view of majority – keeping the zakah rate as it is and imposing extra levy for increasing expenses. He remarks: "In general 2.5 per cent of the surplus property is taxed (*zakah*), cash hoard as well as commercial capital. If this tax does not suffice the needs of the State regarding the feeding of the destitute as well as the defense of the realm, additional taxes may be lawfully levied" (*Islam and Communism* p.18). Here he does not insist that it will be in emergency cases only by increasing the zakah rates.

IS ZAKAH FOR ALL KINDS OF STATE EXPENDITURE?

Zakah for all citizens

The first two heads of expenditure are *fuqara* (the poor) and *masakin* (the needy). There are differences of opinions about their meaning and bases of differentiations. Imam al-Shafi'i said that the two terms were absolutely synonymous, and that the Almighty Allah, out of His bounty, "named them twice in order to make a double provision. According to this authority, as each of the eight heads in the Qur'anic verse should receive one-eighth of the State income, the poor would receive two-eighths" (The Economic System, p. 126). But Hamidullah does not agree with this interpretation. First of all, if zakah is the only tax for the state, arguably it will be used for all the citizens of the state including non-Muslims. "The first duty of the State is to see that no dweller on the Islamic soil is deprived of the means of livelihood: food, dress, lodging, etc." (Ibid.). He holds that the word *masakin* used in the Qur'an as recipient of zakah refers to the poor of *ahl al-kitab*. He maintains it very emphatically: "The very high authority of the Caliph 'Umar is there to support the view that the term *masakin* meant the poor among the non-Muslim inhabitants of the Islamic State" (Budgeting.. p. 87; A Suggestion 1955, p. 11).

At another occasion he writes: "According to sayings and constant practice of the caliph `Umar (recorded by Abu Yusuf in his *Kitab-al-Kharaj* and Ibn Abi Shaibah in his *Musannaf*), *fuqara* are the poor among the Muslims, and *masakin* are from among the non-Muslims residing in the Islamic territory, such as Jews. In his *Futuh al-Buldan*, Baladhuri cites another case of the same caliph, who awarded pensions to Christians of Jabiyah (Syria) from the *sadaqat*, i.e. *zakah* revenues" (The Economic System ... p. 126). He also supports it from the Semite

philosophy as he says "in fact in the celebrated code of Hammurabi, king of Babylonia, the word *moshkina* (cognate of the Arabic *misikin*) means a "resident alien". This word comes from *sakan* in the sense of staying, residing, and not from *sakan* in the sense of rest and repose" (Financial Administration ... pp. 94-95; Budgeting ... p. 87).

It may be noted that our famous contemporary authority on zakah Yusuf al-Qaradawi in his encyclopedic work *Fiqh al-Zakah* (1980, 2: 544-9), while discussing the meanings of *fuqara* and *masakin*, does not mention any scholar from the past and present who has taken the stand that *masakin* refer to the poor *dhimmi*s. So this can be considered as one of the distinct opinions of Hamidullah. The sources referred by Hamidullah have been taken by some to support only the 'permissibility' of zakah spending on the poor non-Muslims of the Islamic state (ibid. pp. 2:702-8) but not in the sense that by the term '*masakin*' the poor of *ahl al-dimmah* have been categorically mentioned.

Zakah for the entire administration of the state

Hamidullah takes "*amilin alayha*" (those who are engaged for zakah work) in a very comprehensive meaning which includes not only "accounting, auditing and disbursing" (Budgeting ... p. 87), but all the heads of government: "Seeing the items of expenditure, it means practically the entire administration at the time of the Prophet Muhammad" (Ibid.). He supports this with Baladhuri (*Ansab*, Vol. I, p. 585) who refers to the fact that the Caliph 'Umar once requested the governor of Syria to send some Greek experts to Madinah to put right the government accounts" (Budgeting ... p. 87). But the report does not state that he was paid from zakah. Perhaps he thinks since zakah was the main source of public revenue, his payment was made from zakah. As we noted above, there were other sources of revenue like *kharaj*, *jizyah*, *ushur*, etc.

The same incidence he reports in more details in his article "The Economic System of Islam" (p. 126) where he says: "The next item concerns the salaries of the functionaries: collectors, accountants, controllers of expenditure, auditors of accounts etc. If the truth is to be told, this category comprises *the entire administration, civil, military and diplomatic*, as one can see in the description of the categories of the

beneficiaries" (emphasis added). The same view he expresses in another article in which he includes the whole administration of the State (Financial Administration ... p. 95).

'*Amilin alayha*' being third after *fūqara* and *masakin* shows the importance of this head. Many scholars think that this term is a proof that zakah is not an individual duty. Rather, government is fully involved. There should be a separate and active department or section in the public treasury. The early practice also supports the same. Perhaps there is no difference of the opinion that "*amilin alayha*" does not apply to the zakah collectors only, but the entire administrative staff related to zakah department working for collection, accounting, survey, inspection and assessment, and disbursement are included under this head. However, hardly anyone has extended it to the whole state *administration, civil, military and diplomatic*. Hamidullah's is a unique stand on this issue. Obviously, if one argues that zakah is the only tax of a Muslim state, he has to bring somehow or other state's all requirements under zakah's heads of expenditure.

Zakah as a secret fund

Hamidullah deals elaborately with the issue of *mu'allafat al-qulub* (those whose hearts are to be reconciled) in his article "Financial Administration..." (pp. 95-97). He does not agree with those jurists who insist that this item is now abrogated, and that they base themselves on a certain practice of caliph `Umar (Ibid.). For example, the famous Hanafite Imam Abu Yusuf excluded *mu'allafat al-qulub* from the heads of expenditure of zakah because he thinks that in his age the need to spend on such people has passed. Islam and the Islamic state were strong enough to manage without their goodwill and support (Abu Yusuf 1392H. p. 87). Hamidullah thinks that this argument has no weight in the present state. Once he questioned: "Is Islam strong enough today even as it was in the days of Umar" (The Political Significance ... p. 3)? He considers it a very important head of expenditure even today. With reference to Abu Yala al-Farra (*al-Ahkam al-Sultaniyyah*, p. 116), Hamidullah notes four angles of winning the heart: "First there are those whose hearts are won in order to make them come to the aid of the Muslims. Secondly; there are those whose hearts are won for making them abstain from doing harm to Muslims. Thirdly, there are those

whose hearts are won for (their) embracing Islam. Fourthly, there are those whose 'winning of heart persuades their peoples and their clans (equally) to embrace Islam. So it is permissible that each and every one (belonging to) these kinds should be the recipient of this item of *zakah* be he a Muslim or a polytheist". ... He calls it in modern terms "the secret service" fund of Islamic state (Budgeting.. p. 88). At another occasion he writes: "The category of those whose hearts are to be reconciled can more easily be understood by the modern term "secret funds" (The Economic System ... P. 126). By secret funds he means money which a government spends quietly in public interest (*The Emergence of Islam* p. 298). There will be no consideration of economic condition of the recipient in this category. Even the rich can get from the *zakah* revenue if he or she is good "for aiding Islam and fortifying it" (Financial Administration ... p. 97).

Zakah fund for "liberating the necks from the yoke"

Hamidullah's interpretation of *fi'l-riqab* (for freeing the slaves and captives) is also a little bit unique. To him this provision is a distinguishing feature of the budget of an Islamic state: "That the government had to provide regularly in its annual budget for the liberation of slaves and subjects of the Islamic State (both Muslims and non-Muslims) taken prisoner by the enemy in a war, is too eloquent to require explanation. Slavery in Islam is for the benefit of the slave, not for his exploitation by the capitalist. A slave originally came from the prisoners of war, who had lost all their belongings, home, family and all else, as slaves in an Islamic State they got a home and means of livelihood" (Budgeting.. p. 88). No doubt, importance of this provision could have been appreciated only during the period when slavery was prevailing in the world. Hamidullah observes: "As to helping slaves to get liberated, it is a particularity and glory of Islamic policy, no other system of law, either in the East or the West, has known this solicitude for slaves. Imagine that the Bible orders Enslaving enemies, yet there is no permission either in the Old Testament or the New Testament to liberate them. The situation of slaves was bad enough under the Romans; according to League (*Roman Private Law*, p. 55-62), at the advent of Christianity, their situation worsened. The governmental aid for liberating slaves is only a part of and in addition to what Islam has provided for this purpose" (Financial Administration...p. 98; The same is

briefly repeated in "The Economic System ... (p. 127). At present when slavery has been abolished from all civilized worlds, there is almost consensus that this provision of budget will go for release of innocent captives in the jails. Legal aids and prisoners' reform may also be included.

Zakah for interest free lending

Islam not only prohibited interest, but also provided means to abolish it altogether. A part of government revenue should be allocated to help the indebted and arrangement should be made to provide interest-free loans. Hamidullah understood this from the verse which stated one of the heads of expenditure of zakah as persons indebted (*gharimin*). He argues that since the poor and needy have been mentioned in the beginning of the verse, the 'indebted' does not refer to starving poor. Rather it means 'the well-to-do' who is temporarily in need of finance (Islam's Solution ... p. 213). He notes that people used to borrow money from the *bayt al-mal* during the caliphate of Umar. Even the caliph himself borrowed when he was in short of money. When he received annual or six-monthly grants, he repaid it. Had this Tradition continued, the practice of interest would never have developed in Muslim world (*ibid*).

In his article "Financial Administration..." (p. 98) he writes: "According to commentators of the Qur'an and the jurists, this does not at all refer to the poor, of whom there has already been mentioned under No. 1 and 2; but to well-to-do people who are momentarily in need for help. For instance victims of earth-quakes, inundations, a traveler whose money is stolen,³ one who has involuntarily committed homicide and has no means to acquit himself of the duty of paying heavy blood-money (one hundred camels), and the like. There was a development of this law in the time of caliph 'Umar ibn al-Khattab; he organized interest-free loans (of Malik, *al-Muwatta*, 32/1). The Caliph 'Umar sometimes borrowed himself money in this way. He lent money even to commercial people, and the State treasury shared profit with them, as a sort of *mudarabah* or commercial bank." A corollary of this head of expenditure is that the government should establish interest-free lending institution at the country-level or what he calls "nationalization of lending without interest". In his article "The Economic System of Islam" (p. 127) he

says: "The category of those who are heavily charged has, according to the practice of classical times, a whole series of applications. One helped those who had suffered from calamities such as floods, earthquakes, etc. It does not refer to the poor, who have already been mentioned in the beginning of the verse, but to the well-to-do who have suffered from abnormal conditions, beyond their power. Caliph `Umar started a special section in the Public Treasury, in order to lend money free of interest, to those who had temporary needs and provided the necessary guarantees for repayment. The caliph himself had recourse to it for his private needs. It goes without saying that the "nationalization" of lending without interest was the necessary concomitant of the prohibition of interest in Islam. The same caliph used to lend public money even to merchants for fixed periods and the Treasury participated with them in a percentage of their business returns.⁴ They participated not only in gains but even in the event of losses".⁵

Hamidullah emphasizes that foregoing of interest by the government will be compensated in the form of increase in production of goods and services. "In fact, the governments will not lose in renouncing interest on loans advanced to its own subjects, for the growing prosperity will recuperate the eventual interest in the form of increased income from taxes on houses and on industry and commerce" (A Suggestion ... 1955, p. 11).

Zakah for all works of welfare and goodness

In the opinion of Hamidullah the last two heads of zakah - '*fī sabil-Allah*' (in the way of Allah) and '*ibn al-sabil*' (the way farer) - are wide-ranging terms. He says: "The 'path of God' is also a comprehensible term from equipping the national army down to grants in aid to students, all could be included therein" (Budgeting..pp. 88-89). At another occasion (Financial Administration...p. 99), he includes even "mosques, schools, carvansarays, free residence for orphans, widows, old or handicapped people, etc." In his article "The Economic System of Islam" (p. 127), he writes: "The expression 'in the path of God', in the Islamic terminology, signifies, in the first instance, military defence and the expenditure for the personnel, equipment, etc. But the term applies in fact to all sorts of charitable works, such as helping students, grants and aids in religious causes such as the construction of mosques, etc." Thus, Hamidullah

makes a very liberal interpretation of the term '*fi sabil-Allah*'. He puts every act of welfare and piety under this term. But majority of classical scholars take the term "*fi sabil-Allah*" in the meaning of preparation and expenditure on jihad or military expedition. They do not support the view that zakah may be spent on all kinds of religious causes and public welfare programmes such as building of mosques and schools, construction of roads, bridges, irrigation canals, and highways, etc. These must be paid for from other state funds, such as *fay'* and *kharaj*. However, some individual scholars, early and contemporary, may be found who do not confine '*fi sabil-Allah*' to *jihad* and military expenditure only. They tend to expand its meaning to include good deeds in general, For example, Imam al-Razi (d. 606/1209), in his *al-Tafsir al-Kabir* (16:113) writes that al-Qaffal (d. 365/975) reported on the authority of some jurists that they permitted spending *sadaqat* on all kinds of good deeds, including supplying coffins for the deceased and building fortifications and mosques, since 'in the way of God' covers all these expenditures. However, he does not mention the names of those jurists.

Commenting on the two stands, al-Qaradawi (1986, 2: 644-5) has rightly remarked: "In my opinion, the general meaning is not suitable to this verse, since the verse lists specific deservants of *zakah*, as confirmed by the saying of the Prophet (p), "Indeed, God does not accept the ruling of a prophet, or anybody else on [the distribution of] *sadaqat* so he Himself gave His ruling, and divided it into eight parts." Moreover, the general meaning of "*sabil Allah*" includes in fact the other seven categories. Why then does God enumerate the other seven? The glorious words of God are void of useless repetition or redundancy. There must be a distinct meaning for the category of "in the way of God". Therefore, Muslim jurists and Qur'an commentators have for centuries understood this term to mean *jihad* (fighting for His cause), as well as supporting fighting".

There is no doubt that a number of jurists from the past and present have assigned wider meaning to the term '*fi sabil-Allah*'. But none has gone to the extent "to include all the needs of a welfare state" (Financial Administration... p. 94). Hamidullah extends it to almost all heads of expenditure of the state. This was inevitable as he considered zakah the only tax for the state and the Qur'anic verse 9: 60 which came to describe recipients of zakah "promulgates a sort of law of State-expenditure" (Ibid.).

Zakah for development of tourism

The same is the case with the term *ibn al-sabil* (wayfarer). According to Hamidullah, "The last item, "wayfarer", may be aided not only by free board and lodging, but also by improving touristic conditions: hotels, restaurants, means of transport, security of roads and the like" (Budgeting ...p. 89). In his article "Financial Administration..." (p. 99), he includes some other heads "such as police vigilance, security of the route, construction of bridges, health measures, etc. ... Persons in transit are not exploited by the finance ministry, but treated as guests of the Muslim community." At another occasion he observes: "The last category concerns communications and tourist traffic in a wide sense: construction of bridges, roads,⁶ hotels, restaurants, security of routes (police included), hygienic arrangements, transport of travellers, and every comfort provided to aliens in the course of their journeying, including extending hospitality to them without charge and in proportion to the means available. Formerly, such hospitality was assured for three days in every place of stay" (The Economic system ... pp. 127-8).

Use of lunar and solar calendars for zakah collection

Hamidullah states that in Islamic state both solar and lunar calendars are used for tax collection depending on the nature of the assets. For example, tithe will be collected at harvest which is fixed according to solar months. In rest of assets, zakah will be collected according to lunar calendar. He stresses that "This saved the Muslim treasury from getting empty at the end of the "fiscal year" of the solar and luni-solar⁷ calendars, when governments are obliged even to borrow money for short terms for current expenditures before the perception of the new taxes" (Financial Administration...p. 101). At another occasion he mentions an advantage of the use of lunar calendar. The lunar year being 11 days smaller than the solar year makes the difference of more than a year in three solar years and difference of one year in every thirty years, i.e., gain of a year extra revenue in every thirty years. He wonders: "Is there a finance minister who will not wish to have additional income?" (*The Emergence of Islam* ... p. 307).

It may be noted that the use of lunar-solar calendar had been felt as problem at various stages of history.⁸ However, Hamidullah considers it as one of the distinguishing features of zakah system, and advantageous for the state finance.

CONCLUDING REMARKS

It is understood from Hamidullah's overall writings that he holds the view that *zakah* is the only tax in Islam, and that its rates and bases can be increased if there is such a need. As a natural corollary, he also argues that *masarif al-zakah* (heads of expenditure) cover all kinds of state spending. He supports other taxes on temporary basis only if emergency requires so, because *zakah* collection is on its fixed times only. Obviously, its volume and limit will be decided according to the emerging need.

To him, eight heads of expenditure of *zakah* accommodate practically all the needs of a state. '*Fuqara*' and '*masakin*' cover all Muslim and non-Muslim citizens of the state; '*amilin alayha*' cover collection and administration of public revenue and expenditure, '*mu'allafat al-qulub*' fulfills the government's need for secret funds; '*gharimin*' allow to help the well-to-do indebted temporarily, or caught in trouble; it permits even to establish national bank for commerce and credit; '*fi al-riqab*' enables to help captives release; under '*fi sabil-Allah*' comes mosques, schools, and all works of welfare and development; and '*ibn al-sabil*' can be applied to all the needs of travel and tourism.

Hamidullah has taken *zakah* in broad perspective of the state finance. For his each opinion, taken separately, one can find support from the past and present scholars. But one can hardly find a scholar who would support him on all points raised during his treatment of *zakah*. But he does not want to fall in this controversy. This is clear from his answer to a question "Can the rate of *zakah* be changed?" raised during his lecture at Bahawalpur. Instead of giving his own view he described *fuqaha*'s stand: "Our jurists are of the opinion that the rate fixed by the Prophet (peace be upon him) should not be changed. New taxes under the category of *nawa'ib* may be levied to meet contemporary demands. Our law comprises commands of God and the Prophet (peace be upon him). Hence, in the opinion of Muslim jurists, nobody has the right to change them nor has such a need arisen so far; nor is it likely to arise in that our governments will never declare that the *zakah* is a heavy tax and should be abolished or reduced. On the contrary, we need more than we receive through

zakah. That is why additional taxes called *nawa'ib* may be levied" (*The Emergence of Islam*, 1993, pp. 309-10).

Hamidullah's thinking has influenced many contemporary writers. Al-Qaradawi (1980, 2: 634) refers to him in his discussion of establishment of interest-free lending institution. Husaini (1980) strongly supports the idea of *zakah* as the single tax in Islamic system advocating modification of its rates and bases. Others who seem to be influenced by Hamidullah on this issue are Shaikh Mahmud Ahmad (1952), Afazuddin (1952 p. 10), Izadi (1974), and Salih Tug (1976). There is no doubt that to grant permission to the rulers to change rates and bases of *zakah* will open Pandora's Box of problems. It will surely affect its sanctity as a worship and religious duty.

NOTES

1. By "centralized charity system" Hamidullah means 'zakah'.
2. In the original it is referred to Abu 'Ubayd, 1660. I have Abu Ubayd's *Kitab al-Amwal* of 1986. The report is on p. 531, no. 1662]
3. "a traveler whose money is stolen" should be helped under the head of *ibn al-sabil* (wayfarer).
4. Individual cases are mentioned by Hamidullah as the permanent practices. In fact he is ambitious "to focus attention of scholars to some new interpretation of old and well-known facts".
5. Hamidullah uses the term "*mudarabah*" and said that "they participated not only in gains but even in the event of losses", but he does not make clear how they would share the losses. In *mudarabah* partnership, they two parties share the profit with a predetermined ratio. In case of loss, the one who provides capital loses his capital and working partner's loss is that he gets nothing; his labour goes unrewarded.
6. It may be remembered that he included construction of bridges and roads under the head of '*fi sabil-Allah*' also.
7. By luni-solar calendar perhaps he means lunar calendar adjusted on solar years.
8. For example, the fourteenth-century Egyptian historian al-Maqrizi (d. 845H./1441) gives an account of the Coptic year and months based on an adjustment of lunar and solar calendars to have various seasons and economic activities at the fixed time of year. In this connection he elaborates how the accounting problem was solved that arose during Abbasid caliphate because Muslims used lunar calendar for all their matters while crops were available according to solar calendar. Since lunar year is less than solar year by about eleven days, 33 lunar years become equal to 32 solar years (*al-Khitat*, 1:270-73). If in any one particular period the crop was ready and *kharaj* was collected in the beginning of the lunar year,

collection would be delayed each year by eleven days and a time may come that it is collected at the end of the lunar year or it may enter into the next year. In this case it would appear that the collection is taking place in the current year while it was due to the past year. To solve this problem of accounting the year was extended by one year. This kind of conversion was just on the paper. The same procedure was used during the Mamluk period (*al-Suluk*, 4:875). It is interesting to note that even in the Ottoman rule, dual calendars were used. Typically 'the solar year was more functional for revenue collecting, the lunar year for expenditure'. Due to difference of eleven days in the two calendars, many problems were faced and a very complex procedure was used to resolve them (see Sahillioglu, *Studies on Ottoman Economic and Social History*, Istanbul, 1999, pp. 1-25). Hamidullah's proposal of luni-solar calendar has solution to such problems.

4

ISLAM'S SOLUTION OF THE BASIC ECONOMIC PROBLEMS: THE POSITION OF LABOUR

M. Hamidullah

There is an innate contradiction in *laissez-faire* Economics, consisting in a conflict between social welfare and individual welfare in the majority of cases. For individuals acting freely (from purely economic motives) for their private gain cannot be assumed to sacrifice their private gain for general welfare as only too often becomes necessary.¹

Moreover *laissez-faire* Economics errs in assuming equal or adequate competing power in case of each factor of production. Under "organized production" the working class does not have sufficient power to insist on claiming remuneration equal to its "specific production." The supply of labour cannot be withheld to an appreciable degree for any length of time, that of land on the other hand cannot be increased at all considerably. The two agents possess very unequal competing power, and economic freedom will very soon destroy the *laissez-faire* assumptions even if the conditions are perfect to start with.

The non-fulfillment of these assumptions is chiefly to the disadvantage of the working classes which constitute the majority of mankind. As soon as the conditions become unfavourable to them their condition begins to grow worse. The effect is cumulative; they are reduced to utter poverty. The exploiters grow overrich.

Laissez-faire has been the rule of the world through the ages, and through the ages poverty like a tragic spectre has haunted the ceaselessly toiling humanity in ironic contrast with the riches of the leisured few. Free operation of this system renders one part of mankind "not in a

position," and another "not in a mood" to attend to anything other than wealth. From time to time religion and statecraft have revolted against such a condition. Islam embodies one such revolt. And it is at this point that religion first touches the Science of Economics.

Religion has to promise and secure something more than mere subsistence for its followers and those to whom it is addressed before it can be properly attended to. Islam proceeds to secure this by a new economic system. It declares destitution or utter poverty as unthinkable in human society. Our Prophet defined the poor man as one "who finds not the wherewithal to make himself independent" (economically);² and the Islamic State guaranteed subsistence to this class (removing thus the intrinsic weakness of labour). On this point I shall dwell later. But extreme and widespread poverty comes to exist by the side of excessive and concentrated riches because, as I said, private gains (from a purely economic point of view) are only too often inconsistent with maximum social welfare. And the method which makes private gains maximum, namely, private enterprise, makes impossible the method which maximises the social welfare arising from a given output namely, equal distribution of wealth.

Economic thought has constantly emphasised the one method or the other. The novelty of Islam's contribution to Economics consists in an adjustment of the two in a way which eliminates the defects of both and combines their virtues. Thus Islam gives an economic system that (1) is automatic, which is what the purely equalitarian or socialistic systems are not, (2) tends to equalise distribution which the *laissez-faire* system cannot, (3) provides a method of production which leads to maximum output with minimum disutility which the equalitarian systems do not, (4) provides stable business and industrial conditions which the *laissez-faire* economics cannot, (5) and maximises both the national dividend and the social welfare arising from it to a degree which neither of the two can. In it private enterprise does not interfere with increasing equality of distribution; rather each promotes the other.

We shall now consider some features of this system which reveal its essential nature and have a direct bearing on our basic economic problems.

I

In the first place the Islamic system guarantees ample subsistence to the poor. Religion cannot make a complete case for itself unless it brings deliverance from economic anxieties and leisure for other things. According to Islam, it is for God to provide livelihood to every creature and so His law specifically contains the provision for it. God has ordered: "Slay not your Children, fearing a fall to poverty, We shall provide for them and for you" (Qur'an 17:31). Again, "We have apportioned among them their livelihood in the life of the world" (ibid. 43: 32). And "We have given you power in the earth and appointed you therein a livelihood. Little give ye thanks" (Ibid. 7:10). So in Islamic economics³ the State undertakes to fulfil this guarantee on behalf of God through the institution of *zakah* or "Growth-tax".⁴

This is a tax on all property owned beyond a certain maximum and is meant, as the Prophet said; "to be taken from the rich among them in order to be given to their poor".⁵

Zakah literally means growth and increase, and according to some purity. The tax has been named *zakah* with respect to the first meaning because its giving leads to an increase of prosperity in this world and growth of religious merit in the next.⁶

There are two important divisions of this growth-tax, *sadaqah* and tithe. The one takes away a large portion of actual or potential interest arising from capital goods and the other of the surplus produce arising from agricultural land.

The cause of *sadaqah* being due is "the possession in full ownership of a productive *nisab* (minimum) of property; and its rate is 2.5 percent of the value of possessions other than land."

The tithe is a growth-tax on the produce of the earth. It is a charge on economic rent. In the Qur'an there are the verses, "And on the day of its harvest give its rights" (Ibid. 6: 142) and, "Bestow alms from the choice part of that which you have earned and that which we have made grow for you from the ground" (Ibid. 2: 269). Its rate is determined by the Prophet's saying: "In what has been irrigated by Heaven one-tenth

and in what has been watered with buckets or water-wheels, one-half of one-tenth".⁷

The growth-tax is quite separate from other financial taxes of the State and goes exclusively to the poor in such a way that the prayers do not derive any direct benefit from it.⁸ It is because its beneficiaries are exhaustively enumerated in the Qur'an. "The growth-tax is only for the poor and the needy and those who collect and those whose hearts are to be reconciled and to free the captives and the debtors, and for the cause of God, and for the wayfarer; a duty imposed by God" (Qur'an 9: 60).

The immediate purpose of this institution is to relieve the poor and to help them to grow in prosperity by giving them better resisting and competing power. The tax is collected in kind and distributed locally; so it is more economical and provides good quality of food to the poor. For the Qur'an commands: "Bestow alms from the choice part of that which you have earned and that which we have made grow for you from the ground" (ibid. 2: 267). The tax in these two ways increases the productive efficiency of the workers and thereby the prosperity of the whole community. It is a kind of protection to the labourers, and gives them an opportunity to improve their condition.

The tax tends to guarantee subsistence and thus eliminates one intrinsic weakness of *laissez-faire* economics. It introduces an important modification into that system by enabling the workers to claim and secure a remuneration equal to their "Specific production." For if the labourers are exploited, they can go on strike. The employers will have to yield. The institution takes away their absolute resting strength. It makes it uneconomical for them to try and defeat the workers by closing the works. The State will automatically tax them down if they try to defeat the workers by closing the works. For the tax being on the property owned, their property will begin to be taxed and distributed. So in practice they will readily give to the workers wages equal to their contribution to production.

Here we may also note how much emphasis the tax lays on production and productive employment of wealth. It regards all superfluous wealth as productive and taxes it as such, irrespective of whether it is so used or kept idle. It thus compels it to be so used. The

Prophet once said: "Are there those among you who are the guardians of orphans who possess property? Then let them trade with it and not leave it uninvested, so that the growth-taxes due on it do not swallow it up".⁹

Lastly it needs to be pointed out how fundamental this institution is in Islam. It is Islam's solution of a vital social problem and is of the essence of the religion. It is a cardinal principle next in importance only to belief in God and offering prayers. Many a time does the Qur'an repeat "establish worship and pay the growth-tax." No rich man can be or remain a Muslim without paying the growth-tax. It is an ordinance ("*fard*").

But the growth-tax is only a second best thing. It is repulsive to human dignity to take even State aid. Moreover, the emphasis that Islam lays on an earned livelihood necessarily implies the undesirability of living constantly on State aid. Also, Islam gives, as we shall see, a technique of production which, if adopted, would lead to so much increase of output and to so good a distribution as to make the institution of the growth-tax obsolete except as a potential measure. The Prophet said "Give *sadaqah* for a time is to come when people will offer *sadaqah* and there will be no one to take it."¹⁰

So the permanent importance of the institution is as a potential measure of guarantee against the falling of workers below or even down to the subsistence-level so long as there are people with "superfluous" wealth around.

II THE CAPITALISTIC INSTITUTIONS

Another feature of Islamic economics is that, though it provides the greatest initiative to production by recognizing private enterprise, private property, the institution of the family, inheritance, and a high standard of living, it yet contrives completely to eliminate the harmful influences of each of these. Thus it solves the economic problems connected with these institutions. Under a "Let alone" policy private enterprise makes impossible any approach towards an equal distribution of wealth; and family affection, supported by inheritance provisions, blinds men to other considerations, and leads to an exploitation of labour by the other agents

of production. Communistic economics therefore has revolted against these institutions blaming them for the accumulation of riches in the hands of the few and the consequent destitution of the many.

But the abolition of these institutions would kill individual initiative; and the disutility of producing a scientifically determined amount under State compulsion in an impersonal way may be enormous. Any scheme of arbitrarily distributing the wealth in equal amounts to maximise the welfare arising from a given output is bound to kill the incentive to production and thus decrease the amount of output. We cannot, therefore, be sure that by the abolition of these institutions the social welfare will increase. One thing is certain: the disutility incurred in producing a given amount will be very much increased.

Moreover, much of the innocent joy and charm of life, much of the education in gentler sentiments will be gone with the institution of the family, as also much of the brave endeavour and brave sacrifices of man. And with private ownership will be gone the moral development which the exercise of personal choice in connection with private property makes possible.

All this will react on the psychology of man and through it on his productive efficiency. The communistic system only emphasises distribution. It neglects production. Islamic economics, having them both in view, finds itself unable to sacrifice these institutions. It approves them with limitations.

In Islam God has appointed the institution of the family, "And He it is Who hath created man from water, and hath appointed for him kindred by blood and kindred by marriage" (Qur'an 25:54). And God counts it as of value to man, "We aided you with wealth and children" (Qur'an 17:6). And they have rights over him, "Give the kinsman his dues" (Qur'an 17:26). And their rights are prior, "And those who are akin are nearer one to another in the ordinance of God" (Qur'an 8: 75). Yet family affections are a partial value and a subordinate value. Devotion to family should never blind man to the ultimate values. There are vigorous limitations, as we shall see later.

Concerning private property, the Prophet declared: "Verily your blood and your wealth and your property are sacred (and inviolable)".¹¹ But its value is emphatically as a means.

Then Islam also approves private enterprise in business, the reward of which the Qur'an constantly calls the "the bounty of Allah." The permission is plain. "Allah permitteth trading and forbiddeth usury" (Qur'an 2: 275). Yet there are serious injunctions to honesty in business. "Give full measure and be not of those who give less (than due), and weigh with the true balance. Wrong not people in respect of their goods" (Ibid 11: 85). And further see the chapter entitled "Defrauding".¹² They are more elaborate in the sayings of the Prophet. From these the Muslim jurists have derived a large body of market laws.

Islam also appoints inheritance, "And unto each we have appointed heirs of that which parents and near kindred leave" (Ibid 4: 33). "Unto the men of a family belongeth a share of that which parents and near kindred leave, and unto the women a share of that which parents and near kindred leave, whether it be little or much. . . . a legal share." Yet the shares in inheritance are so many that far from leading to accumulation of big fortunes they cause a dispersal of wealth and tend to equalise it. They provide capital to more and more people and so give chances to others. In spite of property rights the individual cannot, by will, bestow more than one-third of his property on anyone except the State or the Cause of God.

The incentive to production is further increased by the religion's injunction to a better standard of living. Here Islam had to raise its voice against the ascetic in the contemporary religions and strongly to assert the values of this world. "Say: who hath forbidden the adornment of Allah which He hath brought forth for His bondmen, and the good things of His providing" (Ibid 7: 32).

Again, "O ye, who believe, forbid not the good things which God hath made lawful for you," (Ibid. 5: 87). Yet the high standard of living has also its limits; extravagance is reproached. "Lo! He loveth not the prodigals" (Ibid 7: 31). These institutions thus modified are retained and supplemented by the growth-tax to promote economic welfare.

III INDUSTRIAL FLUCTUATIONS

Within the above limits, Islam allows full-fledged private enterprise. How then would it solve the technical problem of industrial fluctuations which has arisen from "private enterprise-economics" in the 19th and 20th centuries and so greatly affects the welfare of communities?

The most important feature of Islamic economics is that its operation eliminates these fluctuations altogether. The fundamental cause of them, as advanced by many writers, is that prices are pegged high and not allowed to fall by the same percentage as the increasing supply would require if it were all to be consumed. The causes for the initial rise in prices are not themselves so disturbing. Even climatic causes such as the various astronomical, meteorological, and physical cycles do not cause much disturbance; they partially tend to cancel each other, and with economic speculation, storage, and specially with the growth of the world market they would sink into insignificance if not aggravated by other factors. Whatever the cause of the initial rise in prices, it is these aggravating factors that work the havoc. They are:-

- (1) Lending of capital on interest.
- (2) Overproduction and under-consumption.
- (3) Increasing inequality.
- (4) Over-speculation.

The most important of them is the institution of lending on interest. With a good harvest or any other initial cause such as increased supply of gold or governmental inflation, industrial prices rise, bringing more profits to the entrepreneurs. People begin to produce more with borrowed money and to start new concerns, again with borrowed money. For a time there are profits. A wave of optimism spreads. Lending institutions become overconfident and lend more and more to the speculators and to the less competent enterprisers coming into business. Very soon the credit bubble expands to its full capacity. More money gets involved in production and comparatively little is left with the consumers, so there is a shortage of purchasing-power and pressure on the 'prices to go down. We shall see later that this situation is brought about in some measure by the other factors too, and it always causes fluctuation. But the

fluctuations are enormous only when the entrepreneurs or the merchants are running their business with borrowed money, and money borrowed at interest. They find themselves in a fix. They cannot withhold supply for they have debts to discharge and they cannot lower the prices to be able to sell more, because a slight fall in prices leads to a considerable increase of the rate of interest and of the amount of principle in terms of goods. As Prof. Fisher has said the very effort to pay the debts increases the debts.¹³ Moreover, they can sell comparatively less goods at this time for they have no discharge labour, which act further shortens the purchasing-power of the consumers. To sell more, prices will have to be considerably reduced, which means an enormous increase in the real value of debts. They begin to be unable to discharge their obligations.

Here the essential duality of interests between the moneylenders and the borrowers for productive purposes comes into open conflict and with it the inherent weakness of an industry based on this institution becomes obvious. Just when the vital interests of the entrepreneurs demand that they should have financial resources to cope with the situation, the interests of the lending class demand a payment of the loans and are against their renewal. As a consequence, the entrepreneurs are deprived of their resisting strength; they cannot withhold supply. Distress selling results with a cumulative effect, leading to bankruptcies and bank failures. The institution of lending on interest causes the whole trouble. It makes the lowering of prices so harmful and withholding of supply impossible. This institution is responsible for the fluctuations in a number of ways. On the one hand it facilitates the investment of much unjustified capital in an industry; and on the other hand, as Marshall says, "the danger of not being able to renew his borrowings just at the time when he wants them most, puts him (the borrower) at a disadvantage relatively to those who use only their own capital much greater than is represented by the mere interest on his borrowing. And .the failure of this renewal," as Marshall again says, "may cause him to succumb to what would have been a passing misfortune if he had been using no capital but his own."¹⁴ It causes a slight rise in prices in any industry to lead to a great demand for the products of constructive industry and so it connects the fluctuations in the particular industries with the fluctuations in the constructive industry which by the nature of the commodities it produces fluctuates much more violently. And lastly, through bank failures, it spreads the distress of one industry to all the others and thus brings about

a total breakdown in more serious cases. Thus the trade depression on the crisis and its resultant troubles are mostly due to this institution and the socialists have wrongly attributed it to capitalism. Mr. Jawahar Lal, for instance, says in "*Whither India*" "This is the crisis of capitalism. . . . And the disease seems to be of the essence of capitalism."¹⁵ The disease is only of the essence of the institution of lending on interest. Islamic capitalistic economy eliminates lending on interest but retains capitalism and thus gets rid of all crises. The institution means a duality of interest in business. It causes an intrinsic weakness in industry and not only leads to a total breakdown of industry when a point of maladjustment of purchasing-power is reached, but is the fundamental instrument in helping the industry to reach that point. It is the only instrument which makes over speculation possible. The prosperity that it brings comes quickly but goes quickly too. Islam considers this prosperity as sham and warns against it. "Although interest brings increase," said the Prophet, "Yet its end tends to scarcity."¹⁶ And the Qur'an says, "That which ye give on interest in order that it may increase on other people's wealth hath no increase with God; but that which ye give in "growth-tax" seeking God's countenance hath increase manifold" (Qur'an 30: 39). The Prophet positively said that it was destructive: "Avoid the seven destructive things," he said, and the third he mentioned was "interest."¹⁷

The great part played by the institution in causing industrial fluctuations has been clearly shown by Pigou, Fisher, and some other economists. Yet its justification has so far been taken for granted.

IV A DIGRESSION ON INTEREST

There is a tendency to regard interest as of the same nature as the shares of the other factors of production, i.e., the reward for a service rendered. It is never examined how doubtful is this service. "They say trade is just like interest-taking; whereas God permitteth trading and forbiddeth interest (Qur'an 2: 275). Islam tends to be highly in favour of joint stock companies only the debenture-holders and commercial loans are ruled out as destructive. Partnerships were very popular in the days of the Prophet and were even extended to agriculture. If you have spare money you can become a partner or purchase a share and partake of both positive and negative profits. You are not allowed to give a blow to the

entrepreneur in his worst moment and destroy his resisting power and not only ruin him but create social havoc. There is the huge injustice in the institution of interest and the strong tendency to get out of control.

In fact there is no argument for interest. If you say that you charge it because the borrower makes a profit out of it, then you should charge it only when the borrower makes a profit out of it. And the poorer his success or his chances of success the less should be the rate of interest charged. Contrary to modern Economics it should vary inversely with the risks. The productivity argument leads to a commercial heresy.

The point is this; either you have nothing to do with the fortune of the borrower or you have a share in it. You cannot share his fortune and leave him his woes. The bargain is loaded with iniquity, and we have seen its harms. According to Islam you can only become a partner.

Islam secures the capitalistic enterpriser and rules out the pure capitalist (if we may so call the money-lender) thus providing a very sound footing for industry, the growth of whose prosperity, although somewhat slow at first, is very rapid afterwards, and very sure and stable throughout.

Regarding the nature of interest, Professor Marshall very well begins by identifying saving with "the habit of distinctly realizing the future and providing for it" and correctly emphasizes that "men labour and save chiefly for the sake of their families, although sometimes they save from an acquired habit." The difference is here: Islam does not allow the separation of the functions of saving or waiting and risk bearing. It does not allow a separate abstinence theory of interest. It is strictly what may be called the "Investment theory of interest." In the sense of an income from an investment in an enterprise interest is both necessary and legitimate. In this sense it is a sound inducement for accumulation of capital on which all progress depends. In the sense of a reward for mere lending it is a different thing. The elimination of such interest will not hinder accumulation of capital in the least while it will contribute to the stability, simplicity and morality of business. For, as Clark says, men save for a definite future income, "The Standard of living which needs to be maintained is the all important element in the case." Prohibition of lending on interest will only compel people to depend for this future income on direct investment.

V A DIGRESSION ON AGRICULTURE

Abolition of lending on interest may not appear so beneficial in the case of agriculture. The resources of the tenants are scanty; the fruition of their enterprise takes a long time. Without loans many of them cannot carry on production.

Yet it is in agriculture that the benefits of this abolition will reach farthest. For the institution is itself the cause of what it is supposed to remedy. But for this, people had not depended on those small holdings by working on which their labour is remunerated at less than half its worth. But for this, methods of production had taken an entirely different form in agriculture, and insufficiency of working capital had led to the development of joint-stock companies in agriculture.

Than joint-stock companies in agriculture no simpler solution is possible for our agrarian and humanitarian problems.¹⁸

In them shares may be made to consist of areas of land as well as of sums of money, and the land-shares may be classified according to the quality of land. (Even this classification of land-shares, as I propose to show in a separate article, need only be a transitional measure).¹⁹

The advantages of such companies will be very great, and I shall discuss them in a separate article for the matter is likely to raise some controversy. A few points however, may be mentioned in passing:

1. The agriculturist will no longer be kept tied to his land. Better mobility of labour will be secured.

2. With the development of "Land Exchanges" perfect transferability of land will be achieved. A world market for land will grow up and equality of prices be secured.

3. All the resources in land which cannot be utilized by individuals will be brought under the tractor. Food and raw materials will become much cheaper.

4. The universal handicaps of the agriculturists regarding finance and marketing would be very easily removed.

5. Employment of powerful machines and adequate chemical manures may overcome Nature's resistance, and indefinitely postpone the operation of the law of diminishing returns.

6. Joint-stock companies in agriculture will be the missing link between the present form of agriculture and the "factory farms" or "chemical manufacture of food" and will have an optimistic bearing on the population question.

7. Large numbers will be freed from their uncertain, irregular employment and, by becoming workers in other industries, may make possible three-hours shifts in manufactures. What Hobson calls the "social surplus" and which in our case will be much greater because no deductions will be necessary for interest, may now be devoted to providing leisure to workers by employing larger numbers for shorter hours and on adequate wages.

8. With proper education this leisure will spell "life." Only thus can man become master of the machines: Only thus can open the way for a humane civilization from the stagnation we are in.

It is easy to see how much these benefits exceed those promised by the familiar innumerable partial solutions of agrarian problems.

This development in agriculture will overcome many of the caprices of nature; and it will more thoroughly balance the good against the bad harvests and so eliminate an important initial cause of business fluctuations. The science of Biology is developing man's control over soil, seed and season. Chemical manures, Mendel's law,²⁰ vernalization processes are all there to help agriculture. Physics is also aiding with such inventions as photo-periodism.²¹ An industrial counterpart is needed and we shall not have to wait long for it.

Highly mechanized farming aided by the above and similar inventions will ultimately conquer the differences in fertility of soil and with the consequent even distribution of population one result would be

the disappearance of Rent. (This point too will be further dealt in a separate article). Only two factors would remain to share the national dividend: labour and investment.

Overinvestment, increasing inequality, changes in the value of money and inventions are some of the other factors which, combined with the institution of lending on interest, bring about a crisis in much the same way. With the abolition of this institution their harmful effects will very much diminish. They will have even then some power to cause unstable conditions. Islamic economics therefore eliminates them.

Overinvestment, oversaving, or overproduction is almost the same factor which in connection with the recent crisis²² has been described by the Pollak institute scholars, Foster and Catchings,²³ as the shortening of purchasing-power by more and more of money being devoted to productive enterprise and less being given out to society to purchase the output. This is brought about by either not spending sufficiently on consumption goods or by not paying enough in wages. This tendency may be called the second factor.

By emphasising the just and prompt payment of wages and by establishing the institution of the growth-tax, Islam has strengthened the position of the workers. It has made it possible for them to claim and have adequate remuneration. Unduly low wages are rendered more or less impossible, and so one of the causes of the shortage of purchasing-power is eliminated.

Secondly, Islam plainly saw that the efficiency of the everyday business of mankind depends upon the everyday habits of men, and it went on to emphasise spending. The religion expresses much contempt for miserliness and accumulation for its own sake. This prevents the critical situation that might have resulted from its emphasis on production. Wealth miserly accumulated can either be kept hoarded which means a wastage of productive resources and has been heavily taxed in Islam, or it may (to the neglect of consumption) be devoted entirely to production which will cause maladjustment of purchasing-power and may bring about a serious crisis. Islam rules this danger out too by emphasising spending.

In Islam two broad divisions of spending are on self and in charitable ways. For the present problem both have the same advantage; they help to increase the demand for industrial produce and prevent maladjustment of purchasing power. The Qur'an warns, "Spend your wealth in the way .of God, and be not cast by your own hands to ruin" (Qur'an 2: 195). All that was said about Islam's emphasis on a better standard of living is a plea for spending on consumption goods. The great and repeated emphasis in the Qur'an on spending in charitable ways, the institution of the growth-tax, and the warning against accumulation, all these in effect combine to keep the purchasing-power of the community intact.²⁴

Against accumulation and oversaving it has been plainly said, "Let not those who hoard up that which God has bestowed upon them of His bounty think that it is better for them. Nay, it is worse for them" (Qur'an 3: 180). And hoarding and miserliness are again and again rebuked. "And let not thy hand be chained to thy neck . . . lest thou sit down rebuked" (Qur'an 17: 29). The emphasis on spending against a lust for hoarding, along with the emphasis on production and "work," constitutes ample provision for an economic distribution of purchasing-power to be steadily maintained. This eliminates the second factor.

A third factor that may cause fluctuations is a tendency towards increasing inequality of wealth. It was pointed out that this tendency is inevitable in *laissez-faire* economics. For under that regime the worker's position is intrinsically weak. For this reason people at the top of the concerns begin taking progressively greater proportions of the national dividend. This fact is clearly established by a study of the causes of the recent crisis,²⁵ especially in America and Professor Thompson regards it as a very important cause. Islamic economy especially eliminates this tendency through a modification of the inheritance-provisions and some other measures, as we shall presently see.

The tendency is harmful in three more ways: (1) The people who begin to grow rich generally develop a greed for money. They cannot spend their wealth. They want it to multiply. So they overproduce. (2) Those who inherit large fortunes often spend on luxuries, diverting the community's resources to less stable industries. (3) Those who know that they are to inherit a large fortune very often come to lack ability and

industriousness. When the business comes into their hands it generally fails. This also disturbs economic stability.

As we have seen, Islam, by emphasising spending and providing competing strength to workers, exercises the first danger. It condemns the outlook that leads to overproduction. For bringing the two ends of society nearer together it has three means. The first is the institution of the growth tax.²⁶ It assigns a part of the economic rent and of the interest (actual or potential) arising from the ownership of capital goods exclusively to the poor. This improves their condition and thereby helps them to improve it further and so to move towards the upper end. As the velocity of money in the poorer classes is very great, the effect of this transference is very considerable.²⁷

Somewhat similar in nature are the *rikaz* and the *kharaj* taxes. *Laissez-faire* economics gives the land-owner a monopoly and excessive advantage. All the economic rent, and often more, goes to him. According to Islam, land is a free gift for all. Yet all cannot own land. Its ownership is left to free competition; the rent arising from it is however distributed to all. The land is not socialised, the rent is. The growth-tax, the *rikaz* tax, and the *kharaj* tax, are the instruments to socialise rent. The *rikaz* tax assigns one-fifth of the output of mines exclusively to the poor. The *kharaj* is a levy of about 2.5 per cent on the output of land.²⁸ It is due irrespective of whether or not the owner cultivates the land. It is devoted to general welfare. Thus, though all cannot share in the ownership of land, all share in the use of rent. This too removes the weakness of the labouring class and improves their condition.

The third means which Islam uses to eliminate increasing inequality is the Islamic law of inheritance, which distributes the big accumulations amongst a large number of close or even distant relations (cf. Qur'an 4: 7, 8, 11, 12, and 176.). This gives them a chance and stimulates their initiative. Thus, it not only brings the upper end of society nearer the lower, but also leads to a stimulation of enterprise and increase of prosperity. Now the business comes to be owned by a number of partners. So there is less risk of its being spoiled through incompetence and idleness.

It is easy to see that the general prosperity resulting from these arrangements should have a cumulative effect.

The fourth factor causing fluctuations is over speculation. Abolition of commercial lending gives a death-blow to this.

Another cause of fluctuations is the introduction of new inventions themselves which account for all progress. Professor Pigou has pointed out that it takes capital to make inventions practical. He argues that they are put in use only when capital is available, i.e., when credit is expanding. So he considers that they do not cause fluctuations but only aggravate them.²⁹ Under Islamic Economics there is no such thing as expanding credit. So inventions are possible only when there is "expanding prosperity" and so when society is really best able to bear the slight disturbance caused by their introduction.

Another factor that causes or accentuates crises is changes in the value of money. These, however, assume social importance only in connection with loans on interest. Islam disallows such loans and so they lose their significance. Islam thus eliminates fluctuations and with it the anxiety of the workers due to the uncertainty of employment.

VI SOME OTHER QUESTIONS

In one more way Islam tends to eliminate unemployment. For unemployment, in some measure, is also due to the unequal distribution of leisure. Islam, by assigning a limited value to the ordinary business of life, by providing prosperity and by emphasising a fuller life and specially a life in the interest of the Hereafter, diverts people's attention to other uses of time -learning, prayer, service-and makes them compete for leisure.

There is no use in quoting verses on this point. It is enough to remind ourselves that Islam is a religion and not an economic organization.

Another feature of Islamic Economics which goes to solve our problems is that it eliminates the central defect of *laissez-faire*

Economics by prohibiting all economic practices which yield a "private net product" at the cost of the "social net product." For instance our Prophet said, "Do not sell singing slave-girls nor buy them".³⁰ He also said, "Whoever holds goods for excessive prices is a sinner".³¹ We have already seen how Islam has forbidden false measures and weights, hoarding and interest. It also forbids other socially harmful practices such as begging, stealing and indolence. It lays down the general principle disallowing even the cases that are at the margin.

Islamic Economics of production thus takes a definite position between *laissez-faire* and socialism and so gets rid of most of the problems attached to them.

A last feature to be noted in this connection is that Islam is a great movement towards internationalism. The unity of religion is far greater than the unity of class, colour, or country. Muslims, the world over, tend to form one State. There does not arise the question of national self-sufficiency. Perfect territorial division of industries is possible. Nothing could further augment production.

VII ECONOMICS OF DISTRIBUTION

Islam's Economics of distribution, then, maximises the welfare arising from this output by bringing about, as we have seen, a more equal distribution of wealth. The professional money-lender is eliminated. Rent is socialised. The only claimants to national dividend left are the entrepreneurs and the workers. Islamic distribution is conspicuous by the absence of the so-called "parasitic classes." But to maximize welfare complete equality is not the means. Theoretically it may maximise the welfare arising from a given output: in practice it leads to a diminution in that output. There will be loss of initiative if unequal labour is equally rewarded, and loss of efficiency if it is standardised at a low level. Complete equalisation thus destroys its own purpose, and fails to maximise social welfare. The correct position seems to be to move towards equality only so far as it is consistent with maximum social welfare, and to retain inequality to some extent as a reward for greater service and a price for liberty. This is exactly the position in Islam.

The Islamic plan of distribution has appeared communistic to some who have, perhaps, been misled by the operation of the institution of the growth-tax on a large scale under the Caliphs, because the growth-tax distributes wealth according to needs. Thus Von Kremer remarks "Omar's communistic theocratic system of politics is one of the most remarked phenomena of history. . . . All Muslims were to enjoy perfect equality of rights, the ensure State income as well as the conquered land was to be the common property of the Muslim community and every member of the brotherhood of Islam was to receive a fixed annuity from the State chest",³² and Mr. Khuda Bukhsh has assigned a decisively democratic and socialistic conception to the "original Islam".³³

Yet the Islamic system is neither communistic nor socialistic. The Islamic formula of distribution seems to be: to the poor according to their needs, to the rich according to their services. More useful economic talents are higher placed and better rewarded. God himself makes this arrangement and guarantees the Economic hierarchy: "We have apportioned among men their livelihood in the life of this world, and raised some above others in rank so that some of them may take labour from others" (Qur'an 43: 32). And "He enlargeth the providence for whom He will and straiteneth (it for whom He will)" (Qur'an 13: 26).

Yet Economic ranks and occupations do not affect the position of the individual in society. "The believers are nought else than brothers" (Qur'an 49: 10). The classes are just a matter of economic division of labour. They do not denote the value of men. Islam, destroying the money-illusion, substitutes an altogether different standard of distinction and valuation. This brings us to the fundamental feature of Islam, which controls the "ordinary business of life," declaring that it is a limited value subordinate in importance to love and altruism and thus strikes at the fundamental problem which is the fountain-head of all economic troubles. According to Islam "God has set a measure for all things (Qur'an 65: 3), and the way of the growth of the individual personality is in adhering to that measure. A disproportionate devotion to anyone value injures its growth. A study of what this measure is with regard to some values closely connected with economic problems clearly reveals that, if it is adhered to, some of the basic economic problems would be easily solved.

In spite of all that was said in praise of family and riches; they are only a part of the values of this world and not very much in themselves. "The comfort of the life of the world is but little as compared to the Hereafter" (Qur'an 9: 38).

Their value is more as means than as ends in themselves. They do not figure in the ultimate valuation. "The day when wealth and sons avail not (any man) save him who brings unto God a whole heart" (Qur'an 26: 88-89). They serve their purpose in this world. They help or harm the man. Islam completely disillusioned man concerning family and riches. The Qur'an says, "O ye who believe, lo! among your wives and your children are enemies for you, therefore beware of them" (Qur'an 64: 14). "Let not your wealth nor your children distract you from remembrance of God. Those who do so, they are the losers" (Qur'an 63: 9). "They who hoard gold and silver and spend it not in the way of God, unto them give tidings of a painful doom" (Qur'an 9: 34).

This must be enough to destroy a disproportionate devotion to family and to cure money-madness. In the ultimate valuation only the deeds figure. "Every soul is a pledge for its own deeds" (Qur'an 74: 38). "And the good deeds which endure are better in thy Lord's sight for reward and better for resort" (Qur'an 19: 76).

Islam completely destroys the idea that wealth is an end and is of intrinsic worth. Hence its possession in itself confers no distinction. Instead, the distinction goes to those who do good and useful deeds. "Lo those who believe and do good works are the best of created beings" (98: 7). "And the pious deed doth He exalt" (Qur'an 35: 10). The Prophet said, "And the best of you is he who is best among you to his people."³⁴

The beneficial effect of substituting such a constructive standard of distinction is obvious. It is by such education that Islam solves the central economic problem to which Prof. Keynes refers as follows: "At any rate to me it seems clearer every day that the moral problem of our age is concerned with the love of money, with the habitual appeal to money motives in nine-tenths of the activities of life, with the universal 'striving for the individual economic security, the social approbation of money as the measure of constructive success, and with the social appeal to the

hoarding instinct as the foundation for the necessary provision for the family and for the future."³⁵

And it is by such education that Islam fulfils the hope. . . ."A revolution in our ways of thinking and feeling about money may become the growing purpose of contemporary embodiments of the ideal".³⁶

These are some of the features of Islam's Economic system whose simplicity, so long, concealed is profoundness. The world to-day is in a better position to appreciate them. After costly experiments it has found out the inadequacy of Socialism and *laissez-faire*. *Laissez-faire* has come to a complete end. In the war and post-war period all the countries of Europe have, one by one, given up the idea. The U.S.A. has suddenly gone in for wholesale planning. The same change is noticeable in China. Thus Article 17 of the Provisional Constitution for the period of Tutelage, adopted on May 15th, 1931, states that the exercise of the right of ownership of private property, in so far as it does not conflict with public interest, shall be protected by law. The Fascist movement, on the other hand, has arisen as a demand for moderation of scientific socialism. Both for its life and efficiency it depends upon its sense of limit.

Economic History has plainly demonstrated that both *laissez-faire* and Socialism are untenable extremes. For efficient and equitable Economics the elimination of their defects and a proper balance of the two, such as Islam offers, seems well worth considering.

(*Islamic Culture*, Hyderabad (Deccan), Vol. 10, no.2, April 1936, pp. 213-33)

NOTES

1. See Pigou's *Economics of Welfare* Chapter IX.
2. al-Asbahi, Malik b. Anas, *Muwatta* 2: 923, hadith no. 1645 [aai].
3. Perhaps, Hamidullah was the first to use the term "Islamic Economics"[aai].
4. "Growth tax" is Hamidullah's term for zakah [aai].
5. al-Bukhari, *al-Jami` al-Sahih*, 2: 130, hadith no. 1395 [aai].
6. *Mohammedan Theories of Finance* by Aghnides. p. 203.
7. al-Qushayri, *Sahih Muslim*, 3: 67 [aai].
8. See *Majma' al-Bahrayn*, p. 132.
9. al-Tirmidhi, *Sunan al-Tirmidhi*, 3: 32 [aai].
10. al-Bukhari, *al-Jami` al-Sahih*, vol. 2, 236, hadith no. 1414 [aai].
11. al-Baghwi, *Mu`jam al-Sahabah*, 5: 85 [aai].

12. *Surat al-Mutaffifin* the 83rd chapter of the Qur'an [aai].
13. Fisher, Irving. "The Debt-Deflation Theory of Great Depressions," *Econometrica* 1.4: 344 [aai].
14. Marshall, *Principles of Economics*, Book IV, Chapter XII.
15. Nehru, Jawaharlal, *Whither India?* p. 11 [aai].
16. Ibn Majah, *Sunan Ibn Majah*, Hadith no. 2279 [aai].
17. al-Bukhari, *al-Jami` al-Sahih*, 4: 12, hadith no. 2766 [aai].
18. *Muzara`ah* or share-cropping would have saved farmers from suicide which has been observed as a result of interest based lending in India and specially in the states of Andhra and Maharashtra. [See "Capitalism: A Ghost Story" by Arundhati Roy, at:
<http://www.outlookindia.com/article.aspx?280234>
Accessed on 31.3.2012 [aai].
19. Hamidullah mentioned that he had intention to write separately on agriculture. We did not find such a work. Had he written that, it would have been an important pioneering work, as is clear from the notes given here [aai]
20. Gregor Johann Mendel (1822-1884) was a German-speaking Silesian scientist and Augustinian friar who gained posthumous fame as the founder of the new science of genetics. His law is also called law of segregation, the principle stating that during the production of gametes the two copies of each hereditary factor segregate so that offspring acquire one factor from each parent [aai].
21. Photo-periodism or photoperiodism is the physiological reaction of organisms to the length of day or night. It occurs in plants and animals. Photoperiodism can also be defined as the developmental responses of plants to the relative lengths of the light and dark periods. Here it should be emphasized that photoperiodic effects relate directly to the timing of both the light and dark periods.
<http://en.wikipedia.org/wiki/Photoperiodism>
Accessed on 11.11.2013 [aai].
22. A reference to Great Depression of 1930s [aai].
23. Pollak institute scholars Professor William T. Foster (1879-1950) and businessman Waddill Catchings (1879-1967) joined forces to establish the Pollak Foundation [aai].
24. Hamidullah is stressing upon spending in the back drop of Great Depression, at the time when the famous economist Keynes emphasized on government spending as a remedy of the depression [aai].
25. He means the Great Depression of 1930s [aai].
26. As we noted above the growth tax is Hamidullah's expression of zakah [aai].
27. The idea which was expressed by Keynes as marginal propensity to consume (MPC) is higher among the poor [aai].
28. Here Dr. Hamidullah confused *kharaj* with zakah on gold, money and merchandize. It is not correct to say that "The *kharaj* is a levy of about 2.5 per cent on the output of land". First of all there is no fixed rate or amount of *kharaj* in Shari`ah. It is left to the state to decide it. Second, it is not on the 'output of land'. *Kharaj* is rent for the use of land. It may be 'fixed land tax' or it may be 'proportional agricultural tax' as suggested by Abu Yusuf in his *Kitab al-Kharaj* (1392 H., p. 52). Hamidullah has rightly said: "It is due irrespective of whether or not the owner cultivates the land" [aai].
29. Pigou has pointed out that it takes capital to make inventions practical [aai].

30. al-Tirmidhi, op. cit. 3: 579, hadith no. 1282.
31. Ibn Hanbal. *Musnad*, 2: 351, Hadith No. 8602 [aai].
32. Kremer, Von, *Contributions to the History of Islamic Civilization*.
33. Khuda-Bakhsh, *Orient under the Caliphs*.
34. al-Tirmidhi, op. cit. 5: 709, hadith no. 3895.
35. Prof. Keynes *A short view of Russia*.
36. Ibid.

5

PROPERTY

(An International Islamic Perspective)

M. Hamidullah

Like private individuals, States, too, may and do own property. The first thing a State owns is territory. The relation of State with territory is so close that a State without definite territory is, even inconceivable. Even the *de jure* rulers in exile possess defined territories to which they lay claim.

By territory is here meant not only the surface of the part of the earth over which a State exercises its jurisdiction, but what is below it and what is above it, comprising thus land, water and air. Obviously, in ancient times, when science had not developed so much, States laid claim over only so much of the creation of God as they could directly dominate.

By the time Islam made its appearance, man had already conquered water as well as the subterranean treasures of nature such as minerals. Regarding air, there were neither aeroplanes nor radio broadcasts, much less the sputniks. Nevertheless the Arab jurists believed that everything above or below a territory belonged to it. It was thus that they prohibited the construction of private buildings over or below public bequests such as mosques, schools, etc.¹ With water we shall have to deal later on.

No doubt, the theocratic basis of Muslim polity denies a State absolute ownership - as distinguished from relative ownership or trusteeship for God - in territory; nevertheless for all practical purposes, there is no difference between the power of a Muslim State and those of a State which does not believe in God, regarding its territory. In view of the ultimate

ownership of God, it not only implies that the human ownership of a Muslim State should be a mere trusteeship and administratorship but also Divine origin of the rights of a sovereign. A sovereign authority is declared in the words of the Prophet as the "shadow of God," and whoever despises it, despises, so to say, God Himself.² It is to be noted, however, that, in spite of this Divine appointment, the Muslim ruler is not a despot; he is, first of all, as much subject to the laws of the country (the *Shari'at* itself having a Divine origin, and not vaguely but in concrete form of the Qur'an and the Sunnah), as any other commoner from among his subjects; further, the ruler is maintained in power by the collective might of the community; he may even be deposed³ by the community on the principle that "the Hand of God is on the community" (*yad-Allahi `ala'l-jama`ah*)⁴ and that "my community cannot agree to a wrong" (*la yajtami` ummatiala'l-dalalah*)⁵ or *voxpopulivox Dei*.⁶

Unlike some other systems of law where the individual owns property in lands as a delegated authority or trustee, all land of a territory being vested in the State. Islamic jurists have opined that every individual owner has the same Divine authority, and the supervising authority of the State is only a symbol or a manifestation of the collective authority of the community. Abu Hanifah, for instance, is reported to have said:

All parts of the Muslim territory are under the authority of the *Imam* (Ruler) of the Muslims, and his authority is the authority of the community of the Muslims.⁷

We have seen that a State always owns territory⁸ - details of which will be given presently - yet that is not all. A State may and always does own things other than territory, such as buildings, means of transport, money, stores, books, etc. International law applies to them in so far as their acquisition by one State from another, through pacific or hostile methods, and their disposal are concerned.

But territory, that essence and cream of a State's property, requires further elucidation.

Boundaries

Boundaries have always been a very difficult question to settle in international intercourse. They are defined through prescription as well as express treaties between the neighbouring States. If there is a river or lake on the frontier, the boundaries of the States will extend to meet each other in the middle of the water unless otherwise settled by prescription or express treaty.⁹

It is a general and admitted principle of Muslim law that water will be an appurtenant to adjoining land and not *vice versa*.¹⁰ That is, a State which possesses a tract of land, bounded by water, will *prima facie* be presumed to possess also the adjoining water - a lake, for example; and not that the State which possesses water is entitled to the proprietary rights of the adjoining land.

Open Sea

Obviously open sea cannot be treated as ordinary watercourse or lake. Early writers scarcely mention it in this connection. Post-classical jurists have a difference of opinion whether it should be considered as no-man's property or non-Muslim territory. In either case, they argue on the basis of control that could be exercised. Ibn 'Abidin, while describing the capture of Muslim property by the enemy and rendering it safe through taking it to their territory, analyses the opinions of different jurists on the subject:

". . . if they [i.e. enemy] take it to the safety of their territory. The enemy territory includes the Salt Sea (Open Sea) and the like; for instance. a desert beyond which there is no Islamic territory. This opinion has been attributed to al-Hamawi (d. 1098). Abu al-Su'ud, writing notes on the commentary of al-Hamili's in verse, says that the surface of sea will be considered as non-Muslim territory. Al-Sharanbilali (born 1069 H. author of *Ghunyatdhawi al-Ahkam fi BughyatDurr al-Hukkam*) records in his

chapter on tithes that Siraj al-Din 'Umar ibn 'Ali al-Kinani, known as the *Reader of al-Hidayah*, was asked whether the Salt Sea would be considered as part of Muslim territory or non-Muslim territory. He replied: It belongs to neither category since none has control over it. Al-Haskafi in his *al-Durr al-Muntaqa*¹¹ opines that the Salt Sea should be included in non-Muslim territory.¹² [The same author mentions in another place¹³:] The author of *al-Nahr* says that all that appertains neither to Muslim territory nor to non-Muslim territory should be included in non-Muslim territory; for instance, the Salt Sea over which no one has control. ... Apart from this, the Salt Sea will be treated as non-Muslim territory. So, if a non-Muslim subject of Muslim State goes thereto without permission, he will become a subject of non-Muslim State and his allegiance will be cut off. Again, if a subject of a non-Muslim State goes thereto and returns to Islamic territory before reaching home, the old permit will no longer be valid; his belongings will again be taxed [for import customs]."

It is clear from this discussion that the opinion of these jurists was based on the difficulty of exercising power over it with their small sailing boats. They admit implicitly that Muslim jurisdiction extends to what they can control. In later times the Turks, for instance, have exercised their jurisdiction over the Black Sea, and no Muslim jurists have denied the validity of it.

In connection with territorial waters, a saying of the Prophet, in quite general and all-embracing terms, may be referred to. He is reported to have laid down that "every land has its appurtenance forbidden [to other than the proprietor]" [*innahu (SAW) ja`al li-kullardharima*]¹⁴ The rule has been developed regarding municipal law so as to apply to wells, roads, waterways, canals, houses, etc.,¹⁵ yet it does not seem to have been developed and worked out so as to apply to international law, more particularly to open sea. And probably there

was then no need even. According to Muslim jurisprudence even the sea has been put into man's control:

- (a) *It is God Who hath subjected the sea unto you, that the ships may sail therein at His command and that ye may seek [advantage unto yourselves through commerce, etc., of] His bounty and that ye may give [Him] thanks. And He hath subjected unto you whatever exists in the heavens and in the earth; and therein are verily portents unto thinking folk (Qur'an 14: 12-13).*
- (b) *And He it is Who hath constrained the sea to be of service that ye eat fresh meat from thence, and bring forth from thence ornaments which ye wear. And thou seest the ships ploughing it that ye may seek of His bounty and ye may give [Him] thanks (ibid. 16: 14).*

And if the Muslim State can snatch control over part of it from anybody else, it will become part of Muslim territory. However, it is to be noted that Muslim jurists have always made a distinction between that they consider of public utility and private utility. A thing of public utility cannot be given in monopoly to private individuals:

All the Muslims join in the utilisation of Tigris and Euphrates and any other big river like them or valley from which they water the soil or use for drinking purposes of man and beast The maintenance of such big rivers and repairing their banks is on the public treasury. The big rivers are not like particular rivulets belonging to private persons where others cannot enter Tigris and Euphrates are not like that, and anybody who likes to water his soil from them can do that at will; boats pass in them, right of pre-emption does not arise on account of mere joining in the utilisation of their water.¹⁶

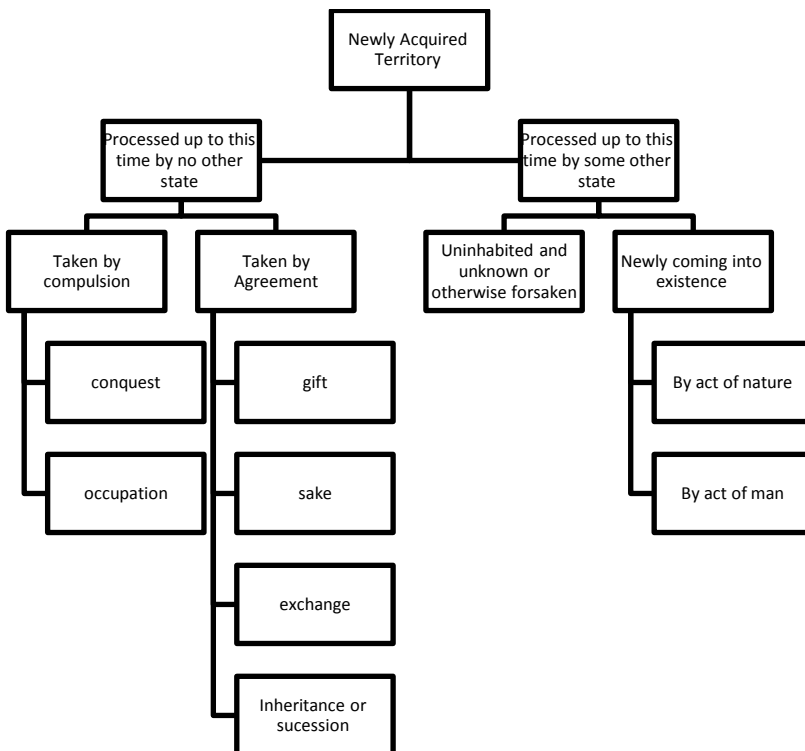
The Prophet himself prohibited more than once the giving in *jagir*(fief) of things in which there is common interest.¹⁷

International waterways and canals were contemplated in

classical times, one even to join the Red Sea with the Mediterranean, never though undertaken for fear of strategic complications. I do not hesitate to maintain that, had they been projected and achieved, they would not have been different from ordinary canals and rivers, with full exercise of jurisdiction and proprietary rights and complete control over traffic. The famous canal from Cairo to the Red Sea, constructed in the time of Caliph 'Umar,¹⁸ suggests to us the treatment that would have been meted out to it if it had been extended down to Farama¹⁹ near Port Sa'id. The canals and rivers and other waterways in Muslim territories were open to all peaceful traffic, and if foreigners brought anything from their country through waterways, they were taxed with the usual dues.²⁰

Modes of Acquiring Territory

The modes of acquiring new territory by a Muslim State may be divided as follows:



(1) Territory not yet occupied by any State, owing either to new discovery or for want of being cared for on account of its remoteness or some other reason, may be acquired by occupation. There is no case of this kind in early Muslim history except one when some Arabs reached a new and unknown island by stress of weather and afterwards related wonderful stories to the Prophet.²¹ Annexation could obviously not be expected. In later travel literature, there are frequent references to discovery of new islands by those hardy Muslim sailors who dared undertake voyages from Persia and Egypt to China in tiny boats to the envy of modern navigators, but no instance of occupation is known to me. Even the discovery of America by the Arabs²² has not left anything of interest from the point of view of international law except that colonisation had just begun. The history of Muslim occupation of South Seas and the thousands of islands in Oceania is yet to be written to provide us with necessary data.

(2) Lands coming newly into existence may be of two kinds: those which came into being by act of nature, and those by act and art of man. In the former we may include islands raised up by convulsion of earth or alluvial deposits of a river or even by the change of a river's course. Artificial reclamations of water-covered areas are old enough to be mentioned by Abu yusuf.²³

If natural accretion happens within the territorial limits of one State - the nearer half of the course of a boundary river included - and has caused no damage to any other State, it requires no formal occupation in an international sense. If an island comes up in a place where the imaginary boundary line crosses through it, it must be proportionately divided and distributed between the neighbouring States concerned or otherwise the matters should be settled through treaty stipulations.

But if the natural accretion has happened at the expense of another State - as, for instance, through change of river's course - Muslim municipal law says²⁴ that the accretion must

go to the one in whose possession it has happened, yet he must pay compensation to the sufferer in proportion to his gain. This is based on the principle expressed in the maxims that "gain accompanies sufferance" (*al-ghunm ma` al-ghurm*) and "injury must be removed" (*al-dararyuzal*).²⁵ The Muslim jurists will apply the same rule to international disputes.

Yet if the changing of a river's course is so great that has become a territorial river instead of a boundary river, the line of boundary must lie in its old bed, for:

Thy Lord bringeth to pass what He willeth and chooseth. They (i.e. human beings) have never any choice. Glorified be God and exalted above all that they associate (with Him) (Qur'an 28: 68).

And it becometh not a believing man or a believing woman, when God and His Messenger have decided an affair (for them), that they should after that claim anything in their affair; and whoso is rebellious to God and His Messenger, he verily goeth astray in error manifest (Qur'an 33: 36).

There are many cases in Muslim history of a river's changing its course, 'Amudarya (Oxus),²⁶ for example, but whether these events ever produced inter-statal complications, I am unaware. I do not possess data on classical practice. In recent years there have occurred at least two cases:

(a) *The Continental Daily Mail*, Paris, dated 1 August 1948, page 2, in article "Persia Peeps," reports to the following effect: "The other ambiguous spot is along the River Atrak, which is the official boundary between Russia and the Persian province of Gurgan. This river flows into the Caspian, but lately it has shifted the lower part of its course to the south. The Russians insist that the new bed of the Atrak constitutes the frontier, thus giving them more territory. The Persian view is that the old course of the river remains the boundary. Occasional exchanges of shots result from this difference of opinion, and last March a Persian frontier-guard was killed there." I do not know the sequel.

(b) After the partition of the British India similar differences arose between Bharat²⁷ and East Pakistan,²⁸ The frontier was demarcated on old printed official maps, but several rivers had changed 'their course since the publication of those maps. A neutral was appointed as arbitrator in 1950, who awarded that in case of certain rivers, whose course had deviated very much, the old bed should form the frontier; and in cases of small fluctuation," the frontier should remain fluid and should change according to the changes of the course of the rivers. It is to point out that the arbitrator was not a Muslim, nor did he feel himself bound by the Islamic jurisprudence, yet his decision came very near the theories of Muslim jurists of yore, minus question of compensation to the loser. In 1958, another treaty providing for exchange of territories, etc., was concluded to rectify the frontiers in the same region.

Artificial reclamation has nearly the same bearing. If it can be achieved without others' suffering in any way, no right of interference accrues to anybody. Otherwise, it will require previous settlement through express stipulation.

(3) Forcefully acquiring a territory possessed by some other State may be either through war and conquest or even mere occupation without encountering any resistance on the part of the occupied. Mere conquest does not amount to annexation: it requires intention to annex. For it is possible that conquest and occupation were carried out on behalf of some allied and friendly State, or merely temporarily to compel the opponent State to mend some wrong. Secondly, it requires continuous and uninterrupted governance and the exercise of sovereign rights combined with firm possession.

(4) Territorial acquisition through mutual consent may either be through gift, exchange, sale or inheritance. Gifts, especially as dowries, have left many instances, at least in the history of Muslim India.²⁹ Exchange of territories has also occurred many a time³⁰ mostly for strengthening boundaries. An instance of sale is recorded during the reign of Caliph 'Umar II of the Umayyad dynasty, who purchased *Malatayah* from the

Byzantines, giving in exchange a hundred thousand prisoners of war.³¹ A case of inheritance was provided for in the treaty of cession concluded between al-Hasan and Mu`awiyah, by which the former handed over to the latter all his possessions on the condition that he should be declared heir apparent to the whole old and new dominions of the latter.³²

Various Kinds of Territories under the Power of a State

A State does not always exercise similar powers over all parts of its territory. A few instances will illustrate the point.

(a) Regular Parts of Dominions and Condominiums

Every such part of the territory of a State is under its direct control, no matter whether possessed since antiquity or newly added, whether populated or waste, civilised or nomadic and even barbarous. A State may consist at the same time of all or several of these kinds of lands.

AbulFida' records a case of condominium which lasted for a long time (*famalakumu`amalahmadidah*).³³ A little earlier, in 513 H., Mahmud ibn Alp Arslan and his paternal uncle Sanjar were also "associates in the sultanate" (*ishtarakafi'l-saltanah*).³⁴ Strictly speaking, these are cases of joint rule. Condominium, in the sense of the joint property of two States, is rather a new notion. Sudan, before its recent independence, was described as an Anglo-Egyptian condominium.

(b) Tributary Independent States

For want of a better term, we mean by this the non-Muslim States from which a Muslim State received tribute, by the exercise of compulsion. This does not involve protection by the Muslim State of the tributary State against aggression of third powers, but it secures itself from attack on the part of the Muslim State. Apart from this obligation of tribute, the non-Muslim State remains completely independent, the tribute symbolising only a sort of inferiority and weakness. Thus, for instance, Theodomir agreed to pay yearly tribute to the Arab conquerors of the first century of Hijrah while at the

same time retained his independence.³⁵ So also under the Abbasid al-Mansur and all his successors down to al-Mu'tasim, the Emperors of Constantinople paid tribute more or less regularly to Baghdad. Caliph al-Mahdi received tribute from the Empress Irene, and Harun al-Rashid not only received tribute but also capitation tax (*jizyah*) from the Emperor Nicephorus and his family.³⁶ Further, the epistolary etiquette of the Byzantine empire required that the name of the Caliph should precede the name of the emperor, in the address, in spite of the fact that just the inverse order was followed when the Byzantine emperor corresponded with the kings in Europe.³⁷ Yet in all such cases the internal and external autonomy of the tributary State did not suffer.

There is even a case of dual subjection to tribute. Caliph Mu'awiyah subjugated Cyprus and concluded peace on the condition that Cyprus should yearly pay a certain tribute notwithstanding the fact that it also paid tribute to the Byzantine emperor. It was further stipulated that the people of Cyprus should remain sincere and well-wishers of the Muslims and should keep them informed of the movements of the Byzantine.³⁸ History has repeated itself in 1960, when Turkey and Greece (and in a lesser degree, England) have certain control over Cyprus getting an independent State.

(c) *Nominally Dependent*

By this we mean the Muslim independent States which came into being when the authority of the Abbasid Caliphs could not exert itself. We may include in this category even the Spanish States until 'Abd al-Rahman al-Nasir assumed the title of the "Commander of the Faithful,"³⁹ reserved for only one person at a time for the whole of the Muslim world. More pre-eminently this is true of the States in the East, They were originally provinces of the empire of the Caliph, and had gradually become independent, so much so that they gave birth to dynasties of rulers. In spite of full independence that they enjoyed, they publicly acknowledged their allegiance to the Caliph of Baghdad in the weekly Friday sermons in the

cathedral mosques and also at the two yearly `Id festivals.⁴⁰ Often the name of the Caliph was struck on the coins of these States.⁴¹ The succession was for long considered incomplete without the charter or letter-patent of the Caliph.⁴² The titles of honour were jealously and eagerly sought after.⁴³ This is true not only of the provinces of the Caliphate which became independent but also of the Muslim States' founded and conquered by private individuals at their own initiative, and nevertheless they believed themselves bound to pay homage to the Caliph, such as the States in India. To this list we may add the names of States whose sovereigns embraced Islam and paid homage to the Caliph: for instance, the King of Bulgar (near modern Kazan, in U.S.S.R.),⁴⁴ in the year 310 H.⁴⁵ In all these cases the dependence, if at all we may term it so, was more personal and institutional than political and actual. It cannot, however, be denied that the Caliph did at times exercise a moral influence over the policies of these independent States, as for instance, in the year 757 H. the influence of the Caliph was sufficient to prevent Feroz Shah, in such a far off country as India, from attacking Mahmud Shah Bahmani, who had obtained intercession of the Caliph in his favour somehow or other.⁴⁶

History has recorded the curious and even paradoxical cases when some of these provincial, independent· governors, sometimes even Shi'ahs, captured Baghdad, the very seat of the Caliphate, ruled over it as part of their territory and yet paid homage to the Caliph.⁴⁷ The Ayyubid Salah al-Din the Great was rightly and meritoriously given the proud title of "The Reviver of the Kingdom of "the Commander of the Faithful" (*muhiydawlatamir al-muminin*).⁴⁸

(d) *Protected States*

By this we mean those part-sovereign or non-sovereign States which obey the dictates of their protector in many matters of policy, being in return entitled to protection on the part of the suzerain and protecting State. The protecting State exercises a certain amount of control, yet does not govern directly the protected country where the local prince continues

to rule. The Prophet had addressed missionary letters to many a foreign prince in which this characteristic phrase occurred: "If you submit [i.e. embrace Islam], I shall leave intact the power you exercise."⁴⁹ Of those who were addressed in this way, the rulers of Bahrayn⁵⁰ and 'Uman⁵¹ accepted the Call, and the Prophet sent to their Courts *Residents* who exercised certain functions, had exclusive jurisdiction over the Muslims in those countries, and at the same time the local rulers retained their powers in the residuary matters. In later history of Islam, however, there are innumerable instances of protectorates with varying grades of powers exercised by the suzerain power, in India as well as elsewhere.

(e) *Sphere of Influence*

By this we understand a country which is marked by a State for future domination but which it does not consider ripe enough for immediate annexation. In such cases, generally, there are either express or tacit agreements with other possible rivals who first disclaim any interest of theirs in the country concerned, and gradually all connections are severed between the sphere of influence and the rest of the world except the dominant State which at last occupies it at a proper time.

There is an instance of this kind in the history of India, probably not the only one of its kind:

*"In the year 939 H. they (i.e. Nizam Shah and 'Adil Shah) met together on the frontier, and after much negotiation so decided that Nizam Shah should subdue and annex the country of Berar, and 'Adil Shah the dominion of Telenganah, thus dividing Southern India equally between each other".*⁵²

The chief point agreed upon, in this treaty, was that one would not interfere if the other conquered the territory allotted to him and would recognise as the sphere of his influence and his interest.

Neutralisation and No-Man's Land

That there exist tracts of land, especially on the frontiers, where neither of the neighbouring States exercises authority has been known to classical Muslim jurists. Thus, Radi al-Din al-Sarakhsi writes that a Muslim subject, temporarily residing in a belligerent State, may bring under his protection an enemy person to Muslim territory; and such a person will be considered as *bona fide* resident alien, because, although the protection given by a Muslim, residing in belligerent country, is void yet,

*"When they both arrived at a place differentiating between the two territories, where the people of neither has authority, they both are relieved of the jurisdiction of the belligerent State, and the protection given her by the Muslim becomes valid and she is not subject to the Islamic territory (i.e., jurisdiction) unless she had reached a place where the Muslims find themselves safe (i.e. Muslim territory)".*⁵³

Same is the opinion of his senior, Shams al-A'immah al-Sarakhsi,⁵⁴ and may be considered as the opinion of all the Muslim jurists.

("Property" a Chapter in *The Muslim Conduct of State*, by Muhammad Hamidullah, Lahore, Sh. Muhammad Ashraf, 1968, Revised Fifth Edition, pp. 91-107. First published in 1941)

NOTES

1. See any law compendium, ch. Waqf
2. Cf. al-Tayalisi, Sulayman b, Dawud (1419/1999), Musnad al-Tayalisi, n.p. Dar Hijr, vol.2, p. 210, Hadith no. 928; Ibn Hanbal, V, 42, 48, and especially 165. [In the opinion of al-Albani the saying "A sovereign authority is declared in the words of the Prophet as the shadow of God, and whoever despises it, despises, so to say, God Himself" is a weak *hadith*. See *Silsilat al-Ahdith al-Da`ifah*, vol. 4 p. 164. aai }
3. al-Sarakhsi, *al-Mabsut*, 10: 93. ولأبي حنيفة ... تحت يد إمام المسلمين ويده يد جماعة المسلمين

[The argument of Abu Hanifah is that it was found under the sway of the Imam (caliph) of the Muslims And all those reasons for which a

delegate is deprived of his authority, etc. And that is the difference between the deposition and the death.]al-Kasani, VII: 16, وكل ما يخرج الوكيل عن الوكالة ... فهو الفرق بين العزل والموت

-Ibn Khaldun, *Proleg.*[*Muqaddimah*], ch. 26 الخلافة راجعة إلى اختيار أهل العقد والحل [The caliphate depends upon the choice of those people who do-and-undo.]

-cf. al-Hutay'ah (d. 30 H.) mourning on the murder of 'Umar:

أنت الإمام الذي من بعد صاحبه ألقى إليك مقاليد النهي البشر
لم يؤثروك بها إذ قدموك لها لكن لأنفسهم كانت بك الأثر

[Thou art the person whom the people confided, after the Comrade of the Prophet (Abu Bakr), with the keys of injunction: They did not give thee, the excellence when they advanced thee, but they themselves got excellence on account of thee]

-cf. 'Ali 'Abd ar-Raziq, *al-Islam waUsul al-Hukm*, (Cairo, 1343 H. -cf. the curious opinion of Diraribn 'Amr on the preference of non-Quraishites for the Caliphate, in Naubakhti's *الشيعة* p. 10

4. al-Tirmidhi, *يد الله مع الجماعة*, chapter *fi al-Imam*, cf. section 41.

5. Ibid. لا يجتمع أممي على الضلالة, cf. section 41.

6. *Voxpopulivox Dei*. Latin phrase meaning "The voice of the people is the voice of God" [aai].

7. al-Sarakhsi, *Mabsut*, 10: 93.

8. The derelict and unowned land also belongs to the State (*Amwalof Abu 'Ubayd*, Sections 674, 690).

9. Muslim jurists recognize this regarding private property (cf. any compendium under *Kitab al-shurb*. The same must apply to international cases.

10. Cf. al-Kasani, *Bada'i` al-Sana'i`*, VI: 189-90; and others *in loco*.

11. Compiled in 1030 H. as a commentary on *Multaqa al-Abhur* by Ibrahim al-Halabi.

12. Ibn 'Abidin, *رد المحتار شرح الدر المختار*, 3: 266-7.

13. Ibid. 2: 423-4.

14. Abu Yusuf, *al-Kharaj*, p. 57; al-Kasani, *Bada'i` al-Sana'i`*, 6: 195.

15. Abu Yusuf, *op. cit.*, p. 57.

16. Ibid. pp. 55-6

17. For one case cf. Ibn Sa`d, 1/2, p. 58, and Ibn 'Abd al-Barr, *استيعاب*, No. 3431; for another, Abu 'Ubayd, *كتاب الأموال*, sections 683, 693 ..

18. Tabari, *History*. 1: 2577; Suyuti, *Husn al-muhadarah*, .ch. *Khalij Amir al-mu'minin*.
19. cf. Mas'udi, *مروج الذهب* (ed. Europe), II, 377; AbulFida', *Taqwim*, p. 106.
20. Abu Yusuf, op. cit., p. 78.
21. *Sahih* of Muslim, 52: 119-22.
22. Cf. my article "*L'Afrique decouvrel'Amerique avant Christophe Golomb*" in: *Presence Africaine*. Paris, No. 17-18, Feb.-May 1958. Also Sulaiman Nadwi, *عرب أور أمريكه (Arabs and America)*, (cf. the Urdu monthly *Ma'arif*, A`zamgarh, India, March and April 1939; *Islamic Culture*, July 1939, pp. 382-3).
23. Abu Yusuf, *Kharaj*, pp. 52-3 (ch. Islands in Tigris and Euphrates); Yahya b. Adam al-Qurashi, *Kharaj*, p. 15
24. شرح مجلة الأحكام العدلية. Vol. I, *in loco*.
25. مجلة الأحكام العدلية ch.I, Maxims.
26. *Encyclopaedia of Islam* (1913), s.v. "Amu-Darya" by W. Barthold, *Turkistan, in loco (vide index thereto)*. P. 339.
27. Hindi name of present India [aai].
28. Now Bangladesh [aai].
29. In the year 1564 the fort of Sholapur was handed over by Nizam Shah to 'Adil Shah.
30. [al-Hamawi,] Abul Fida', *History* (ed. Europe), III, 264, 464, 608; IV, 36, 56. Tippu Sultan had offered the Turks to exchange Mangalore for Basrah. (Cf. my paper in the first Deccan History Conference).
31. [al-Qada'i,] Abu 'Abd-Allah Muhammad ibn Salamah ibn Ja'far
عيون المعارف وفنون أخبار الخلائف
(MS. Topkapisarai, Istanbul, No. 2791, copied in 748 from a MS. written in 422 H.), fol. 77a:
عمر بن عبدالعزيز ... واشترى ملطية من الروم بمائة ألف أسير وبنها
32. This clause of the treaty is recorded by Ibn Kathir (*Bidayah*. VIII, 41) on the authority of Ibn Abi Khaythamah. Tabari is silent at this point.
33. Abul Fida', *History*. under the year 588 H. Cf. also *supra*, § "Independence" (137), *infra* 508.
34. Ibn Shihnah, VIII, 194 (as cited by Emile Tyan, *Sultanatet califat*, II, 34).
35. Gibbon, *Decline and Fall*, V, 566; S.P. Scot, *Moorish Empire in Europe*, Urdu trans., I: 263.

36. Gibbon, *op. cit.*, VI, 39-40; Farid Rifa'i. *عصر المأمون*, I, 129 ; Shibli, *المأمون*, ch, *Contemporary States*.
37. Louis Bréhier. *Les institutions de l'empire byzantin*. Paris : Albin Michel, 1949, p.284: "D'après le protocole épistolaire du *Livre des cérémonies*, le nom du calife précédait dans l'adresse celui de l'empereur, alors que l'ordre inverse était suivi dans les correspondances avec les rois d'Occident. Le calife désigné par le titre de *diataktor* (chef. moderator) des Agarenes [=sons of Hajar, wife of Ishmael, i.e. Arabs], a droit à trois épithètes de l'honneur et la lettre qui lui est adressée est scellée d'une bulle d'or de la valeur de quatre nomismata." [According to the etiquette of correspondence, described in the (Byzantine) *Book of Ceremonies*, the name of the Caliph preceded the name of the Byzantine emperor in the address, whereas the reverse order was followed in the correspondence with the kings of the West (Europe). The Caliph was designed as the *Diataktor* (i.e. chief, moderator) of the Agarenes (-sons of Hajar, wife of the Prophet Isma'il, to wit, Arabs), and had a right to three titles of honour, and the letter which was addressed to him was sealed on a piece of gold of the value of four numismatas (gold coins).]
38. Abu 'Ubayd, *كتاب الأموال* section 467; Baladhuri, *فتوح البلدان* section on Cyprus; cf. Ibn al-Athir, 3: 74-5, 107; al-Sarakhsi, *Sharh al-Siyar al-Kabir*, 4: 303
39. "In the beginning they were styled as *خلائف* and not *خلفاء* cf, Mas'udi, *Muruj al-Dhahab* (ed. Egypt), I, 70.
40. Ibn Hawqal, *المسالك والممالك* pp. 227-8; Ibn Jubayr, *رحلة*, pp. 50-1. Similar seems to have been the practice of Byzantine empire:
- "Seul le souverain de Byzance avait droit au titre de basileus; seul il légiférait pour le monde entier, tout au moins pour la chrétienté, embrassant tout le domaine de l'Eglise, et son nom devait être prononcé dans les prières de toutes les églises." [The Byzantine emperor alone had the right to the title of Basilius; he alone could promulgate laws for the entire world, at least for the (whole) Christendom, embracing all the dominion of the Church, and his name had to be pronounced in the prayers held in all the churches.] (Bréhier, pp. 282-3, citing Ostrogorsky, "Byzantinische Staatenhierarchie," in: *Seminarium Kondokovianum*, 8: 1916, pp. 41-61.)
41. *Numismatic Chronicle*, 1885, pp. 215-27, coins of the dynasties of Ghulaman, Tughluq, Khalji, Lodhi, Jaunpur, Malwah, Bengal (Bahmani Muhammad, II, of 924). Cf. also *Catalogue of Coins in Indian Museum*, Calcutta, Vol. II, published 1907, pp. 20ff; *Catalogue of Indian Coins in British Museum*, part "Muslim Countries," 1885, etc.
42. Muhammad Habib, *Sultan Mahmud of Ghaznah*, pp. 3-4.
43. Even by Sultlan Mahmud of Ghaznah, cf *Siyasatnameh*, by Nizam al-mulk, p. 132; etc.

44. The Union of Soviet Socialist Republics ended in December 1979. Now Kazan or Qazan is the capital and largest city of the Republic of Tatarstan, Russia [aai].
45. Ibn Fadlan, (رسالة) رحلة ed. Damascus, 1960; Yaqut, *Mu`jam al-Buldan*, s.v. Bulghar. Even Ibn Fadlallah gives in 764 H. the name of the ruler of Bulghar in the list of Muslim kings' (cf. his التعريف بالمصطلح الشريف, *in loco*.)
46. 'Abd al-Jabbar, محبوب الوطن p. 239 (It is a history of South India.)
47. I refer to the Shi'ah Buhids and Sunni Saljuuids.
48. Ibn Jubayr, رحلة pp. 50-1; also an epigraphic monument on the southern side of the *Dome of the Rock* (قبة الصخرة) in Jerusalem, inscribed by Salah al-Din the Great, visited by me in 1932.
49. With slight difference in the way of expression the same phrase was addressed to Mundhir ibn Sawa of Bahrayn, Hawdhah ibn 'Ali of Yamamah and Jaifar and 'Abd, both of 'Uman. The phrase "Submit and you will be safe," was also addressed to the Emperors Negus, Heracleus and Chosroes. For texts see my Arabic or French *Corpus* or Ibn Tulun, Ibn Sa'd, Qalqashandi, Ibn Kathir, etc. The expression "submit" (اسلم) may also mean *embrace Islam*
50. The present al-Ahsa in Saudi Araba [aai].
51. Now officially written as Oman [aai].
52. *Tarikh-i Firishtah* (printed at Poona, 1274 H.), II,212. Following is the text in Persian:
- در سنة تسع وثلاثين وتسع مائة در سرحد ملاقات دادند وبعد از گفت و شنید بسیار چنان مقرر کردند که نظام شاه مملکت برار و عادل شاه مملکت تلنگانه را مسخر ساخته دکن را میان یکدیگر منساوی بخش کنند
53. *al-Muhit*, Vol. I, fol. 603b (MS. Waliuddin, No. 1356, Istanbul). Following is the text in Arabic:
-أنهما لما وصلا إلى موضع فاصل بين الدارين لا يد لأحد عليه فقد خرجا من منعة أهل الحروب وصح أمان المسلم فيه إياها وهي لا تصير مأخوذة بدار الإسلام ما لم تصل إلى موضع يأمن فيه المسلمون .

The full text is the following:

If a Muslim subject (temporarily residing in a belligerent State) returns from that country, and a belligerent woman accompanies him, and he declares: "I have given her protection, and brought her (here) under protection," legally (*qiyas*) she must be considered a war booty, because his (Muslim subject's) protection given in the belligerent territory is void, because he is overpowered under the formidable force of the belligerents, and therefore as soon as she arrives in the Islamic territory, she becomes a booty and is subject to the territory, and his protection does not operate in her favour to the detriment of the right of the Muslims. Yet under equity

(*istihsan*) she is free and under protection, because when he left along with her the belligerent country and continued to protect her and never renounced that protection, it was as if he accorded his protection at the very first beginning of the Islamic territory before the taking place of the right of the Muslims. For when she arrived in security in our territory, the least that can be said is that the protection of that Muslim should benefit her, because every Muslim has rights and privileges inside the Islamic territory, and therefore the right of that Muslim (to give protection) prevents the right of other Muslims (to Consider her a booty). We explain: When they both arrived at a place differentiating between the two territories, where the people of neither territory has authority, the two (Muslim man and belligerent woman) are relieved of the jurisdiction of the belligerent State, and the protection given her by the Muslim becomes valid, and she is not subject to the Islamic territory (i.e. jurisdiction) unless she had reached a place where the Muslims find themselves safe (i.e. Muslim territory) and she was still in the no-man's land at the time of obtaining the protection of his Muslim companion. The same would not be the case if he gave her protection (in the belligerent territory) and she came alone to the Islamic territory for in this case the continuity of the protection and its renewal at that place (in no-man's land) would not take place.

54. al-Sarakhsi, *Sharh al-Siyar al-Kabir*, I: 342 (new ed. section 885).

6

ISLAMIC INSURANCE

M. Hamidullah

THE DEFECTS IN WESTERN INSURANCE SYSTEM

Insurance essentially means the distribution of a burden or hardship over as large a number of people as possible, thus lessening the burden of each as much as practicable so that none of them feels it.

This can be done in two ways' either through speculating and gambling and taking risk in expectation of greater benefits, or in a spirit of mutuality, fellowship and avoidance of one-sided risks.

In all Western and Westernized countries, the former mode is in vogue, and there is no end to its varieties, such as life insurance, insurance against fire, shipwreck and other accident to property, against unemployment, against loss of personal qualities and proficiencies, etc. The essential objections against these businesses from the point of view of Islam are:

- (1) That the risk is one-sided, i.e., on the side of the company;
- (2) That the premium received by the company is invested in interest-bearing securities, which again is against Islamic principles, which lay down "neither to do harm to others nor to be harmed".¹

Of course, as far as the risk to the company is concerned, human intelligence has devised means by which it is reduced to a minimum. Yet it is, from the point of view of Islam, essentially wrong and vicious that any contract should be based on one-sided risk, however small that may be.

INSURANCE BASED ON MUTUALITY IS ALLOWED BY ISLAM

The other kind, which is based on mutual co-operation is the one with which we are concerned here.

These mutualistic insurances are traceable from the time of the Prophet. They were called *Ma`aqil*, and concerned mainly insurance against tort and legal damages. We read such insurance at its best in the Constitution of the City State of Madinah, that first written constitution of the world, promulgated by the Prophet soon after his migration in the first year of the Hijrah.

The method was that the members of a tribe collected a common fund, called *kanz*, contributed by each member of the tribe, according, apparently, to his might and means. If and when a member of the tribe committed a tort and had to pay damages this common fund came to his rescue. For instance, the damage for culpable homicide was one hundred camels. Few individuals, in Arabia of those days, could pay it singly. It was apparently an old institution in Madinah already at the time of the arrival of the Prophet. The first extension the Prophet gave to the old custom was his order that all the Makkan refugees should form a single unit for this purpose although they belonged to numerous tribes. Later on members of the staff of a department, of a profession, of an army corps, etc., could form, for the purposes of insurance against tort their own union, as has been recorded by the author of the famous juristic work *al-Hidayah* and its commentaries. The members of this "Insurance Society" were called *'aqilah*.

From time immemorial the Hyderabad cavalry of Nazm Division has retained it under the name of the "*Ahdi System*".² It was necessitated on account of the fact, that on first employment the Government supplied the soldier with a horse, yet, if it died, the soldier had to replace it at his own expense. Of course this was beyond his capacity. So they paid to the common pool a small sum of, say, two rupees annually. The thousands of rupees thus collected were utilized for all accidents against which the contribution insured the horseman.

Recently, during the last world war, when the Hyderabad Legislature was revising the Motor Vehicles Act, it intended to include a clause that all motor car owners should insure against damage to wayfarers. The local Majlis 'Ulama³ vehemently protested against it, showing that modern insurance was un-Islamic, and that compulsion to it was an interference in the observance of religious commands. As alternative the Majlis suggested the formation of a "Motor Owners' Union" on the model of the said *ma`aqil* insurance.

SOME OBJECTIONS TO MA`AQIL SYSTEM OF INSURANCE CONSIDERED

The only defect in the prevalent or ancient *ma`aqil* system is that the subscriptions collected for it lie idle. This can be remedied to the advantage of all concerned, in the following manner.

In 1946, the Economic Committee of the 'Osmania Graduate Association set up an expert Committee consisting of those well-versed in insurance business and those who know Muslim legal and economic theories thoroughly, for the purpose of reporting whether:

1. interest-free insurance was feasible in modern times, and
2. if so, which kind of insurance should be taken in hand to start with?

Its deliberations were not yet concluded at the time when Hyderabad was invaded by India. The provisional conclusions were, however, the following:

“Let us begin with insurance against motor accidents. Supposing, of the 20,000 motor cars in the city of Hyderabad only one thousand insured with us. The accidents causing damage to cars of our 1,000 clients might be 25 per annum, demanding a sum of Rs. 5,000 for repairs. If the admission fee was fixed at Rs. 6 and the premium to be paid by our clients at only Rs. 8 per *mensem*, the annual income would be Rs. 6,000, which may cover not only the cost of repair but also working expenses of the office, along with one year's income as a reserve in hand through the admission fee. Even these annual six thousand rupees need not lie idle, but should be invested in profitable concerns provided they are interest-free and allowable under Muslim laws of company and partnership. The

annual dividends should go to build up a reserve, and even partly to be divided among our clients in proportion to their paid-up subscription."

Thus it will be seen that, by declaring the profits not in the beginning of the year but at the end of it, and by the sharing of the clients both in the risks as well as the profits, the vital objections of Islam can be removed to the satisfaction of all, and even insurance business can be floated on strictly orthodox Islamic principles.

I conclude by a reference to what has set in the capitalistic Great Britain. The reaction against the old order was that in January, 1950, just before the General Election, the Labour Party's proposals for mutualisation of insurance said: "The Labour Party, believing that the interest of policy holders should be paramount, therefore proposes that the Proprietary Companies should be taken out of the realm of private profit and mutually owned by the policy-holder themselves instead of private share holders."

The precarious Labour majority has left this Islamic proposal in abeyance. Pakistan has a chance to lead the world in this respect at least by establishing one such model insurance concern.⁴

("Islamic Insurance", *Islamic Review*, London, Vol. 39, nos. 3-4, March-April 1951, 45-46.)

NOTES

1. لا ضرر و لا ضرار
2. "Ahdī system" seems to be a covenant (*ahd*) which the new recruits made that he would maintain the horse supplied to him and replace it if lost [aai].
3. Ulama Council [aai].
4. Dr. Hamidullah wrote this article in Oct. 1946 [when Hyderabad state still existed] which was published (or republished) in the Muslim Year Book 1948-1949 pp. 489-91. The same paper was re-published in 1951 as "Islamic Insurance", *Islamic Review*, London, vol. 39, nos.3-4, March-April 1951, 45-46. At this time some references to India were added. The last two paragraphs are also additions [aai].

7

INTEREST-FREE COOPERATIVE LENDING SOCIETIES

M. Hamidullah

Of all the many religions and cultures that have proscribed interest on loans, Islam alone seems to have provided for a positive remedy of the very basic cause of this disease in human society. When A is in need of money and B has a surplus to spare, it is but natural that B should require some compensation for the sacrifice which he is called upon to make by not utilising his own wealth but lending it for the use of A for a certain extent of time. The greater and more pressing the need of A, the longer the time limit for repayment, and the lesser the number of those who hold superfluous moneys, the higher the rate of this compensation - or interest, as it is technically called. Mere negative remedy of proscribing interest, without at the same time making a sufficient and satisfactory arrangement for the procurement of institutions for interest-free loans, the evil is hardly eradicated; on the other hand, either the law is openly flouted, or at least it is abused, and clandestine and underhand means and devices are resorted to. Needless to add, that man's ingenuity knows no bounds in this respect.

Of all the social systems that have prohibited taking of interest, Islam alone has provided for interest-free lending and made it one of the main concerns of the State. Although the Qur'anic conception of State is based on "the least necessary interference in the freedom of the individual," the Qur'an has nevertheless laid down, in its characteristic brevity, the principles of governmental budgetary provisions regarding expenditure:

"Verily the *sadaqat* (public moneys in the hands of the Muslim Government) are for the benefit of the poor and of the indigent resident aliens (*masakin*, according to the interpretation of Caliph 'Umar), for the pay of the officials that administer (these moneys), for those whose

hearts are to be won (i.e. including propaganda and secret service), for the emancipation of the necks (i.e. slaves and prisoners of war in the hands of the enemy), *for those encumbered with debt (gharimin)*, for the sake and in the path of God, and for the benefit of the wayfarers." (Qur'an 9:60).

Note the italicised phrase. As the indebted ones form an independent category, quite apart and distinct from the poor and the indigent, it is obvious that the indebted can refer here only to the well-to-do people, who temporarily require urgent monetary help. Naturally of all the persons in a social organism, Government alone can more readily forego compensation for the service rendered, which in this connection refers to interest on money lent.

There is clear evidence, that in the time at least of the Orthodox Caliphs, the *Bayt al-mal* (or Government Treasury) kept a special branch for lending and receiving repayments of interest-free loans. Even the Caliph 'Umar used to borrow money, on the security of his official pay from the *Diwan*.

In later ages, when many a useful arrangement instituted by Islam, fell into desuetude, even this useful branch of the Finance Department vanished.

Loss of empires and loss of character seem to be interdependent things. In connection with our subject, the habit of being spend-thrift, of recurrent expenditure in excess of income and consequent indebtedness, illicit means of supplementing income and the like, may be seen in many quarters. Social rites and ceremonies are another factor for upsetting private economy. On such soils parasites thrive; and are in fact even now thriving. Ancient families have been disrupted; their properties having changed hands as also the social status of the former masters and servants.

In order to remedy it, it is required to provide legislative prohibition under pain of punishments supplemented by social boycott of vicious rites and spend-thrift ceremonies.

It was thus that in 1309H. (1891) Maulana Syed 'Umar, a religious and mystic dignitary of Hyderabad-Deccan conceived the idea of interest-free loans on a co-operative basis, and put it to practice. And the Mu'aiyidul Ikhwan Society was started. The Secretary and his friends and numerous disciples contributed towards its capital by handing over to the society the hides of animals sacrificed during Baqrid festival as also other charitable endowments. They also deposited with it their moneys for safe custody, for fixed periods or as current account. With such meagre resources in the beginning, the society has come to stay as a flourishing institution in the metropolis of the Nizam. The founder-secretary was succeeded by his learned son Maulana Syed Muhammad Badshah Husaini, under whom the society has lent during the past few years about half a million rupees, on the security of valuables such as ornaments of precious metals and the like, without charging any interest, and receiving back the amount in easy instalments.

Another society, Mu'inul-Muslimin, although now liquidated long since, has left a strong impression on popular mind. It was founded in 1320H (1902). In the interesting preface or preamble of its rules and regulations we read:

"It is some years since certain respectable people and well-wishers of the nation have established Mu'aiyidul Ikhwan and Mu'inul Ikhwan, in Qazipura¹ and Mughalpura¹ streets respectively, with great success. Therefore another society, with the name of Mu'inul Muslimin, is being established in Dabirpura¹ for the expansion of the same useful purpose. As regards our constitution, it is as the poet has said:

Our respective descriptions differ,
Yet thy beauty, o beloved, is the same.

An important and distinctive feature of this new organisation was that it was not based on alms and charitable endowments, put on purely co-operative basis.

Two years, later, the first co-operative society was established in British India in 1904, on, European models, of course with interest on deposits as well as loans.

Soon the Government in Hyderabad also, took notice, and established a Department of Cooperative Societies in 1913, and it took four years to persuade the officials concerned, suffering as they were from inferiority complex, to consent even to register interest-free co-operative lending societies, under the Cooperative Societies Act. Mr. A. M. Khalilullah, the father of the present writer, an Assistant Revenue Secretary was the pioneer and champion of the cause for about thirty years until his death, and a society established by him in the Revenue Secretariat was registered with the Cooperative Department as the first Interest-free Lending Society on a new model. Others followed suit, and there are now scores of such societies all over Hyderabad for Government Departments as well as enterprises, for general public, for instance for specific streets, factories, families and the like. These have now crossed the frontiers at least in the direction of the Presidency of Madras. The biggest and the most active of them all is the one in the Settlement Survey and Land Records Department, under the secretaryship of Mr. M. Habibullah,² B.A., Assistant Director of the Department. It has a membership of about 1200 and a paid-up capital of about Rs. 1.5 lakhs (fifteen hundred thousands).³

THE WORKING

It will be interesting to note in brief the actual working of an interest-free co-operative lending society.

There are two kinds of them: Periodic Associations and Permanent Societies. In the periodic associations, a number of people subscribe a share of, say, sixty rupees payable in twelve monthly instalments. Supposing twelve people join, the monthly pool will amount to Rs. 60. By *qur`ah* (toss), they decide the serial order of the associates. The monthly collection is paid in that order. There is only one inconvenience therein, and that is that the last person in the serial order gets no benefit of the association. In order to avoid it, only one half of the first monthly collection goes to the one topping the list prepared after tossing, and the remaining half goes to the junior most. In the second month, Nos. 2 and 11 share the income; in the 3rd, Nos. 3 and 10 are the recipients and so on until in the twelve month Nos. 12 and 1 divide the monthly collection and the association is automatically liquidated and come to a close. Such associations are flourishing, but none of them has ever been registered.

The other kind, the Permanent Societies are really the subject of this article. Here the members subscribe to shares of higher denominations like Rs. 120, which are paid in as many monthly instalments, covering a period of twelve years, or any similar term. Supposing only ten people join, each subscribing to only one share, the income of the society in the first month will be Rs. 10. These ten rupees are lent to the one most in need of loan from among the applicant members. The Managing Committee may lay down the rule of first come first served, yet some elasticity has proved useful in actual experience. And as long as the managing committee perform their duties equitably, there can be no grumbling or discontent. The borrower may repay the loan in, say, 20 monthly instalments. (In some societies instalments of repayments in the months of festivals, like Idul-Fitr, Muharram, or Dasahra,⁴ Depavali⁴ is waived, and thus in twenty-two months or even, in case of non-communal societies, in full two years the debt is paid off.) Some restriction may be placed on the borrowing capacity of a member who has partly repaid his loan.

This means that the very same ten poor people, who could not spare more than only one rupee each every month, would collect in the second month Rs. 10 plus As.⁵ 8 of the instalment of repayment. Thus the monthly income increases every month as also the capital in circulation until all the twelve years elapse. After this period, ten poor people, by their sheer humble personal effort will have collected the very considerable sum of Rs. 1,200 which can suffice for practically all their needs.

In the meanwhile newer members may join and the momentum accelerated accordingly. Rarely members may resign owing to death or other reasons. In such cases their paid-up capital is returned either in a lump sum or in convenient instalments to them or their heirs if the latter do not want to join the society and merely have the shares transferred to their names in the books of the society. Of course the amount paid in connection with a share cannot be withdrawn during the membership. A member may subscribe to any number of shares.

The society may also be deposited with moneys for safe custody for fixed periods. These amounts may also be lent as extraordinary, short term loans, that is repayable not in 20 instalments but in time to allow the

depositor to withdraw his money at the appointed time. For deposits without time limit, the societies generally demand notice of one or two months before they can be withdrawn except when they are meant for withdrawal at any moment in which case the amount is simply kept in safes.

As for the amount a member may borrow, the number of shares he has subscribed, his personal capacity for repayment, and in case of employment with fixed income, his salary and similar things are taken into consideration, and rules are framed accordingly.

Personal as well as proprietary securities are demanded on loans if borrowers' own paid-up share value is not sufficient to cover them.

Then comes the question of the expenses of stationery and remuneration of the secretary, accountant etc. In smaller concerns, they are voluntary. In bigger societies, where there are hundreds of members, and there is a daily work for the office, a small tax is levied on each member, e.g. one pie⁶ monthly per share together with ½% on loans (i.e. As. 8 if Rs. 100 are borrowed). The surplus after the expenditure is kept as reserve for unexpected losses such as bad debts, accidents etc.

As a side activity, certain such societies have started co-operative stores of cloths, grain and other staple goods, selling to members on credit with easy terms. The trade goes to enrich the reserve fund. If such incomes swell to considerable sums, part of them may even be distributed among members as dividends in proportion to their paid-up shares.

The Qur'anic command "Cooperate unto righteousness and piety and do not cooperate unto evil and transgression" has brought untold blessings to communities that are using this method of self-help.

The *Al-Gharimin* Society of Hyderabad enrolls only such persons as promise that they shall never take interest, and as far as possible shall also never pay interest.

After thirteen centuries or more, after the enunciation by Islam at last the USSR of Russia has ventured to abolish interest from its dominions, and has copied part of the Islamic reform.

(Published in *the Muslim Year Book, India and Who's who with complete information on Pakistan, 1948-49*, Compiled by S. M. Jamil with the assistance of Moinuddin Khan, Bombay: The Bombay Newspaper Co., Limited, pp. 491-96.)

NOTES

1. Qazipura, Mughalpura and Dabirpura are different localities in old Hyderabad city [aai].
2. M. Habibullah was brother of Dr. Muhammad Hamidullah [aai].
3. The correct is that Rs. 1.5 lakhs is equal to Rs. 150,000 (Hundred fifty thousand) [aai].
4. Two Hindu festivals [aai].
5. As. is a short form of *annas*, the old coin of Indian subcontinent. As. 8 [eight annas] were equal to half a rupee. In the metric system, one rupee has 100 paise [or paisas] so an *anna* became equal to paise 6 and quarter a paisa (pence) [aai].
6. Pie was the smallest coin under the old coinage system of sub-continent. An anna was equal to 12 pies. Hamidullah wrote an article in Urdu under the pen name of Nururddin in 1944 and published in the special issue of *Rahbar-e Deccan* (Hyderabad), in which he advocated for adoption of coinage and weight based on metric system. It may be noted that India adopted the metric system in 1957 [aai].

8

THE POLITICAL SIGNIFICANCE OF ZAKAH

M. Hamidullah

The awakening of Muslim masses all over the world to the need of reviving their religious institution is a phenomenon of modern times. Pakistan does not seem at all to be lagging behind others in this respect as far as the public is concerned. There is a cry among the masses, and sometimes even in legislatures and constituent assemblies that for instance zakah should be re-imposed.

The purpose of this short paper is to try to elucidate some points rendered obscure for falling of the zakah into desuetude since long centuries, especially among Muslims living under infidel dominations.

Zakah does not mean alms-giving or charity, something over and above secular taxes of governments. Far from that. Again, unspent surplus cash or hoard is also not the only object on which zakah is levied. Zakah is a whole system in itself of state taxation for running the state and serving the people. *Mal ghanimat*¹ is not a perennial source of state income especially for a Muslim state whose constant aim and endeavour remains to establish universal peace and concord. It is only the zakah and *kharaj* or land tax which figure prominently in the budget of Islam.

Therefore, there is no room and no need for double taxation. Zakah taxes are the only taxes in an Islamic in normal times. No doubt in times of emergency and national distress additional taxes or increased rates of zakah are not only logically but acknowledgedly lawful. Yet, it is to repeat that there can be no question of taxing the same object twice, under secular laws and under zakah laws simultaneously.

ZAKAH AND NON-MUSLIMS

There seems to be some confusion regarding the spendability of zakah on the *dhimmis* or Non-Muslim subjects. The great jurist and administrator of the time of the caliph Harun al-Rashid, the Imam Abu Yusuf quotes in his classical work on state-finance² and important decision of classical times on the point. He cites such a high authority as Caliph Umar the Great, and records that according to him zakah not only can but must be spent partly on Non-Muslims (*dhimmis*). The Caliph Umar referred in this connection to the Qur'anic verse on zakah expenditures, containing in the first instance the categories of *fuqara'* and *masakin*: and explained that the *fuqara'* were the Muslim destitutes whereas the *masakin* were the destitute among the *dhimmis*. Thus, the matter is disposed of at least as far as the Hanafis are concerned. I am sure no other school of Sunni jurisprudence will object either, in the face of such an authority, which at the same time shows the broad mindedness of Islam. More so the other category mentioned by the Qur'an, namely the *mu'allafat al-qulub* (those whose hearts are to win) can be mostly non-Muslim, as we shall speak later.

Drawing benefit from the Muslim zakah by poor non-Muslims may logically lead to the applicability of zakah on the wealthy among the latter. The same authoritative Caliph 'Umar is known to have accepted zakah from the Christians of the tribes of Banu Taghlib. The core of the problem is that the non-Muslim subjects are treated according to bilateral treaties passing between them on the one side and the Muslim protecting state on the other. Again the general principle of the Islamic taxation has been like the principle underlying the rest of the state administration, never to coerce anybody to embrace any particular religion yet to demonstrate to everybody that in the conviction of the Islamic state it is in the best interests of the humanity to embrace the religion of the surrender to the will of God. Thus, treaties apart, the rate of taxation of the *dhimmis* is generally double those on Muslims.

I shall not step not stop to discuss the un-Islamic notion prevalent among some ignorant sections with vested interests that spending zakah on even a Muslim of a school or sect other than their own is not permissible. These will have to answer to their Lord, God, for misleading their disciples and leading the folk of the Prophet Muhammad (peace be with him) away from the creed taught by him.

ITEMS OF EXPENDITURE

There is again a confusion among certain later writers who say that zakah can only be given to persons and not institutions. Evidently this is due to the fact that the very name of zakah had long fallen into desuetude among the tax administrations of even Muslim states. Pious Muslims paid secular taxes to the tyrannic governments and spent zakah privately on their own initiative.

Fortunately there is not much difference among the Shi'ah and Sunni schools in this respect. If, according to the former, zakah might be spent on works of public utility, according to the later, at least according to the great jurist Abu Yusuf, - also the same holds goods. In his *Kitab al-Kharaj*,³ Abu Yusuf, apparently speaking of an explaining the item "In the Path of God", says that a portion of zakah has to be earmarked for the construction and repairs of roads, bridges and the like.

This is enough to show that zakah is never a mere alms-giving. Islam does not differentiate between the things temporal and spiritual, "Good in this world as well as the good in the Hereafter" is the motto prescribed by the Qur'an for the followers of Islam. In order to emphasize the need of scrupulously and conscientiously paying zakah, the institution has been included as part of the dogmas. There is no difference for the Qur'an in the offering of the daily prayers and paying the zakah, both being scores of time spoken of by it in the same breath.

The general principle of the Islamic taxation is to levy least necessary taxes on the population giving them a breathing space, an opportunity to prosper. "Taxing *as much as supportable* by the population", is not an Islamic principle. That is the difference between a Muslim and a tyrannic state (*Aqimu al-salat wa atu al-zakah*).⁴

Winning the Hearts

In the list of items for the expenditure of the zakah income, the Qur'an includes "those whose hearts are to win." The item is expressly mentioned by the Qur'an, and was retained and acted upon by the Holy Prophet and Caliph Abu Bakr. Some later Hanafi jurists say - and I maintain they do so under misapprehension, -that the Caliph Umar abrogated it. Even if the reported incident were correct, nobody, not even

the Great Caliph Umar has the right to abrogate the Qur'an and the Sunnah; and he never did that. The incident quoted by these Hanafi jurists is shred of all context. It is said that some people had newly embraced Islam, and it was recommended to the Caliph that they should be richly rewarded from the zakah budget; and the Caliph 'Umar is reported to have said: Islam is now strong and we need not try to win the heart of such like people by zakah money. Is Islam strong enough today even as it was in the days of `Umar? *Cessante ratione legis cessat ipsa lex.*⁵ When the *raison d'etre* ceases to exist the rule also ceases to operate.

Did the Caliph refer to the particular case in question or did he refer to general principle? The burden of proof will fall on those who maintain the latter alternative.

Does "winning the heart" refer to only proselytism? As to this last question, three of the remaining Sunni schools of law (with the personal concurrence of Abu Hanifah himself) are unanimous that it is not so,⁶ and the Malikites, and the Shafites and probably also the Hanbalites, maintain that zakah and must still be partly expended on those whose hearts are to win. In a very enlightening and masterly way, the great Hanbalite jurist Abu Ya'la al-Farra' has explained what he understands by this category of people. In his *al-Ahkam al-Sultaniyah* (a work contemporaneous of the book of the same name by al-Mawardi) he says that those who are to win are of four kinds:-

1. Those whose hearts are won over for the aid of Muslims;
2. Those who are won in order that they abstain from doing harm to Muslims;
3. These who are won in order to persuade them for (embracing) Islam;
4. Those who are won in order that their peoples and their tribes are persuaded; and it is lawful to spend on each of them from the zakah item of "those whose hearts are won" be the recipient a Muslim or an infidel polytheist.⁷

It will be seen that the list, more illustrative than exhaustive, has certain features of what is called in our time the secret service.

Interest-Free Loans

In the same Qur'anic list of the zakah expenditures, there is an item for the help of the indebted. As the poor destitute have already been mentioned, the 'indebted' should not mean the same destitute but such well-to-do people who for some reason or other cannot themselves pay their debts. There are no doubts cases of those who earn just to make their two ends meet, and if their debts are written off they can hold on by themselves. Help to them as a gift from zakah money is permissible and a commonplace. There are, however, cases in which an indebted person requires monetary help not as a gift but as a temporary loan which he can repay in due course. Gift instead of loan to such a person is obviously a waste of public money and a denial to other deserving cases which could be helped if the loan were recovered.

Interest-free loan as not ordinarily mentioned in Muslim Law Compendiums Islamic chronicles, however, do mention it. For instance, it is a well known fact that the Caliph 'Umar used to barrow money from the central treasury on the security of his own honorarium, and repaid in time.

Interest on money lent is prohibited by many a religion and civilization before Islam. That the probation could not uproot the evil of the usurious capitalists must be ascribed solely to the fact that those religions did not simultaneously provide for the establishment of an institution lending money without interest. It goes to the credit solely of Islam that it not only prohibited interest on loans but it was the first which made it obligatory on the Islamic state to earmark a definite and recurrent item for the aid of the indebted, interest-free loans being one of the kinds of this aid.

It is obvious that no private individual can ordinarily agree to part even temporarily with his money, with a prospect for not only the repayment but also a profit. It is in proportion to the urgency of the requirement of the needy that the rate of interest enhances; and with the exception of the few pious rich, it is only a government that can lend money free of interest and thus eradicate usury.

In modern times, co-operative societies have done this governmental work, at least in Hyderabad Deccan and some adjoining countries, to lend money without interest on the basis of mutual help. There have been societies there whose transactions reached to six figures yearly. Members subscribed shares, and the capital thus collected circulated among the members as interest-free loans. If Government could patronize such cooperative societies, they can do wonders and at the same time encourage the spirit of self-help among the people. Hyderabad Government had only recognized them; Pakistan Government⁸ can help them and set an example to the rest of the world. It is now universally admitted that each and all economic miseries of the present day world are ultimately traceable to the institution of interest on loans.

ZAKAH: A PUBLIC AFFAIR

From what we have seen, that zakah consists essentially of taxes for public welfare, it goes without saying that its collection and disbursement must be a Government concern.

In the time of the Prophet, it was the Central Government which organized this department. In the early days of the Caliphate of Abu Bakr, some tributes apostatized, yet others simply demanded that the paying of zakah should be left to them as a private affair without control on the part of the State. The Caliph Abu Bakr considered it tantamount to rebellion, and threatened them with war if they did not pay zakah to the officers of the Central Government.

No doubt, under the traditions of the Prophet, the part of zakah earmarked for the destitute is ordinarily and preferably spent on the deserving people of the locality from which that zakah was perceived, yet the whole department has, in the golden age of Islam, always been the business of the Central Government. Imam Abu Yusuf is very particular about it.

END

These are some of the aspects of a vast and rather complex subject which requires attention and labour of more minds than one.

(From Proceedings of the First all Pakistan Political Science Conference, (1950). Edited by Mohd. Aziz Ahmad, Lahore, the Punjab University Press, pp. 1-5)

NOTES

1. Spoil of war [aai]
2. Abu Yusuf, *Kitab al-Kharaj*, 2nd ed. P. 151.
3. Ibid p. 96.
4. Translation: "... establish regular prayer and give zakah" (Qur'an 73: 20) [aai].
5. Latin phrase which means "a rule of law becomes ineffective when the reason for its application has ceased to exist or does not correspond to the reality anymore" [aai].
6. Confer Ibn-Rushd, *Bidayah*, ch. zakah.
7. Abu Ya`la al-Farra' *al-Ahkam al-Sultaniyah*, p. 116.
8. It may be remembered that Dr. Hamidullah was addressing the First all Pakistan Political Science Conference [aai].

9

ISLAM AND COMMUNISM

A Study in Comparative Thought

M. Hamidullah

INTRODUCTION

In re-editing this old article of mine, (published in 1950), the reader is requested to note that, the writer has no prejudices against any effort to ameliorate social life of human brethren. Communism/Socialism is one such. If opinions differ, that is also for the good of humanity. Otherwise a fossilized old order may never yield place to a new and better one. Economic betterment is the common goal the ways leading thereto may differ. The pros and cons are to be weighed against each other before making the choice.

There is a question of human interest having to do with no religion, communistic or otherwise. Let us meditate first on it.

As everybody knows, human livelihood is in constant progress, through the domination and exploitation one after the other of all those things that Nature has created, whereas one sees that the rest of animals have changed nothing in their livelihood ever since their species has been created. The cause of this difference as discovered by biologists is the simultaneous existence of a society, a co-operation, and a liberty of competition inside the members of the society of human beings, whereas other animals suffer from the lack of some or of all of these requisite conditions. Dogs, cats and snakes for instance do not create even a family; they perpetuate their race by means of free and momentary "love". Others, such as crows and pigeons, do create a family in the form of couples, yet even if the male helps in the construction of the nest every member of the couple depends on its own gain for livelihood. Perhaps the most developed social cooperation is found among bees, ants and

termites (white ants): they live in a collective way, with complete equality, yet without any, competition among its members, and consequently it is not possible for the more intelligent or more industrious to live more comfortably than others. For this reason there is neither evolution nor change much less progress in any of these species as against the human race. The past history of man shows that every advance and every discovery of the means of comfort came into existence through competition and desire for amelioration and also through the existence of grades of wealth or poverty among men one above the other. Yes, the absolute liberty would lead devilish men to exploit the needy, and ooze them out gradually. So it was necessary for every progressive civilization and every healthy culture to impose certain duties on its members (such as the order to pay taxes, the interdiction of having recourse to oppression and cheating, etc.), and to recommend certain supererogatory acts (like charity and expenditure benevolently), yet nevertheless to have a great deal of liberty of thought and action to its members, so that each one benefits himself, his family, his friends and the society at large. This is the exigency of Islam, and it is also conform to nature.

Muhammad Hamidullah
Paris, 1395 H. (1975)

WHAT FORM OF GOVERNMENT IS TRULY ISLAMIC?

Although Islam and Communism are not the same thing, it is possible that they do not differ in each and every thing. The object of this short study is to find out how far Islam may tolerate the teachings of Communism.

From the provisions of the Qur'an and the Hadith, Muslim jurists have deduced that the commands of the *Shari'at* (or Muslim law in a broad sense) can be divided into five categories of obligatory, praised, disliked, prohibited and permissible either way. The law takes note of the first four and leaves the last one to the discretion of individuals according to their timely needs and likings, and naturally does not enumerate this kind of thing which may be limitless. This attitude has sometimes bewildered the casual investigator who has reproached some people as against others, contemporary or past.

Take an example. What form of government is truly Islamic? Republican, monarchic, elective, hereditary, universal, regional, unitary, composite, etc., etc. None and practically everyone. I mean to say, Islam simply enjoins upon the Government the duty of protecting the State and its inhabitants and administering impartial justice, no matter what form of Government the Muslims of a time or country choose. Abu Bakr was elected, 'Umar was nominated by his predecessor and subsequently elected, 'Uthman's selection was made by a Council of Electors nominated by his predecessors, and Imam Hasan, according to Tabari and other historians, was the first hereditary Caliph nominated by his father. Orthodox Caliphs of Islam were responsive to the people, yet responsible to God alone in theory.

HOW FAR ISLAM ACCOMMODATES VARIOUS MODERN FORMS OF GOVERNMENT

The question, how far Islam accommodates Communism, however, cannot be so easily disposed of. There is Marxism,¹ there is Leninism,² there is Stalinism,³ there is Titoism,⁴ there is Maoism⁵ of Mao Tse Tung in our times, not to speak of Mazdakism⁶ and Abu Dharrism,⁷ etc., of the days of yore. The very name of Abu Dharr, a very pious companion of the Prophet; in this connection would suffice to indicate what a tremendous difference there is between the different movements which

all are grouped here by me under the generic name of Communism. For the purpose of this study we content ourselves not with Utopian dreams but with the actualities of real existence in the U.S.S.R.⁸ and its followers.

The study is complex. There is the *religious* aspect in its most restricted sense of relation between man and his Creator.

There is the *political* aspect of subordination to a centre.

There is the *actional* aspect of the methods to be employed for achieving the goal.

And, finally, there is the economic aspect of planning the material life and controlling the acquisition, distribution and circulation of wealth.

COMMUNIST STATE AND ITS ATTITUDE TOWARDS RELIGION

Here it is irrelevant whether advanced and enlightened Communist States are in normal times religiously tolerant or not; the question is what is the attitude of a Communist State towards religion?

According to Section 124 of the Constitution of the U.S.S.R., "freedom of religious worship and freedom of antireligious propaganda is recognised for all citizens."

I do not know the official interpretation, yet it means to me that preaching and propagation is allowed to the anti-religious only. Mere freedom of religious worship without means of religious instructions and apologetical or polemical propaganda for the followers of religious, particularly Islam, does not imply much.

Apart from this, in his classical *expose*, *The Dialectic Materialism and the Historical Materialism* (1938), Marshal Stalin speaks thus on the subject:

"The philosophical materialism of Marx starts from this principle that the world by its nature is *material*, that the multiple phenomena of the universe are the different aspects of matter in movement; that the mutual relations and conditions of the phenomena established by the dialectic method constitute the

necessary laws of the development of matter in movement; that the world develops according to the laws of the movement of matter and has no need of any *universal spirit*.

"The natural conception of the world; says Engels, 'signifies simply the conception of nature as it is without any foreign addition'.⁹

"As regards the materialistic conception of .the ancient philosopher Heraclitus, according to whom 'the world is one, has not been created by any god or by any man: has been, is, and shall be an eternal living flame, which burns and dies according to determined laws,' Lenin wrote: 'Excellent *expose* of the philosophers of dialectic materialism'.¹⁰

In short, a true Communist cannot believe in God or His Messengers and His commands, and the Hereafter. A Communist may lead a beneficent life like a fruit tree; he may lead a harmless and detached life as that of a rock in a desert; he may even lead a destructive and rapacious life like that of a wolf. Yet all this would be according to his whims and fancies plus the liberties he gets in the company of equal partners in a collective life. To him, in the words of Franklin,¹¹ man is but "a tool-making animal", a definition extolled by Karl Marx himself in his *The Capital*.

In the nature of my article, I need not dilate on the arguments on either side. Suffice it to say, that Islam cannot and does not accommodate such a state of things. The profession of Islam begins and ends with the belief in One God and His Messengers, in the finality of this world and the Resurrection of the dead for Divine Judgment.

POLITICAL ASPECT OF COMMUNISM

Let us take the next question, the political aspect of Communism. Communism has proceeded all along on the basis of a single World State, a federative form at best. The series of articles on the "Greatest Trial of Communism ", published some months ago in the Paris daily *Le Monde*, show that the independent and national Communism of Marshal Tito in his partial resistance to the exactions of the Kremlin are considered as a heresy, a dissension and unwarranted. No doubt, with a single state for our globe and the subjugation of all the countries to one centre need not necessarily mean the hegemony of Russia for all time.

This World State will I think be a democratic State; and, with all its inherent defects, democracy must mean the rule of the majority. In our present world, no single ethnic, linguistic or colour unit of man has an absolute majority. Therefore a proportionate representation in the central Parliament and executive will have to be conceded and agreed to

Taking this question alone, without any reference to dogmas or economic set-up, I think Islam can accommodate this arrangement, which simply means a World State, a single central Government for the whole of the human race. Islam itself may be considered as the protagonist of this idea of the fraternity of man, discarding ethnic, colour and linguistic superiority complexes which are differences without distinctions, and realizing the equality of man to an extent that it has even become a characteristic of Islam. There is one Ka'bah to which Muslims all over the world turn at least five times daily, to which they go in pilgrimage every year from every corner of the earth. There has been the notion of *Khilafat* (Caliphate) which cannot as yet be considered as finally discarded at the death of the 100th caliph Abdul Majid II, whose successor has not yet been elected.¹² Thus Islam may be considered as coextensive with Communism in this respect and deliberately I do not use the word "rival" - and certainly not the opponent and antagonist. Islam has never accepted willingly the division of humanity into separate communities breeding jealousies and complexes of superiority and inferiority. Equality of man and priority of the pious – such has been the motto the Qur'an has fixed for humanity, and inculcated in its disciples.

Muslim States are members and willing members, of the United Nations Organization, and even of the British Commonwealth or Nations. Muslims are the devotees of the idea of the unity of the world and of the human race.

THE SEPARATION OF CHURCH AND STATE NOT AN UN-ISLAMIC IDEA

As I said above, to the form and outward appearance of the State, Islam does not attach much importance, provided the ruling person is just. There can be joint rule or "multarchy," several persons ruling conjointly, a form supported both in theory and practice recorded in the Qur'an, the Hadith, the *fiqh* (Islamic Jurisprudence), and history. (I have

written a special study on the subject) There can be monarchy, to which I shall presently revert, and there can be anarchy in the best sense, that is that there should be no ruler whatsoever, all men living peacefully in co-operation and mutual dependence with fellow men without needing a recourse to someone habitually to decide their differences.¹³ No doubt this is a pure fiction and hypothetical contingency which has not yet come in this world of ours. As to monarchy or rule by one man, there are different forms: hereditary succession, elected heads of the state for life or for shorter terms; parliamentary form or any other method of consultation with person considered best qualified to advise. Each and all of these methods can be tolerated by Islam. The Qur'an itself knows no other form except kingship, regarding the ancient world. The very fact that according to the *Sunnis* the Prophet of Islam did not nominate or otherwise indicate how to choose his successor, shows that he deliberately left the matter to the discretion of the people to decide from time to time according to the exigencies of their needs. I go further. The story of Talut (Saul) in the Qur'an (2: 246-7) leaves not the slightest doubt that Church and State can be separated and entrusted to different independent persons. A separate king in the presence of a Prophet, that is what had happened then. If need be, that is, if the centralized administration of both these domains is considered harmful by the community, that may even now be copied by the Muslims. For it is the precedent of a divinely inspired prophet and Muslims have been told by 'the Qur'an (6: 90) to follow the guidance of these old prophets (*fa-bi-hudahum iqtadihi*). Again the most orthodox practice, that of the first Caliphs of the time of the companions of the Prophet, shows that governmental affairs were divided into three distinct categories: material, religious and spiritual. The Prophet Muhammad (peace be with him!) combined all the three. Orthodox Caliphs were contented with the first two and conceded multiplicity of rulers in the spiritual domain. And in fact there were simultaneously several "spiritual rulers", 'Ali and Abu Bakr being the most conspicuous, The Chishtiyah, the Qadiriyyah, the Suhrawardiyah, etc., of the Sufi fraternities acknowledged 'Ali as the direct successor of the Prophet, while Naqshbandiyah-Mujaddidiyyah, for instance, get their authority through Abu Bakr, and unlike the political Caliphate, divides loyalties, or guidance by several guides, has always been allowed in the sphere of Muslim spiritual life.¹⁴ Most curious as it may look, the Naqshbandiyah "spiritual dynasty" of the Sunnis has the following names: the Prophet, Abu Bakr, Salman al-Farsi, Qasim, the

grandson of Abu Bakr, Ja'far as-Sadiq, which last person comes also in the 'Shi'ah's spiritual dynasties".

It is not to forget that separation of religious authorities from political ones is, according to the Qur'an, permissible, - permissible, not obligatory. Yet:

- a) Statecraft or politics, even when separated from religious office, do not become independent of, but continue to remain subject to the provisions of the Qur'an and the Sunna. It is only a separation of officers, not separation of authority, which is derived only from God.
- b) In his *al-Budur al-Bazighah*, Shah Waliullah Dihlawi has specially discussed the point, and he too arrives at the conclusion that if there is no competent person capable of handling all the different kinds of the affairs, of State, separation of powers is preferable in the interest of the community.¹⁵ For each its specialist, yet all are guided by the wise revealed laws. In fact if Qur'anic prescriptions on dogmas and cult are wise, they are no less wise when they speak of political, social and moral affairs of man.

POLITICAL DOCTRINE OF COMMUNISM OFFERS NO DIFFICULTY FOR ISLAM

Apart from the more common duplicity in the functions of the ruler the Muslims have also tried under the Buhids (Shi'ahs) and Saljuqids (Sunnis) even the triplicity of the power: a religious Caliph, a political sultan, and innumerable spiritual *Pirs* (leaders). I am only enumerating instances without the least wish to single out this or that form as the best. For it all depends on the *ummat* (community of the faithful) to decide from time to time how to be governed.

Lastly, I may refer to a possibility, still a Utopia even in the Communist States, where all personal property is abolished, and everybody gets from the State everything he needs and nobody owns anything. I say Utopia, for even the U.S.S.R. constitution expressly guarantees the right of individuals to personal property and its being inherited by the relatives of the deceased; It will not contravene the Qur'anic laws of inheritance. For the Qur'an expressly says:

"Men inherit from whatever their parents and relatives leave, women inheriting from whatever their parents and relatives leave, be it in more or less quantity, an inheritance in prescribed proportions" (Qur'an 4: 7).

It is to remark that a big "if" remains: if the near relatives leave anything it will be inherited, if not, not, and naturally without contravention of the law of the Qur'an. If somebody does not steal, there is no contravention of the Qur'anic law of amputation of the hand of the thief. So here even in the orthodox Islamic society the law of the *mawla al-muwalat* had permitted a sort of joint property and community living.

There remains the question of subordination too Moscow. This does not arise except when the latest Stalinistic Communism is taken as a whole with all its concomitants, religious, political and economic. As I am examining different aspects of Communism individually, and in a theoretical manner, I should say that with the idea of a World State there ought to be a political centre. As a centre of purely political field of the proposed World State, Moscow or New York are as good as Makkah or Madinah. Was not Madinah preferred by the Prophet himself to be his political metropolis instead of the Makkan religious centre? Was not Kufa preferred to Madinah by the Caliph 'Ali, Damascus by the Umayyad, Baghdad by the Abbasids, and Istanbul by the Osmani [Ottoman] Caliphs?

In short, in the political doctrine of Communism, there is essentially no difficulty for Islam.

ISLAMIC EMPHASIS MORE ON THE MORAL ASPECT THAN ON THE ECONOMIC ONE

The bluntest and, therefore, the most honest *expose* of the point as to the methods to be followed has been made by Stalin himself. In the same authoritative booklet referred to above,¹⁶ he says:

"If it is true that the passage from slow Quantitative changes to brusque and rapid qualitative changes is a law of development, it is dear that revolutions accomplished by the oppressed classes constitute a phenomenon absolutely natural and inevitable.

"Therefore the passage from Capitalism to Socialism and the deliverance of the working classes from the capitalist yoke can be realized not by slow changes, not by reforms, but solely by a qualitative change of the capitalist regime by means of revolution.

"Therefore in order not to be duped in politics it is necessary to be a revolutionary and not a reformist."

Again, in the words of Karl Marx: "Violence is the midwife of the very old society when she is pregnant with a new society".¹⁷ Or again: "The proletariat struggle against the bourgeoisie is naturally a class struggle which is elected by a revolution in the dominant class, and as a dominant class it destroys violently the old order of production".¹⁸

This is the accepted Communist method, which may not necessarily be bloody, though it cannot be denied that in cases it is unjust. For the Islamic method, the life and teaching of the Prophet must be our best and ultimate guide. It appears that the Prophet of Islam differentiated between the "essentials and non-essentials, between those vices which could not be tolerated for a single moment and those that could better be eradicated gradually. Islamic emphasis is more on the moral aspect than on the economic one. The case of the conversion of the people of Ta'if in the time of the Prophet is most instructive and enlightening in this respect. A delegation of theirs waited on the Prophet in Madinah and offered the political as well as religious surrender of their City-State, provided they were:

1. Exempted from daily religious services (*salah*);
2. Allowed to practice adultery and fornication (*zina*);
3. Allowed to practice usury;
4. Exempted from destroying their national idol and its temple;
5. Exempted from conscription (*jihad*);
6. Given the privilege that their city, Tai'f, should also be a sacred territory (*haram*); and
7. Exempted from paying central government taxes (*zakah*).

The Prophet replied:

- a) There is no good in a religion without fulfilling duty to our lord, the one God;
- b) Fornication and adultery are evils and immoral, and cannot be tolerated;
- c) Usury laws may apply to you from next year; not necessarily immediately.
- d) You need not destroy the idol yourself; we, shall send men from here who will do the job, however dangerous that may be, according to your superstition;
- e) You are exempted from conscription;
- f) Your city is declared sacred, in whose territory hunting animals and hewing down trees is forbidden under pain of punishment; and,
- g) you are exempted from taxes.¹⁹

The deputation returned satisfied. When they withdrew, the Prophet assured the bewildered audience of his companions that *jihad* and *zakah* obligations had not in the least been abrogated; that he had simply waived the right of the State in favour of these people in order to persuade them to embrace Islam, and with the penetration of Islam into them they would renounce themselves these concessions: they would render military service and they would pay taxes to the central Government. And he was not at all deceived for only two years later the Caliph Abu Bakr could conscribe without difficulty a contingent in the town to fight the renegades, and they paid taxes as any other Muslims.

In short, disbelief in God is to change at a stroke; other evils, particularly economic evils, could be changed and reformed in stages and in an evolutionary manner. Revolution is not always necessary.

ECONOMIC SET-UP OF THE COUNTRY

In a penetrating observation, Karl Marx had found that "theory becomes a material force as soon as it permeates the masses".²⁰

Economic orders in human society cede place one to another for diverse reasons. If the process of this evolution was characterized in Europe by what are termed primitive communes, slavery, feudalism, capitalism and socialism, the same is not necessarily true of other parts of the world, particularly of Arabia, although there too evolution has certainly taken place. When "one good custom corrupts the world," it is the human element, that is, the quality and the quantity of the tyranny, which determines the life and duration of the existing order. Other factors, such as geographic, demographic, etc., do not seem to play the leading part.

In the words of Stalin:

"If it is the state of productive forces which indicates the instruments of production by which men produce the material goods which are necessary for them, it is the state of the relations of production which shows the persons in whose hand the means of production (land, forests, waters, sub-soil; primary materials, instruments of production, buildings of exploitation, means of transport and communications, etc.) are found, whether they are at the disposal of the whole society or at the disposal of individuals, groups of classes".²¹

Marx and Engels enjoin:

"The proletariat will utilize political supremacy to snatch little by little all the capital from the bourgeois in order to centralize all the instruments of production *into* the hands of the State... of the proletariat organized in a dominant class, and to augment as quickly as possible the quantity of the productive forces".²²

It is thus that the means and instruments of production have been socialized in the Soviet Union. But their true nature is not what is generally understood in a hazy way. Let us refer to the Constitution of the U.S.S.R. which, authoritatively lays down:

§ 5. Socialist property in the U.S.S.R. exists either in the form of State property (the possession of the whole people) or in the form of co-operative and collective farm property (property of collective farms or property of a co-operative association):

§ 7. In addition to its basic income from the public collective farm enterprise, every household in a collective farm has for its personal use a small plot of land attached to the dwelling and, as its personal property, a subsidiary establishment of the plot, a dwelling-house, live-stock, poultry and minor agricultural implements in accordance with the statutes of the agricultural guild.

Of course the agricultural collective farm use the land occupied by them free of charge and for perpetuity for the benefit of the collectivity engaged in its exploitation, yet:

§ 9 Alongside the socialist system of economy which is the predominant form of economy in the U.S.S.R., the law permits the small private economy of individual peasants, and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Not only this but even:

§10 The right of citizens to personal ownership of their incomes from work and their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the *right of inheritance* of personal property of citizens, is protected by law.

As to the quota of work and share of the individuals in the State or collective enterprise and income, it is not equal with others, but:

§ 12 ...He who does not work, neither shall he eat... from each according to his ability to each according to his work.²³

According to his work, not according to his needs, much less according to his wishes!

HOW FAR ISLAM AND COMMUNISM GO HAND IN HAND

Whatever the popular conception or idealistic philosophy of Communism, the living reality in the economic field may be restated in the following terms:

1. It nationalizes land and the more important means and instruments of production, with many exceptions, as seen above; and this includes also foreign trade as a Government monopoly.

Islam does not enjoin this; yet if it is a temporary measure in the interest of the whole community, Islam will not prohibit it either, I suppose.

2. It allows private property, of course restricted: and even then it includes house, garden, and small fields and farms, not to speak of the movable property and herds of animals.

Regarding the permissions, there is nothing against Islam in them. As to the restrictions, if they are temporary and in the interest of the whole community, there will again be no clash with Islam.

THE ISLAMIC LAW OF INHERITANCE

3. It allows right of inheritance of these kinds of personal properties.

I have not readily available now the Soviet Law of Inheritance. Muslim Law of Inheritance is based on the Qur'an, and there can be no changing it. Of course, there are differences of interpretation of these Qur'anic laws among the different schools of Muslim law; not only among Shi'ahs and Sunnis, but even among Sunnis themselves. But beyond interpretation of the Qur'an, no abrogation and substitution can be tolerated.

4. Properties to be nationalized if they already exist in the possession of individuals, or even companies are expropriated and nationalized.

Islam would not prohibit this provided acquisition and requisition is compensated to the former lawful owners, and not simply usurped and confiscated.

5. There are grades of pay even in State enterprises, and not all people get the same amenities. "To each according to his work" is the guiding principle.

Even if everybody is paid alike, there will be no infringement of Islamic principles. The Caliph Abu Bakr distributed State income equally among the inhabitants of the country. The Caliph 'Umar divided, at first, in a graded manner. Later he decided to revert to the practice of Abu Bakr, but before he could do that he passed away from this world.²⁴

THE DEFINITION OF PERSONAL PROPERTY IN THE SOVIET CONSTITUTION

As to commerce, when the State produces consumer goods, there is no owns factories and difficulty in having uniform prices of commodities in State sales depots, particularly in a locality, though not necessarily in the whole length and breadth of a vast empire. Perishable goods are a point in this connection. Further in pursuance of section 7 of the Soviet Constitution, personal property includes herds of cattle, gardens and many other means of production, and people there can and do sell or barter out their surplus. Human habits differ individuals, and soon the frugal and the spendthrift will again be creating, even in Russia, if they have not already done so, the same old difference between the rich and the poor. The standard of living in Russia proper is not the same as in the in the townships of Central Asia.

If other freedom are conceded, why not also the freedom to possess? Tax the rich to any extent necessary providing the poor with the minimum required by them. That is the Islamic principle of general law. Accumulation of very large wealth in limited hands is further remedied by Islam by its laws of testaments and inheritance, by its prohibition of interest and other things to which I shall revert again. Large fiefs and landed properties cannot exist in Islam for more than one generation; the law of inheritance divides and subdivides in the course of time.

MATERIALISM RESPONSIBLE FOR THE DEGENERATION OF CAPITALISM

The irresistible human impulse to strive for well-being in this world, when unbounded, leads to materialism. Capitalism has degenerated not because private and individual ownership of capital and means of production was the order of the day, but, I maintain, because its worst advocates professed and practiced materialism, that is, rejection of all moral values and striving for nothing except material gain, even at the expense of all that is dear to human morality. Communism, that is collective ownership of the means of production, may as such not lead to anything unbearable what I fear for it is its alliance, or rather conspiracy, with materialism.

In normal times, Islamic polity makes least interference in the economic freedom of individuals. Free trade is its motto, though cut-throat and unfair competition is not allowed. We know, once in the market of Madinah a merchant sold certain goods at less than market price, and the Caliph `Umar at once ordered him to quit the place and not to sell there at that dumping price. In abnormal times, in periods of need and emergency, the interference proportionately increases.²⁵

TAXATION AND REQUISITION IN ISLAM

To illustrate: In general 2.5 per cent of the surplus property is taxed (*zakah*), cash hoard as well as commercial capital. If this *tax* does not suffice the needs of the State regarding the feeding of the destitute as well as the defense of the realm, additional taxes may be lawfully levied. The extent may be gauged from the following examples.

When the Prophet and his Makkan companions took refuge in Madinah, almost all of them had come there penniless. At the command of the Prophet, the well-to-do among the Muslims of Madinah were made to share their property with the immigrants. That is to say, not all the Muslims of Madinah, but only the richer among them were taxed to the extent of half of their property. Even this was not without compensation, reward or consideration. First of all it seems that the earnings of the immigrants also went to the common property. Secondly, both these legal brothers or members of the company inherited each other to the exclusion of other relatives. Thirdly, all this handing over of the property

on the part of the *Ansar* (helpers of the Prophet in Madinah) seems to have been as an interest-free loan, especially regarding landed property. For, as occasion arose, the Makkan refugees returned to their legal brothers the lands they had shared with them, and acquired separate, individual properties.

In times of calamity and stress, complete pooling and equal sharing or redistribution was practiced by the Prophet as well as by the Orthodox Caliphs. So, in military expeditions, when food stocks were exhausted, the provisions held by individual soldiers were collected and shared equally. That is to say, redistribution of the national wealth to the extent of meeting the emergency is lawful and even necessary.

IN CONTINGENCIES ISLAM GOES BEYOND COMMUNISM IN THE WAY OF CONFISCATING ALL PRIVATE PROPERTY.

All this is law. Piety, so much emphasized in Islam, goes a step further. According to the Qur'an, the highest and most meritorious characteristic is to prefer another to one's own self, and to hand over one's own food, for instance, while one is hungry (*yuthirun 'ala anfusihim wa lau kana bihim khasasah*) (Qur'an 59: 9).

In short, the needs of the community, of which one is also a member, compel one to share not only the community's weal but also its woe. Thus, it will be seen that ordinarily and in normal times, Capitalism, in its good sense, is allowed in Islam with the condition that the minimum taxes suffice for the dual purpose of the State, namely feeding all the destitute and defending the integrity and independence of the realm. Yet in time of need, Islam goes even beyond Communism, and orders that leaving the just necessary for preserving one's life (*sadd ramq*), all one's property may be confiscated as tax for the purpose of the dual State duty mentioned above. Islam has all along had a moral basis also. On the one hand begging is forbidden, and on the other alms giving is enjoined. Islamic policy in the economic field seems to be the distribution and circulation of wealth. The Qur'an (59: 7) says:

"So that the wealth should not circulate only among the rich among you."

ISLAM IS THE FIRST SYSTEM TO LAY DOWN THE PROVISION OF INTEREST-FREE LOANS FOR THE NEEDY, EVEN THE WELL-TO-DO.

The method of attaining this object was by taking surplus property every year by compulsory distribution of the property of the deceased among several of his relatives. Rendering the bequest of the whole to mere strangers is unlawful. Bequests to the extent of a third of the whole property at the most are allowed, the rest goes compulsorily to the several, pre-determined near relatives, and the relatives require no testamentary provisions. Again, interest, which tends to bring the whole national wealth into the hands of the few, is prohibited from the outset. Mere prohibition of interest, without providing how to meet the requirements of the needy, has proved useless in all civilizations. Islam was the first to lay down that it is among the first duties of the State to provide interest-free loans for the needy, even well-to-do; and the Qur'an has earmarked this item among the expenditures of the Muslim State. In the time of the Caliph Umar, the State treasury lent moneys even to the person of the Caliph himself - of course to others also - on providing security of repayment. From the time of the Prophet, we come across a sort of social insurance of the community, insurance against tort entailing payment of damages beyond individual capacities. This insurance was called *Ma'aqil*.²⁶

To sum up, if some-ism enjoins upon the *haves* to share whatever God has given them with the *have-nots*, Muslims, are the first and the last adherents of that ism. On the other hand, if some ism means the coveting others' property and sharing it with the lazy and the spendthrift, Muslims cannot even be the last to embrace that religion. They simply cannot entertain it.

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NOTES

1. Marxism: a political ideology combining the scientific socialist concepts theorized by Karl Marx (1818-83) and Friedrich Engels (1820-95), collectively known as Marxism [aai].
2. Leninism, developed from Marxism by Lenin (1870–1924), is the body of political theory for a revolutionary forerunner party, and the achievement of a direct-democracy dictatorship of the proletariat, as political prelude to the establishment of socialism [aai].
3. Stalinism is the bureaucratic, authoritarian exercise of state power and mechanistic application of Marxist-Leninist principles associated with the Soviet leader Joseph Stalin (1879-1953): a variant of Marxism-Leninism characterized by totalitarianism, rigid bureaucracy, and loyalty to the state, with himself at its center, his advocacy of national revolution, and his extensive use of secret police and slave-labor camps to reduce opposition [aai].
4. Titoism, the post-World War II variant of Communism practised by the Yugoslav statesman Marshal Tito (1892-1980), characterized by independence from the Soviet bloc and neutrality in East-West controversies, a considerable amount of decentralization, and a large degree of worker control of industries [aai].
5. Maoism, Marxism-Leninism developed in China chiefly by Mao Tse Tung (1893-1976), the Chinese Marxist theoretician and statesman: distinguished by its theory of guerrilla warfare, especially with regard to revolution and agrarian reform [aai].
6. Mazdakism related to Zoroastrian Mazdak (died c. 524 or 528) who instituted communal possessions and social welfare programs. He has been seen as a proto-socialist. According to Mazdak, God had originally placed the means of subsistence on earth so that people should divide them among themselves equally, but the strong had wronged the weak, seeking domination and causing the contemporary inequality [aai].
7. Abu Dharrism, attributed to Abū Dharr Jundub ibn Junādah al-Ghifari (d. 32H/ 652 CE) a Companion of the Prophet. In modern times, Abu Dharr has been reincarnated in the debate between Islam and contemporary sociopolitical ideologies. He has been posited by some as the ideal Muslim socialist on the basis of his criticism of hoarding wealth. However, this radical association with a companion of the Prophet has been generally rejected [aai].
8. U.S.S.R. stands for Union of Socialist Soviet Republic, the communist regime which was established in 1917 and ended in 1979 [aai].
9. Karl Marx and Fr. Engels, *Complete Works*, Russian edition, vol. 14, p. 651.
10. Lenin, *Philosophical Tracts*, Russian edition, p. 318.
11. Benjamin Franklin (1706–1790) was one of the Founding Fathers of the United States. It is reported that he defined man as a tool-using animal.... Without tools he is nothing, with tools he is all.

http://quotes.dictionary.com/man_is_a_toolusing_animal_without_tools_he#yum3G087y9ISXxJj.99 accessed on 29.11.2013 [aai]

12. Writing in 1950 after passage of more than quarter a century, Hamidullah still did not lose hope of resumption of caliphate [aai].
13. During the 19th century a few Western writers like Pierre-Joseph Proudhon (1805-65) and Mikhail Bakunin (1814-76) preached anarchy as a form of socialism to economic problems. See Oser and Blanchfield (1975, p. 146) [aai].
14. This shows the influence of Sufism on Hamidullah. [aai]
15. Dehlawi, Shah Wali-Allah (n.d.), *al-Budur al-Bazighah*, Dabhel: al-Majlis al-Ilmi [aai]
16. Stalin, *Dialectic Materialism*, p. 11.
17. Marx, Karl, *The Capital*. I: 603.
18. Marx and Engels, *Communist Manifesto*. p. 33).
19. Dr. Hamidullah does not provide with any reference to this story. It has great repercussion on Islamic economics and finance. I searched the relevant sources but find no clue from where it is taken as it was no where reported as Hamidullah describes. It seems that he made it up by picking up from various reports (al-Azimabadi 1968/1388; al-Andulusi 1417 H; Ibn Hisham; Ibn al-Qayyim 1982, etc.). I did not find in any report the Prophet's (peace be upon him) response as "usury laws may apply to you from next year; not necessarily immediately". The most detailed account is given by Ibn al-Qayyim who clearly says that the Prophet told them that they could collect their capital only and recited the verse of Qur'an (2: 278) "... if you repent, you shall have your capital sums. Deal not unjustly and you shall not be dealt with unjustly". It remains to be searched whether there is any report on which Hamidullah's statement is based or there is a certain oversight. Again I did not find that the Prophet explicitly exempted them from jihad and payment of *sadaqat* (zakah or taxes). Rather he predicted that as they would embrace Islam, they do the two (Abu Dawud on the authority of Jabir, cited in Ibn al-Qayyim).
20. Marx, *Criticism of the Philosophy of Right of Engels* [Perhaps the correct is *Critique of the Philosophy of Right of Hegel* (aai)], I: 96.
21. Stalin, *Dialectical and Historical Materialism*, p. 22.
22. Marx, Karl and Engels, Friedrich, *Communist Manifesto*, p. 32. [From the English edition of 1888, edited by Friedrich Engels]
23. According to Oser and Blanchfield (1975, p. 148), the socialist principle is "from each according to his ability to each according to his work", while Communist principle is "from each according to his ability to each according to his need" [aai].
24. See Abu Yusuf, *Kitab al-Kharaj*, p. 46 [aai].

25. al-Asbahi, Malik b. Anas, *Muwatta Imam Malik* , report no. 1889, *Bab al-hukrah wa'l-trabbus* [aai].
26. The *`aqilah* or *ma`aqil* is a clan committed, by an unwritten law of the Bedouins originating in the early stages of Islam, to pay blood money for each of its members. If somebody unintentionally commits a murder (manslaughter), and the granting of blood money became the clan's final verdict, then that blood money would be spread across his *`aqilah* (the supportive clan). This system is also referred to as *ma`aqil* [aai].

10 HAI DARABAD'S CONTRIBUTION TO ISLAMIC ECONOMIC THOUGHT AND PRACTICE

M. Hamidullah

It seems that like many other arts and crafts, the statecraft also enriches itself by continuous practice and hereditary traditions of generations. At least this is how I explain to myself the contribution of a comparatively small and out of the way country, like Haidarabad¹ to Islamic [economic] thought and practice. The reader will himself judge the value and extent of these novelties in a field of considerable importance to a country, viz. economics. It is to recall that since the Khiljite dynasty² of over six hundred years ago, Haidarabad has continuously known Islamic rule. Dynasties changed and wars came, yet its independence was always preserved, until 1948.³

I do not propose to study the history of economic institutions of this region for the six hundred odd years of its existence, although planned economy and even a kind of socialisation of the time of the Khiljite dynasty provide, for instance, interesting reading. I shall deal only with the conditions I have myself lived, since the course of World War I (1914).

NATIONALIZATION OF PAPER CURRENCY

The reader will forgive me an anecdote here, which will nevertheless verify to him the conditions of that far off land, in the South of the Sub-Himalayan continent:

We had a washerman, who used to bring on a donkey our linen and other clothes. As small children, his arrival was a real amusement to us: we used to "feed" the amiable donkey with sheets of waste paper. World War I was raging, and our government decided to issue paper money in the form of currency notes. My mother, a *purdah*-lady, gave me one day

the necessary amount in the new paper money to be paid to the washerman. This individual, on receiving the bits of paper *in* beautiful colour printing, and thinking that I was afraid approaching the donkey, asked me: "Master, is it for feeding the donkey?" When I explained that it was money, he returned it and demanded metallic coins, saying that notes had no value to him. By the way, he continued to render us service for many more years, and later when sometimes we gave him silver coins of the rupees, the old man with his as old donkey used to say: "Master, can't you give me notes? They are lighter to carry and easier to conceal."

It was the shortage of silver which had induced the Haidarabad government to have recourse to paper money, yet unlike so many of the Western countries of the epoch, we did not confer the privilege of issuing currency notes on a private bank, property of a few moneyed capitalists, but reserved the right to the government, to the nation. The finance minister signed these notes and promised to pay the bearer on demand, from any of the state treasuries, the amount indicated on the notes as face value. This state of affairs continued until the invasion of 1948. I presume, Haidarabad was the first Muslim country to issue currency notes on the basis of nationalization: both risks and benefits going to the government. Since that time it is more and more in vogue, and even England has deemed it meet since after the second world war to nationalize the Bank of England which has the privilege of issuing currency notes.

INTEREST-FREE LENDING BANKS

It is common place that Islam has forbidden interest. It is as well-known that practically all Muslim governments to-day tolerate, under stress of the Western impact with its enterprises of global dimensions, transactions based on interest. Nevertheless the antipathy of the Muslim commoners to even receive interest persists to a very considerable degree. It is evident that mere prohibition of interest does not suffice to eradicate it, if provisions are not made to organize institutions for interest-free lending on a nation-wide scale. I do not require to make more than a passing remark to the Qur'anic order (9: 60), enjoining the Muslim government to earmark in its annual revenues a certain percentage for aiding the heavily indebted among the well-to-do (*gharimin*); order which led to the establishment, among others, of

institutions for interest-free loans to the needy. When governments forget to do their duties, it falls to the lot of private citizens to organize self-help. And this is also what happened in Haidarabad.

In 1891 the first known step was taken. A certain *Mu'ayyid al-Ikhwan* society was founded by a leading mystic of the city, Sayyid `Umar Qadiri. In fact his friends and disciples used to deposit with him, for his honesty, their surplus money for safe custody. He obtained their permission to utilize these amounts for lending to those in pressing need, for determined periods, on production of dependable securities (like ornaments etc.) He also added to the "capital" the amount he used to receive from his disciples to disburse at his discretion on charitable purposes: particularly the hides of sheep sacrificed during the `id al-adha feast every year. The society still continues and thrives.⁴

In 1902 came another development: a certain *Mu`in al-Muslimin* society was established for organized interest-free deposits and lendings of money, on the following basis: Members paid a certain amount every month to purchase "shares" of this concern (and also deposited with it their surplus money for safe custody). Previous notice was required to withdraw deposits, and even the amount paid for their shares. Interest-free loans were issued, in the first instance to the members (shareholders), and if circumstances allowed also to strangers, on production of securities. These loans were repaid in easy installments. It existed until 1914, and transacted in hundreds of thousands of rupees.

In 1913, the Haidarabad government instituted the co-operative lending societies of western model; yet it allowed interest-free lending societies also to be registered with the department of state. So, in 1916, such an interest-free society was established for the benefit of the employees of the Revenue Secretariat. The novelty was that members paid a small percentage monthly towards expenses of the establishment, like stationery (the staff consisting of honorary workers). The surplus of this was preserved as reserve fund, to cover unforeseen losses. This reserve fund was later put to enhanced utility: a store as organized on commercial basis, where members of the society purchased on credit their requirements in non-perishable goods. The benefit was used to remunerate the workers and also to strengthen the reserve fund further.

This and several other similar societies, some of which even for agricultural enterprises, came into existence. Although even the most important of them has not been able to do transaction in more than six figures every year, the particularity is to note, that these interest-free banks are very popular even among non-Muslims some of whom in fact borrow interest-free money, deposit it at once with interest-giving banks, and repay their loans in easy installments. 'There is no remedy against evil genius.'⁵

ISLAMIC INSURANCE

Insurance, for life or other risks, in spite of its great utility, falls under the same prohibition as interest. One-sided risk and gain without proportionate responsibility in such a commercial contract are reasons thereof. *Haidarabadi 'ulama'* have suggested how to take away this sting: First the old method. Since long generations and even centuries, it was a practice in Haidarabad army, that the government provided the first horse to the recruit enlisted in the cavalry regiments, yet it was the soldier who had to replace it if it died or suffered from some accident in peace time. The responsibility was too great for a horseman singly to bear. Therefore these horsemen formed an association for mutual assistance, an insurance company, not on capitalistic but mutuality basis. In fact every horseman paid a very small amount monthly to this common fund, as a donation; and whenever there was an accident entailing replacement of a horse, it was not the horseman concerned, but his insurance company which did that.

A new method, in fact the development of the same principle was suggested by the *Majlis Ulama*. The government was actually considering this project when the "Anschluss" put an end to it.⁶ Briefly it amounted to the following: The government was considering the obligation of insurance against tort on all motor vehicles. The law was passed by the parliament; only its application was waiting the decision of the government. On the one hand the increase, in motor traffic (and transport accidents) demanded easy means to repair the damage to both the car and the persons suffering from accidents; and on the other hand, it would be a question of conscience to force a Muslim motor owner to get himself insured against his religion. The *Majlis 'Ulama* suggested to mutualise insurance, instead of leaving it to usurious capitalists: All motor owners should among themselves constitute an insurance society; each motor owner would contribute a small yet fixed

sum monthly or periodically to this common fund. It was calculated that the 20000 vehicles in the city could collect two hundred thousand rupees every year, which sufficed to cover the number of accidents registered by the department of statistics, even leaving a margin. After remunerating the staff, it was provided that the surplus, especially in the years to come, could eventually be utilized for co-operative stores for motorists, profiting from commerce and sharing the gain with members of the society.

TRIENNIAL PLANNED BUDGETS

A late finance minister of Haidarabad, Akbar Haidari was responsible for an interesting innovation, just after the First World War:

Budget estimates were prepared not for one, but for three years in advance; departments were given the possibility to plan their expenditure, and the unspent amount earmarked for them did not lapse at the end of the year to the general exchequer, but remained at the disposal of the departments concerned in the following year in addition to the new amount allotted to them; this for the duration of the triennial contract. Minor revision was made every year, yet budgets used to be passed on the basis of three consecutive years. Many costly projects and developments could be realized thanks to this method of planning.

COMMERCIAL CORPORATION

During World War II, food had to be rationed and strictly controlled both for production and (export-import, i.e.) distribution. The food grain commerce was first nationalised, and a governmental agency, called Commercial Corporation, purchased from the food growers their entire output, and also abroad, and distributed it through the rationing department. After the war it was converted into what was the general economic policy of the government of coordinating capital, labour and government, together with political stability, not allowing any community to get monopolies and tyrannize others. So some Muslim and some Hindu capitalists were allowed to share with the government in financing the corporation. Some industries were reserved for the government, others had to have government majority share, yet others with majority private capital in different proportions, the rest being left to private initiative and enterprise. A sort of mid-way between socialism and capitalism was under experiment; and co-ordination was the watch-word everywhere. For instance the cut throat competition between rail and road was in this way eliminated, and the surrounding British Indian

provinces and other native states began to send experts to study the working of what seemed to them the enviable miracle of Haidarabad.

THEORETICAL RESEARCH

My object is not to exhaust all the details of this sort here. I may conclude this sketch with academic research on Islamic economics. Economists (in the modern sense) are not *fuqaha'*, and *fuqaha'* have no knowledge of economics, in general.⁷ Without the combination of the two it is not possible to study Islamic economics. The university came to the help, where the faculty of Muslim Theology and the School of Economics worked under the same roof (of course together with many other faculties necessary in modern universities).

Whenever a student took a subject pertaining to economics from Islamic point of view, in either of the two above-mentioned faculties, he was provided with a double guidance: one professor from the theological faculty and one from the economics one.⁸ This not only enhanced the value of the student's research work, but also provided fruitful contacts between the professors of the two sections of the university, leading to several interesting publications, for instance of Prof. Dr. Anwar Iqbal Quraishi⁹ and of Prof. Maulana Manazir Ahsan Gilani.¹⁰ All this has also suffered on account of the upheaval that has come about.

(Published in *Die Welt des Islams*, IV: 73-78, Leiden, 1955)

NOTES

1. 'Haidarabad' or 'Haydarabad' is written at present as 'Hyderabad'. The way Hamidullah wrote in this paper is more correct as it is sum of 'Haidar' or Haydar and '*abad*' (meaning a city developed by Haidar), not 'Hyd[e]ra' and 'bad', both words in bad taste [aai].
2. Khiljite dynasty ruled India during 1290-1320 CE [aai].
3. India annexed Haidarabad state in 1948 [aai].
4. This he stated in 1955. It discontinued later [aai].
5. For details see my [Hamidullah's] article *Anjumanha-e Qarda-e-Hasanah ki Ahammiyat aur Haidarabad men unki halat* in the *Majallah Taylasaniyin*, Haidarabad, 1941.

6. "Anschluss" is a German word meaning annexation by force. It is a reference to India's takeover of Hyderabad state [aai].
7. This is still emphasized by scholars at various forums and presently courses have been designed to meet this objective [aai].
8. It is not known whether any Ph D on Islamic Economics under such a combined supervision came out except the one by Muhammad Yusufuddin entitled *Islam ke Ma`ashi Nazariye* (Economic Theories of Islam). At least Hyderabad showed the way [aai].
9. Late Professor Anwar Iqbal Quraishi was chairman of Economics Department at Osmania University. He authored the first book on *Islam and the theory of interest* in Urdu (1945) and in English (1947) [aai].
10. Prof. Mawlana Manazir Ahsan Gilani authored his work *Islami Ma`ashiyat* (Islamic Economics) in 1947. This is the second important on Islamic economics which appeared in 1948. The first book on Islamic Economics was authored by Mawlana Hifzur-Rahman Seoharawi entitled *Islam ka Iqtisadi Nizam* (Economic System of Islam). It was published in 1939 [aai].

11 A SUGGESTION FOR AN INTEREST-FREE ISLAMIC MONETARY FUND

A Way Out of the Foreign Grip of Economic Independence of Muslim States

M. Hamidullah

Islam is not the only religion that denounces interest, but it is the only religion that has shown the way to an interest-free society.

It goes without saying that no one willingly pays interest on money one has borrowed, but simply because one cannot borrow otherwise. It is also commonplace that unless a system of interest-free loans is elaborated, the mere declaration of the illegality and even sinfulness of interest remains without much effect, especially when all laws and all civilizations do not think alike. Islam is not the only religion that has denounced interest on loans in vehement terms (*cf.* The Qur'an, 2: 275-279, etc.), but it is the only one, to my knowledge, that has provided a way out of the dilemma. I shall revert to it later. So long as Muslim governments acted on the commands enjoined by the Qur'an, there was little chance of the survival of the race of Shylocks¹ on their soil. It is time to revive the Qur'anic institution, and to adapt it to the conditions of our time.

Another word of interpretation. The Islamic terms *zakah* and *sadaqat*, even if they meant in the pre-Hijrah verses of the Qur'an a mere alms-giving, a contribution for charitable purposes, the same terms were retained by the Qur'an and the Prophet to signify something else after the Hijrah, after the establishment of the Muslim State by the Prophet Muhammad. From this period on, the term *zakah* (and its synonyms) signified the revenues of the Muslim State, coming from the pockets of the Muslim taxpayers – the only category of people in the long run in an

Islamic State, others sooner or later guided to embrace the religion of the sub-mission to God- and God alone – revenues levied on surplus property, on cultivated land, on imports and exports, etc.

Now, in the famous verse of the Qur'an (9: 60) on the principles of Islamic budgeting, it is enjoined that the Islamic State should partly earmark its income (*sadaqat*) every year [for] the *gharimin* (the heavily indebted), a class which the Qur'an distinguishes in the same verse from the *fuqara wa masakin* (the poor among the Muslim and non-Muslim residents of the Muslim State). (For this interpretation, see the authoritative opinion of the Caliph 'Umar, in Tabari's *Tafsir* or Abu Yusuf's *Kitab al-Kharaj*).² It goes without saying that a government alone is the best qualified in an organized society – and not private individuals – to forego interest on loans advanced to anybody. The Qur'an commands that the Islamic government should every year reserve a certain amount of its income – as much as one-eighth, according to certain schools of Muslim law – for coming to the aid of those well-to-do who are temporarily in the pressing need of borrowing money. History records that it was common practice in early Islam, in the time of the great Caliph 'Umar particularly, to borrow money, on production of security, from the State Treasury, and to repay it free of interest. Even the scrupulous Caliph 'Umar did not hesitate to have recourse to this sort of benefit from the *Bayt al-mal* (Public Treasury), which he so justly and jealously guarded as the "property of the orphans", to employ his own terms. In fact, he repaid debts contracted in this way when he touched his semestrial salary from the *Diwan* section of the *Bayt al-mal*.

There is no reason why this institution should not revive and adapt itself to modern needs: for instance, loans could be contracted for building houses, starting or developing commerce and industry and the like, and repaid in easy installments extending over several years. In fact, the governments will not lose in renouncing interest on loans advanced to its own subjects, for the growing prosperity will recuperate the eventual interest in the form of increased income from taxes on houses and on industry and commerce. Yet, this is not precisely the point I was proposing to emphasize in this essay.

Today not only private citizens but even governments are in constant need of borrowing money, in millions and billions, to finance programmes of construction and other developments. There is an international monetary fund in America; yet as could be expected, it is not interest-free. An Islamic monetary fund could and should be established, yet not in any spectacular way and not even despising the modesty of its start. Before suggesting the ways and means, I beg permission for another digression.

A PERSONAL EXPERIENCE IN INTEREST-FREE LOANS

When the Islamic governments degenerated to the point of neglecting and forgetting the Qur'anic duty of providing for the interest-free loans to the *gharimin* (the well-to-do needy), an alternative was worked out and successfully put into practice in certain Muslim countries. I am referring to Hyderabad-Deccan, India, of pre-occupation days when, with the awakening of Islamic consciousness in the 80's of the last century, societies for interest-free loans were organized on a basis of mutuality.

This is how they worked in 1948. Employees in an administrative department, for instance, founded a society, each member purchasing one or more shares according to his means, and paid them in monthly installments extending over one hundred months. With fifty shareholders, the very first month brought, say, £50. The elected executive of the society decided to whom this sum of £50 should be lent, on production of security, of course. The next month brought in not only another £50 of the shareholders' but also the installment of the repayment of the loan advanced in the first month. In this way, every month the available capital increased and circulated. In the course of a few years, there was sufficient fund to meet practically all the needs of the members. The members also deposited their surplus money for safe custody in a sort of current account with the same society, and of course there was no question of being entitled to interest for these deposits. This also partly served to advance further interest-free loans. Not only were new members always admissible, thus increasing the capital, but also old members were permitted to discontinue membership and get back their share money and deposit in its entirety; of course on giving due notice previously, according to the rules of the society. As to the expenses such

as stationery, remuneration of the: accountant. etc., each member paid a small sum, a few pence, monthly for the purpose. In a small society, honorary workers are found, and the contributions towards expenses even build a reserve fund to meet unforeseen losses.

I have known societies with a thousand members where the reserve fund became so considerable in the course of time that it was employed to start a co-operative store of imperishable goods, such as food grains, clothing, etc., where the same members purchased their requirements on credit. The store purchased at wholesale prices and sold at the retail prices ruling in the market. The profits earned in this way were distributed partly among the elected workers of the store, partly among the members of the society, and partly to consolidate further the reserve fund.

THE MUSLIM STATES CAN FOUND AN INTEREST-FREE LOAN FUND

Now if the Muslim States found among themselves a monetary fund, *mutatis mutandis*³ on the same principles, even with a modest start, the course of a few years would procure appreciable funds and useful results. It could, for instance be established in Makkah. Every State, from Pakistan and Indonesia down to Kuwait and Tunis, could purchase shares and pay them up in yearly installments of hundreds of thousands of pounds, if not even in millions, a small fraction of their present annual expenditure. The income of the first year would be modest, and the clamour for loans perhaps great. The elected executive, with good-will and a sense of justice and charity all round, can decide which member country or countries deserve most the interest-free loan, to be repaid, say, in ten to fifteen years. It goes without saying that the executive will scrutinize the motives proffered with each and every demand for a loan, and get due assurances that such loans will not be squandered on unproductive expenditure. As the transactions will take place practically only once a year, at the time of the Hajj, for instance, the establishment charges will be negligible. The adoption of the lunar calendar has the additional advantage of imperceptibly increasing the capital: in thirty-six years of the solar calendar members will have thirty-seven annual installments.

If even £10,000,000 are collected every year, the fund will rise to the considerable sum of £100,000,000 in only ten years, and to very much more importance later. There is no reason why even Turkestan, Azerbaijan, Kazan, etc., should not join this fund. Who would not like to borrow interest-free loans? This self-help would proportionately loosen the foreign grip on the economic independence of the Muslim States, bringing prosperity not only to Muslims but even showing to the rest of the world in a tangible way how Islam can guide them to solve their economic problems, so very important after those of the spiritual.

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NOTES

1. Shylock: a character in Shakespeare's play, *The Merchant of Venice*. He is a Jewish moneylender who demands a pound of flesh from somebody who could not pay back the money that he borrowed. Although the play shows him as a person who is treated badly as well as a person who treats others badly, his name is sometimes used to describe people who lend money at very high rates of interest [aai].
2. It is Hamidullah's considered opinion that *masakin* means the poor among the non-Muslim residents of the Muslim State). He has discussed this at various occasions in his works [aai].
3. Latin phrase meaning "only the necessary changes having been made" [aai].

12

BUDGETING AND TAXATION IN

THE TIME OF THE HOLY PROPHET

The Qur'an the only religious book that lays down precise instructions for the expenditure of the state-income

M. Hamidullah

Of all the religious books of yore, to my knowledge the Qur'an is the only one which has laid down precise instructions, as to the policy of the State regarding the expenditure of its income. In pre-Islamic days the income of the State was considered to be the private property of the head of the State (or the chief of the tribe), but the Prophet Muhammad declared that the proceeds from *zakah* (i.e., income coming from the pockets of the Muslim nationals of the State) is forbidden (*haram*) for him (the Prophet), for his family and for the members not only of his clan of the Banu Hashim, but even of the allied and cousin-clan of the Banu al-Muttalib. This proud tradition of Islam, whenever acted upon, eliminated corruption and brought peace and prosperity to all who lived in a Muslim State. The institutions of the time of the Prophet Muhammad have so far received but only meagre attention on the part of scholars, and it will take many generations of servants to fill this lacuna. Fortunately, the data is not lacking; only it is dispersed, and has to be picked up from a vast amount of literature and then put together to make the picture complete. An attempt is being made here to give a brief account of the system of taxation and budgeting in the time of the Prophet.

BACKGROUND

Before doing so, it may be useful to recall the conditions in the pre-Islamic Arabia. Leaving aside the pre-Athens and pre-Rome civilizations in Arabia, in the States of Ma'in and Saba' - the latter of the Queen Bilqis fame - on which our knowledge is scanty and uncertain and which relate to the Yemen, which is rather far removed from the Hijaz, I would refer to Makkah and Madinah only in this connection.

MAKKAH

The earliest inhabitants of the region of Makkah were of the 'Amaliqah (and it is a branch of this same tribe which was living in Palestine at the time of the Exodus when the Jews, emigrating from Egypt, attempted to expel them and appropriate the land).

According to the history *Mana'ih al-Karam*¹ these pre-historic (Amalecites used to levy a tithe on those merchants who entered Makkah with their goods. When about two thousand years before Jesus Christ, in the time of the Prophet Ishmael, a confederacy was established in the city-State of Makkah, under two cousins' clans of Jurhum and Qatura, our sources² report that the people entering from the northern route paid the tithe to the Jurhumite chief; and those entering from the southern route paid the same to the Qaturite chief. Coming nearer to historical times, when Qusayy (ancestor of the Prophet Muhammad in the fifth degree), wrested power from the tribe of Khuza'ah, and the Qurayshites got hegemony in the city, we come across another institution for income. Qusayy is the contemporary of the first Byzantine Emperor (fourth century of the Christian era). When he saw that his clan was not sufficiently numerous, and feared that his *coup d'etat* would not be recognized by the general Arabs, who used to throng in Makkah for the pilgrimage instituted by the Prophet Abraham he suggested to his clansmen that they donated to a fund which he would use for feasting the pilgrims and providing transport for the poor and destitute having no means of their own to return home. This contribution was called *rafadah*, and became an annual tax.³ There were some other sources of municipal income also. For instance, the offerings for the temple of the Ka`bah, or for the several idols in the city, venerated by the local people as well as by the foreign pilgrims, were preserved (under the name of *Amwal Muhajjarah*), and were certainly used in emergencies, such as the defence of the city against foreign attack, etc. The tips paid to the officer in charge of the holy well of Zamzam (for drinking its water) - and to the one in charge of the holy arrows consulted as oracles, went apparently to the private coffers of these officers or "Ministers" of the Makkah oligarchy.⁴

MADINAH

In pre-Islamic Madinah there was anarchy, Arabs and-Jews constantly fighting with each other and never evolving a central authority. Yet among the Jews of the Banu al-Nadir, at least, we come across central finance. In his biography of the Prophet Muhammad, Shami reports that the – Nadirites had a treasury (*Kanz*) to which they all contributed for emergency requirements; that when they migrated to Khaybar, which place was later occupied by the officer in charge was proved to have told a lie in his assertion that the treasury was exhausted, because it was later found concealed in a secret place, he was punished, and the treasury was confiscated.

This is enough to give us an idea of the conditions prevailing in the more advanced centres of human conglomerations of Arabia before Islam.

EARLY ISLAM

As we all know, when Islam was first preached it was not the religion of the State, but had, on the contrary, to struggle against very heavy odds for its very existence. The number of its adherents no doubt increased steadily and gradually, yet for the first thirteen years of its life, this small community had no liberty even to live, much less to organize itself. The teachings of Islam being based from the beginning on high levels of morality, it was natural that the Prophet exhorted his disciples always to give charity. We have unmistakable proof of it in the Qur'an, where the so-called Makkian chapters also speak of such terms as *zakah* (meaning purification, growth; therefore giving away a part of the growth to purify it), *sadaqah* (charity, truthfulness; therefore charity as a sign of a true believer), *haqq* (right; therefore if charity is the right of the poor, it is the duty of the well-to-do), *nafaqah* (expenditure, particularly in the path of God), all signifying practically the same thing - a sort of alms giving. I have not yet found proof of these contributions of the first Muslims having been collected and disbursed by the central authority. Probably each Muslim spent according to his means and at his own will, whenever there was a worthy cause or a deserving case. Naturally, there was no fixed rate either at that time. It is perhaps noteworthy that in one of these early chapters of the Qur'an there is an exhortion to Muslims, saying that the former religious communities, too, Jews and Christians, were enjoined by God to spend, their money in charitable causes.

AFTER THE HIJRAH

The conditions changed fundamentally when the Prophet Muhammad and the persecuted Muslims left Makkah and settled in Madinah. A State was established there, a small city-state though; the Muslims had now all the liberty they needed to live as they liked, without fear or persecution. The Qur'an calls money the very means of existence, a support *sine qua non*⁵ of humanity (Cf. the Qur'an 4: 4, "your property which God has made for you a means of support"). No wonder if the Qur'an repeats the expression scores of times - "Keep up the prayer and pay the *zakah* tax" – an expression in which the service of prayer and the payment of the surplus-property tax have been conjugated and placed at the same level, and consequently imply the welding of the spiritual and the temporal into one greater and completer whole.

The State established in Madinah was not the continuation of something already existing, a mere change of dynasty; it was on the other hand an evolution from tribalism to a superior order of society, a city-state first and a vaster State later. Naturally everything had to be created anew, from top to bottom, because the persons at the helm of affairs, the Prophet Muhammad and his immediate collaborators, had inherited neither any traditions of government nor administrative institutions.

As far as the financial aspect of the administration is concerned, we see a gradual evolution, beginning with persuasion and recommendation and culminating into obligations and duties enforced with all the power that society could command. In the very first sermon which the Prophet Muhammad delivered on his arrival in Madinah he said: "In order to save you from hell, you have to spend even a part of a date-fruit".⁶ One of his earliest acts was to rehabilitate the displaced persons, the refugees coming from Makkah without any means of livelihood. The arrangement was simple but efficacious: he ascertained the number of refugee families and then convoked a general meeting of the well-to-do Muslim inhabitants of Madinah and told that each head of the family should take one Makkan family. This fraternization was based on the condition that members of the two families would jointly work, jointly earn, and jointly share, even inheriting each other's property, to the exclusion of other blood relations. This was an emergency order, with, of course, the possibility of separation at option.

Next we come across an organized system of the distribution of charities; the Prophet Muhammad himself received the contributions, and then distributed them among the most needy. As has already been mentioned he and his near relatives were not to benefit from this charity, which was declared religiously forbidden (*haram*) to them, eliminating all possibilities of temptations to abuse public confidence.

The third stage was to make charity a State duty, a real tax. Its exact date may not be determined, yet it cannot be later than 8 A.H. (629 C.E.).⁷ For we possess a document, a treaty between the Prophet Muhammad and the newly converted tribe of Aslam in which not only the expression "establishing services of prayer and paying *zakah* tax" has been employed, but also an exemption has expressly been accorded from the duty of leaving their homes and migrating to the territory of the Islamic State.⁸ We know that on the conquest of Makkah in the year 8 A.H. (629 C.E.) the obligation of the emigration of the Arab tribes from their homes and hearth to the Islamic territory was abandoned.

It seems that during this period the *zakah* tax was brought to the Prophet Muhammad, who had made no arrangement to send officials to collect it. This came in the fourth and last stage, when tax collectors were posted all over the country and detailed instructions were given them as to the rate and tariffs of various taxes.

NATURE OF ZAKAH AND SADAQAH:

From the brief sketch given above, it will be apparent that the Prophet Muhammad did not change the terms (*zakah*, *haqq* and *sadaqah*), yet there was a marked change in their sense. In Makkah they meant a charity, an alms-giving; in Madinah they implied nothing less than a fixed duty, even as prayer and fasting. The term *nafaqah* or *infaq* was retained in the original Makkan sense even in Madinah, and it meant voluntary charity at the option and according to the means of the individuals; it entailed certainly a divine reward in the afterlife if acted upon, yet it did not entail a sanction, a punishment (neither in this world nor in the hereafter), if disregarded. This is important to bear in mind, in order to better grasp the nature of taxation in Islam. For all practical purposes, *zakah*, *haqq* and *sadaqah* may be taken as synonymous terms, meaning a government tax with the double sanction, spiritual and

temporal, even as is the entire life of a Muslim in which both these aspects are welded together to create an equilibrium in man with his complex nature. The most one can say is that these terms applied to contributions coming from the Muslims; income from non-Muslims was not included in *zakah*; it would be *kharaj*, *ghanimah*, etc.

The *zakah* and the *sadaqah* of the time of the Prophet Muhammad included not only tax on cash, but 'also the land revenue and the tax on domesticated animals (sheep, goats, camels and cows) - it included further the tax on bee-hives, on mines (particularly of gold and silver, and apparently also of iron), on treasure troves, and the like. Without going into all the details and making exhaustive research here, it may be said that the *zakah* and *sadaqah* comprised in fact the entire State-income at the time of the Prophet in so far as it was collected from the Muslim subjects. There is no reason to believe that the items taxed and the rates charged were meant to be unchangeable even with the exigencies of times and circumstances. Classical Muslim scholars have clearly recognized that the Caliph 'Umar is reported to have lowered the existing rate of import duty on consumer goods going to Madinah from 10 to only 5 per cent.⁹

TARIFFS OF TAXES

The Qur'an is silent as to the rates to be charged on different taxable articles' belonging to the Muslims. This silence may be taken as an indication of the elasticity of the Muslim law on the subject. The Arabia of fourteen hundred years ago did not provide much, owing to the barren nature of the soil. There was some agricultural land; it was subjected to a tithe (*'ushr*) at every harvest if the land of an individual produced more than a certain minimum, which was tax free. There were date groves, vineyards, fields of wheat and barley, and so on, including gardens of fruit trees. Taxes on such items were paid in kind; and not in cash. Then there were domesticated animals; roughly they paid 1 per cent every year, provided they were fed on general pastures, and provided also that the number of animals belonging to an individual surpassed the tax-free minimum. In the case of currency, gold and silver, the rate was 2.5 per cent every year. It is to be noted that this tax was not levied on income, but on the savings; if a certain amount was saved and remained unspent during a whole year, the owner was in duty bound to pay the necessary

tax to the central government or its agents. Commerce was also included in the same category: the tax was paid on the stocks. Here debts were taken into consideration, and proportionately the amount' was deducted from the savings and the stocks - the rest was taxable. The exploitation of mines was also subjected to the tithe, and already in the time of the Prophet this item of income was well known.

Besides these there were other sources of income, such as import duty on foreigners. International trade was not unknown in Madinah at this epoch, and the Nabatean traders used to bring to that place wheat, oil, olives, etc. There was also a sort of scutage tax on those who did not render military service. Another source of income were the agreements which had been made between the Prophet and different localities.

THE QUR'AN ON THE EXPENDITURE OF THE STATE INCOME

The Qur'an (9: 60) had laid down very precise orders as to the expenditure of the State income, which is not left at the tender mercy of the State. It says:

"The *sadaqat* (i.e., taxes coming from Muslims) are intended for nothing other than the Muslim poor *fuqara'*, to poor among the resident aliens (*masakin*), for functionaries of the tax administration, for winning the hearts, for liberating the slaves and the prisoners of war, for aiding those heavily indebted, in the path of God, and for the way farer; this is an obligation from God and God is knowing, wise."

A very brief explanation may not be out of place. The *fuqara'* or the Muslim poor do not call for any elaborate discussion here. The very high authority of the Caliph 'Umar is there to support the view that the term *masakin* meant the poor among the non-Muslim inhabitants of the Islamic State. The Semitic philology also confirms it; for instance, in the famous code of Hammurabi we come across the term *mushkino*, which there means a resident alien, very much akin to the *dhimmi*s of the later Muslim law. The root "s-k-n" means residing, inhabiting, i.e., in a foreign country. The functionaries, whose salaries are charged on the income, are not only those engaged for the collection, but also accounting, auditing and disbursing. Seeing the items of expenditure, it means practically the

entire administration at the time of the Prophet Muhammad. Baladhuri, in his *Ansab*, refers to the fact that Caliph `Umar once requested the governor of Syria to send some Greek experts to Madinah to put right the government accounts.¹⁰

These were certainly non-Muslims, and of course had to be paid for the service. For "those whose hearts are to be won", the following quotation may be of interest: As to "those whose hearts are to be won", they are of four kinds. First there are those whose hearts are won in order to make them come to the aid of the Muslims. Secondly; there are those whose hearts are won for making them abstain from doing harm to Muslims. Thirdly, there are those whose hearts are won for (their) embracing Islam. Fourthly, there are those whose 'winning of heart persuades their peoples and their clans (equally) to embrace Islam. So it is permissible that each and every one (belonging to) these kinds should be the recipient of this item of *zakah* be he a Muslim or a polytheist.¹¹ We may call it in modern terms the secret service. That the government had to provide regularly in its annual budget for the liberation of slaves and subjects of the Islamic State (both Muslims and non-Muslims) taken prisoner by the enemy in a war, is too eloquent to require explanation. Slavery in Islam is for the benefit of the slave, not for his exploitation by the capitalist. A slave originally came from the prisoners of war, who had lost all their belongings, home, family and all else, as slaves in an Islamic State they got a home and means of livelihood. Not only is it the duty of the Muslim State gradually to buy the slaves and free them, but a slave can also at his will get freed if he is willing to earn and payoff his value to his master, who is not entitled to refuse this (on the authority of the Qur'an, 24: 33), if the court is satisfied that the slave has been sufficiently civilized and would cause no harm to the State if freed. The item "heavily indebted" is wide enough; mere loans could be given him. The interest-free lending under government supervision would eradicate usury from the country (even as meeting all rightful requirements of the people), just as the other item eradicates slavery from the Islamic society. The "path of God" is also a comprehensible term from equipping the national army down to grants in aid to students, all could be included therein. The last item, "wayfarer", may be aided not only by free board and lodging, but also by improving touristic conditions: hotels, restaurants, means of transport, security of roads and the like.

If we visualize the condition of Arabia in the time of the Prophet Muhammad, it is not difficult to see that the above mentioned items practically exhausted all the needs and requirements of the budding State and nascent community of Islam; they went much beyond what was known in the neighbouring "civilized" countries of Byzantium and Iran. In fact the Prophet Muhammad established a welfare State. If we look to its spirit, there is not the least difficulty in concluding that the Islamic law of finance has great elasticity for further expansion to meeting the requirements of any age and any civilization.

BUDGETS AT THE TIME OF THE PROPHET MUHAMMAD

The Islamic State, founded and run by the Prophet Muhammad, was a growing and ever expanding organism. It began in the first year of the *hijrah* with only a few streets of the small city of Madinah. But a few years later when he breathed his last, the whole of Arabia and parts of southern Palestine and Iraq were under his jurisdiction. This meant almost a million square miles. This was the achievement of ten years only, that is to say, about 274 square miles were on an average added *daily* to the Islamic State. Naturally, therefore, the income of the State varied from year to year, even from day to day. It is not possible to give exact figures for the whole country for any year; only odd figures can be given:

The income from Bahrayn (not the island of this name but modern al-Ahsa district, opposite the island of Bahrayn) was 80,000 *dirhams*.¹² The region of Khaybar had agreed to divide its agricultural products in a fifty-fifty ratio. This brought 20,000 *wasq'* (apparently of dates and wheat) to the Muslim government every year.¹³ The localities in Palestine (of Jarba and Adhruh) had each agreed to pay annually 100 *dinars*.¹⁴ The port of Aylah, on the Gulf of 'Aqabah, paid 300 *dinars every year*.¹⁵ The region of Najran, in the Yemen, paid 2,000 garment every year, each garment worth 1 oz. of gold¹⁶ There was weaving industry in this locality, which was inhabited by the Christians.

The port of Maqna, on the Gulf of Aqabah, paid one-fourth of its date harvest, one-fourth of fishery catches, and one-fourth of the spinning of the womenfolk.¹⁷ but the actual income is not mentioned. The same is true of Fadak, and Wadi al-Qura, where the farmers had to deliver half of the harvest, yet I have not come across the actual amounts paid.

There were other vaster and richer regions, and their incomes could be assessed from what we have cited above. As to the expenditure side, I shall refer to one case, that of the Jewish tribe of the Banu 'Urayd. In a document quoted by Ibn Sa'd Daybuli and others, the Prophet Muhammad had granted them "ten *wasq* wheat, and ten *wasq* barley at every harvest; and fifty *wasq* of date fruits every year".¹⁸

LATER EPOCHS

This was but an attempt to glean material from a vast literature, and it is not possible to exhaust it so easily. If other scholars also bring into relief the results of their studies in this field, gradually one may have fuller data to reconstruct the whole picture.

We possess greater details regarding later epochs, especially the" Abbasid Caliphate, for which even the budget notes for the whole empire have been preserved, and have been published, for instance, by Von Kremer in several of his German writings. These refer only to income, yet they are interesting in the sense that we know nothing about contemporary Europe, the empire of Charlemagne, for instance, who is said to have exchanged embassies with Harun al-Rashid. A comparative study of these later budgets explodes particularly one myth, that of the financial breakdown in the time of the Caliph 'Umar Ibn 'Abd al-'Aziz (d. 620 C.E.) due to his reforms and abolition of many taxes. In fact, the income of the Province of 'Iraq is sufficient testimony to the contrary:

Incomes of Iraq in the time of:

	Million dirhams
The Caliph 'Umar (d. 644 C.E.)	120
Ibn Ziyad, Viceroy of Mu'awiyah (d.680C.E.)	100
Al-Hajjaj Ibn Yusuf, Viceroy of the Umayyad	
Caliph 'Abd al-Malik (d.705C.E.)	18
'Umar Ibn 'Abd al-'Aziz (d. 717 C. E.)	120
Ibn Hubayrah (d. 720 C.E.)	100
Yusuf Ibn 'Umar	60 to 70

And we know how short was the duration of `Umar Ibn 'Abd al-'Aziz's reign. If his just rule could have been prolonged to some extent, he could have even surpassed old records.

Von Kremer himself quotes these figures for 'Iraq, but strangely gives at the same time this self-contradictory opinion: "However, there is no doubt that this bigoted Caliph 'Umar II (d. 717 CE.) Undermined the finances by his stupid orders".¹⁹ should one say, in the Persian parlance: "A liar has no memory!"²⁰

(With acknowledgement to the *Journal of Pakistan Historical Society*, Karachi, III: 1, January, 1955, pp. 1-11).

NOTES

1. *Mana'ih al-karam* cited in *Mir'at al-Haramayn*. I: 69. [Sinjari, Ali ibn Taj al-Din, *Mana'ih al-karam fi akhbar Makkah wa al-Bayt wa wulat al-Haram* (6 vols.) and Rif'at, Ibrahim (Tr.) (1925), *Mir'at al-Haramayn aw al-Rihlat al-Hijaziyah* [The Mirror of the Two Holy Shrines]. Cairo: National Library Press. Translated, for the most part, from Ayyub Sabri Pasha's Turkish work *Mir'at al-Haramain*: 5 volumes, Matba'a-i Bahriye, Istanbul, 1301-1306 A.H (1888 -1893 CE) [aai].
2. Ibn Hisham, p. 72; Azraqi, p. 47; *Aghani*, 13: 108.
3. Cf. Ibn Hisham p. 83; Tabari, p. 1099; Ibn Sa'd, 1: 1, p. 41; Yaqut (Makkah), etc.)
4. For the offerings to the Ka'bah see among others, Ibn Abd Rabbih, *al-'Iqd*. ed. Bulaq, 2: pp. 45-46.
5. Latin phrase meaning "indispensable and essential" [aai].
6. Ibn Hisham, p. 34.
7. According to al-Qaradawi, zakah was made obligatory in the second year of hijrah 1: 70-2 [aai].
8. Cf. [Hamidullah's] *al-Watha'iq al-siyasiyyah*, No. 165.
9. Abu 'Ubayd, Report No.1660.
10. Baladhuri, in his *Ansab*, Vol. I, p. 585.
11. Abu-Ya'laa al-Farra', *al-Ahkam al-Sultaniyyah*, p. 116.
12. Yaqut, *Mu`jam al-Buldan*, (Bahrayn) .
13. Ibn Abi Shaybah, cited in the footnote of Abu 'Ubayd's *Amwal*, 1437, 1587,1590.
14. Ibn Sa'd, etc.

15. Ibn Sa'd; Maqrizi, *Imta*, 1: 468.
16. See, among others, *al-Kharaj* of Abu Yusuf, p. 41.
17. Ibn Sa'd, 2: I, p. 48, etc.
18. A *wasq* is equivalent to a camel's load or sixty *sa'*, and the *sa'* contained about eight pounds of grain.
19. Von Kremer *Culturgeschichte*, I: 262.
20. "*Daroghgo ra `aql nabashad*" [aai].

13

THE ECONOMIC SYSTEM OF ISLAM

M. Hamidullah

Islam provides guidance to its adherents in all phases and activities of life, in matters material as well as spiritual. Its basic teaching with regard to economics is mentioned in several passages of the Qur'an. Far from despising material well-being, it recognizes (4: 5) that, ". . . *your goods which God has made as the very means of your subsistence . . .*", and it orders, "*and neglect not thy portion of this world*" (28: 77). It lays emphasis, however, on the dual composition of man, by reminding him thus: "*...but of mankind is he who saith, 'Our Lord, give unto us in this world; and he hath no portion in the Hereafter. And of them is also he who saith, 'Our Lord, give unto us what is good in this world and what is good in the Hereafter, and guard us from the doom of Fire. For these there is in store a goodly portion out of that which they have earned: God is swift at reckoning.'*" (2: 200-2). In other verses we find it stated plainly and definitely that, all that is found on the earth, in the seas and the heavens has been created by God for the benefit of man; or that all that is on the earth, in the heavens, the ocean, the stars and others have been made subservient to man by God. It means for man to know and to profit by the creation of God, and profit in a rational way, paying due regard to the future.

The economic policy of Islam has also been explained in the Qur'an in the most unequivocal terms: ". . . *so that this (wealth) may not circulate solely among the rich from among you. . .*" (Q. 59: 7) Equality of all men in wealth and comfort - even if it is ideal - does not promise to be of unmixed good to humanity. First because natural talents are not equal among different men, so much so that even if one were to start a group of persons with complete equality, the spendthrift will soon fall into difficulties and will again look on the fortune of his comrades with greed and envy. Further, on philosophic and psychological grounds, it

seems that in the very interest of human society, it is desirable that there should be grades in wealth, the poorer having the desire and incentive to work harder. On the other hand, if everybody is told that even if he works more than what is required of him as his duty, he would get no reward and would remain as those who do not do more than their duty, then one would become lazy and neglectful, and one's talent would be wasted to the great misfortune of humanity.

Everyone knows that human livelihood is in constant progress, through the domination and exploitation one after the other of all those things that God has created, whereas one sees that the rest of animals have changed nothing in their livelihood ever since God created their species. The cause of this difference, as discovered by biologists, is the simultaneous existence of a society - a co-operation, and a liberty of competition inside the members of the society, i.e., human beings. Whereas other animals suffer from the lack of some or all of these requisite conditions, dogs, cats and snakes for instance do not create even a family, for they perpetuate their race by means of free and momentary "love". Others, such as crows and pigeons do create a family in the form of couples yet even if the male helps in the construction of the nest, each member in the 'couple' depends on its own gain for its livelihood. Perhaps the most developed social co-operation is found among bees, ants and termites (white ants). They live in a collective way, with complete equality in livelihood, yet without any competition among its members, and consequently it is not possible for the more intelligent or more industrious bee to live more comfortably than others. For this reason there is neither evolution nor change, much less progress in any of these species, as against the human race. The past history of man shows that every advance and every discovery of the means of comfort came into existence through competition and desire for improvement, and also through the existence of grades of wealth or poverty among men. Yet, absolute liberty would lead devilish men to exploit the needy, and draw them out gradually. So it was necessary for every progressive civilization and every healthy culture to impose certain duties on its members (such as the to pay taxes, the interdiction of having recourse to oppression and cheating, etc.), and to recommend certain supererogatory acts (like charity and expenditure for the sake of God), yet to nevertheless have a great deal of liberty of thought and action to its members, so that each

one benefits himself, his family, his friends and the society at large. This is the exigency of Islam, and it also conforms to nature.¹

It is on the basis of this fundamental principle that Islam has constructed its economic system. If it tolerates the minority of the rich, it imposes on them heavier obligations: they have to pay taxes in the interest of the poor, and they are prevented from practising immoral means of exploitation, hoarding and accumulation of wealth. For this end there will be some orders or injunctions, and also some recommendations - for charity and sacrifice - with the promise of spiritual (other-worldly) reward. Further it makes on the one hand, a distinction between the necessary minimum and the desirable plenitude, and on the other hand between those orders and injunctions which are accompanied by material sanctions and those which are not so, but for which Islam contents itself with persuasion and education only.

We shall describe first in a few words this moral aspect. Some illustrations would enable us to better understand its implications. Most emphatic terms have been employed by Islam to show that to beg charity of others is something abominable, and it would be a source of shame on the day of Resurrection.² Yet simultaneously, unlimited praise has been bestowed on those who come to the aid of the others, the best of men being in fact those who make a sacrifice and prefer others to their own selves. Similarly avarice and waste are both prohibited. One day the Prophet of Islam had need of considerable funds for some public cause. One of his friends brought a certain sum to offer as his contribution, and on the demand of the Prophet, he replied: "I have left at home nothing but the love of God and of His messenger." This person received the warmest praise from the Prophet. Yet on another occasion, another companion of his, who was seriously ill, told him when he came to inquire about his health: "O messenger of God, I am a rich man, and I want to bequest all that I possess for the welfare of the poor." The Prophet replied, "No, it is better to leave to thy relatives an independent means of livelihood than that they should be dependent on others and be obliged to beg." Even for two-thirds and for a half of the possessions the remark of the Prophet was, "that is too much." When the proposal was submitted to give one-third of the property in charity, he said: "Well, even the third is a large amount".³ One day the Prophet saw one of his companions in miserable attire. On enquiry, he replied: "O messenger of

God, I am not at all poor; only I prefer to spend my wealth on the poor rather than on my own self." The Prophet remarked: "No, God likes to see on His slave traces of the bounty that He has accorded him".⁴ There is no contradiction in these directions; each has its own context and relates to distinct individual cases. We are afforded an opportunity of determining the limits of the discretionary choice in excess of the obligatory minimum, *vis-à-vis* the other members of society.

INHERITANCE

Both the individual right of disposing of one's wealth and the right of the collectivity *vis-à-vis* the wealth of each individual, in as much as one is a member of society, have to be simultaneously satisfied. Individual temperaments differ enormously. Sickness or other accidents may also affect a man out of all proportion. So it is necessary that a certain discipline should be imposed upon him in the interest of the collectivity.

Thus, Islam has taken two steps: firstly the obligatory distribution of the goods of a deceased person among his close relatives, and secondly a restriction on the freedom of bequest through wills and testaments. The legal heirs do not require any testamentary disposition, and inherit the property of the deceased in the proportions determined by law. A testament is required solely in favour of those who have no right to inherit from a deceased person.

There is equality in the parents of the same category, and one cannot award to one son (elder or younger) more than to the other - whether major or minor. The first charges on the property left by the deceased are the expenses of his burial. What remains then goes to his creditors, the debt having priority over the "rights" of the inheritors. In the third place, his testament is executed, to the measure and extent that it does not exceed the third of the available property (after burial and payment of debts). It is only after satisfying these prior obligations that heirs are considered. The (male or female) partner of life, the parents, the descendants (sons and daughters) are the first class heirs, and inherit in all cases. Brothers and sisters, and other more remote relatives inherit from a deceased person only in the absence of nearer relatives. Among these more remote relatives, we find uncles, aunts, cousins, nephews and others.

Without entering into technical details, certain basic rules may be described. A homicide is excluded from the inheritance of his own victim, even if the court decides that it was a case of death by involuntary accident. The underlying idea seems to be to prevent all temptation to kill a rich relative in view of an earlier inheritance. The Prophet has also prohibited inheritance among relatives of different religions, even between the husband and wife. However, the right of donating gifts and testament can be availed of in this respect. The Muslim husband, for instance, may bequest, even on his death-bed, a part of his property in favour of his non-Muslim wife. On the strength of the international and political conditions of their times, the classical Muslim jurists have instituted another hindrance, *viz.*, the difference of the territory (i.e., political nationality) as barring inheritance. Evidently the statal treaties may regulate the question of private international law, in a contrary sense, on the basis of reciprocity.

In countries where the Islamic law of inheritance is not applied by governments, yet the right of testament is recognized, the Muslim inhabitants can (and must) utilize this facility, in order to fulfill their religious duty with regard to the disposition of their property after their death.

WILLS

We have just mentioned that the right of testamentary bequests is operative only within the limits of a third of the property, in favour of persons other than creditors and heirs. The aim of this rule seems to be two-fold: (1) To permit an individual to adjust things, in extraordinary cases, when the normal rule causes hardship; and a third of the property is sufficient for fulfilling all such moral duties. (2) Another motive of the law of the will is to prevent the accumulation of wealth in the hands of a few, a thing which would happen if one should give all this property, by will, to a single person excluding totally one's near relatives. Islam desires the circulation of wealth among as large a number of people as possible, taking into account the interests of the family.

PUBLIC GOODS

One also has obligations as a member of a larger family, *viz.*, society and the State in which one lives. In the economic sphere, one pays taxes, which the government redistributes in the interests of the collectivity.

The taxation rate differs according to the various kinds of the sources of income, and it is interesting to note that the Qur'an, which gives precise directions with regard to budgetary expenditure, has enunciated neither rules nor rates of the income of the State. While scrupulously respecting the practice of the Prophet and of his immediate successors, this silence of the Qur'an may be interpreted as giving a latitude to the government to change the rules for income according to circumstances, in the interest of the people.

In the time of the Prophet, there were agricultural taxes, and the peasants handed over a tenth of the harvest, provided it was above a certain taxless minimum and irrigated their lands with rain or spring water, and half that rate in the case of wells as the means of irrigation. In commerce and exploitation of mines, one paid 2½% of the value of goods. As for import taxes on foreign caravan-leaders, there is an interesting fact which should profitably be brought into relief. In the time of the Prophet, these were subject to a tithe as customs duty. The caliph 'Umar reduced by half this tax on foreigners, concerning certain categories of victuals imported in Madinah.⁵ This precedent of high authority casts light on the essential principles of the fiscal policy of Islam. In the time of the Prophet, there were taxes on herds of camels, sheep and goats, and oxen provided they were fed on public pastures and exceeded in number the taxless minimum. Exemption was accorded further to beasts of burden and those employed for ploughing and irrigation.

There was a tax of 2½% on savings on silver and gold. This obliged people to employ their wealth for increase, and not to indulge in idle hoarding.

The Qur'an (9: 60) has prescribed the principles regulating the budget of State expenditure in Islam, in the following terms: "*Verily the sadaqat (i.e., taxes on Muslims) are only for the needy, and the poor, and those who work for these (taxes), and those whose hearts are to be*

reconciled, and to free the necks (i.e., slaves and prisoners of war), and the heavily charged, and in the path of God, and for the wayfarer -- a duty imposed by God; God is Knower, Wise." These eight heads of expenditure, which cover practically all the needs of a collective, need elucidation to enable the understanding of their exact range and application.

The term *sadaqat*, which we translate as the State tax on Muslims, and which is a synonym of *zakah*, signifies all the taxes paid by Muslims to their government, in normal times, whether on agriculture, mines, commerce, industry, pasturing herds, savings or other heads. These exclude the provisional taxes imposed in abnormal times, the revenues levied on non-Muslims - subjects or foreigners and also all the non-obligatory contributions. Juridical literature of early Islam, and particularly the sayings of the Prophet, leave no doubt that the term *sadaqat* was employed in this sense. It did not refer at all to alms, which can be neither obligatory nor determined as to the quantity and the time of payment. The equivalent for alms is *infaq fi sabil Allah*, expenditure in the path of God, or *tatauwu'*: voluntary charity.

The first two categories of the needy (*fuqara*) and the poor (*masakin*), which are almost synonymous, have not been explained by the Prophet; hence there is a divergence of opinion. According to sayings and constant practice of the caliph `Umar,⁶ *fuqara* are the poor among the Muslims, and *masakin* are from among the non-Muslims residing in the Islamic territory, such as Jews. In his *Futuh al-Buldan*, Baladhuri cites another case of the same caliph, who awarded pensions to Christians of Jabiyah (Syria) from the *sadaqat*, i.e. *zakah* revenues.⁷ The jurist al-Shafi'i thought that the terms were absolutely synonymous, and that God, out of His bounty, named them twice in order to make a double provision. According to this authority, as each of the eight heads in the Qur'anic verse should receive one-eighth of the State income, the poor would receive two-eighths. Be it what it may, the first duty of the State is to see that no dweller on the Islamic soil is deprived of the means of livelihood: food, dress, lodging, etc.

The next item concerns the salaries of the functionaries: collectors, accountants, controllers of expenditure, auditors of accounts etc. If the truth is to be told, this category comprises the entire administration, civil,

military and diplomatic, as one can see in the description of the categories of the beneficiaries. The historian al-Baladhuri has preserved a document in which the caliph 'Umar demands of his governor of Syria: "Send us (to Madinah) an expert Greek, who may put in order the accounts of our revenues." (*hisaba fara'idina*).⁸ We require no better authority for asserting that the non-Muslims could not only be employed in the administration of the Muslim State, but also be beneficiaries of the *sadaqat* levied exclusively on Muslims.

The category of those whose hearts are to be reconciled can more easily be understood by the modern term "secret funds".⁹ In his *al-Ahkam al-Sultaniyah*, the jurist Abu-Ya'la al-Farra' says: "As to those whose hearts are to be won, they are of four kinds: (1) Those whose hearts are to be won for their coming to the aid of the Muslims; (2) or for abstaining from doing harm to Muslims; (3) for inviting them to embrace Islam; and (4) for inviting through them their clans and families to embrace Islam. It is lawful to spend on each and every one of these whether they be Muslims or polytheists."

By the term "*freeing the necks*," one has always understood two kinds of expenditure: the liberation of slaves, and ransoming of the prisoners of war in the hands of the enemy. According to the Islamic law (Qur'an 24: 33), every slave has the right to purchase his emancipation by paying his value to his master; and in order to earn the necessary amount, he may compel his master to give him facilities to work, and during this period he is not required to serve his master. Moreover, as we have just seen, it is the duty of the government to allot every year in the budget a certain sum for aiding the slaves to buy their freedom. A document of the time of the Umayyad caliph `Umar ibn `Abd al-`Aziz says that the payment of the ransoms by the Muslim government includes liberating even the non-Muslim subjects who would have been made prisoners by the enemy.¹⁰

The category of those who are heavily charged has, according to the practice of classical times, a whole series of applications. One helped those who had suffered from calamities such as floods, earthquakes, etc. It does not refer to the poor, who have already been mentioned in the beginning of the verse, but to the well-to-do who have suffered from abnormal conditions, beyond their power. Caliph `Umar started a special

section in the Public Treasury, in order to lend money, free of interest, to those who had temporary needs and provided the necessary guarantees for repayment. The caliph himself had recourse to it for his private needs. It goes without saying that the "nationalization" of lending without interest was the necessary concomitant of the prohibition of interest in Islam. The same caliph used to lend public money even to merchants for fixed periods and the Treasury participated with them in a percentage of their business returns. They participated not only in gains but even in the event of losses. Another application of this State expenditure was for a kind of social insurance. If somebody was found guilty of involuntary homicide, and was unable to pay the blood money required by law out of his own means, the government came to his help under this heading of the budget, as is evidenced by several cases of the practice of the Prophet. We shall revert to this later in detail.

The expression "in the path of God," in the Islamic terminology, signifies, in the first instance, military defence and the expenditure for the personnel, equipment, etc. But the term applies in fact to all sorts of charitable works, such as helping students, grants and aids in religious causes such as the construction of mosques, etc.

The last category concerns communications and tourist traffic in a wide sense: construction of bridges, roads, hotels, restaurants, security of routes (police included), hygienic arrangements, transport of travellers, and every comfort provided to aliens in the course of their journeying, including extending hospitality to them without charge and in proportion to the means available. Formerly such hospitality was assured for three days in every place of stay.

In order to appreciate the merit of these Qur'anic dispositions, one must remember that the time was the very beginning of Islam, fourteen centuries ago. There is not much that could be added to these headings of expenditure. They seem to be well applicable to our own times in a progressive welfare State, having concern for the well-being of its subjects.

EXCEPTIONAL TAXES

The *sadaqat* were the only taxes of the State in the time of the Prophet and the Orthodox Caliphs. In later times, on occasions of extraordinary need, the jurists have admitted the legal possibility of imposing supplementary charges, on a strictly provisional basis, for occasional exigencies. Such taxes are called *nawa'ib* (calamities).

SOCIAL INSURANCE

Only risks involving heavy charges form objects of insurance, and these differ according to the times and social conditions. Among the Arabs at the commencement of Islam, daily ailments were unknown and the cost of medical care was practically nothing. The average man built his house with his own hands, and did not pay even for the major part of the material. Thus, it is easy to understand why one had no need of insurance against sickness, fire etc. On the contrary, insurance against captivity and against assassination were a real need. Already in the time of the Prophet, this point had received attention, and certain dispositions were made which had the elasticity of further development and adaptation to circumstances. Thus, in the Constitution of the City-State of Madinah of the first year of the *Hijrah*, this insurance is called *ma`aql* and it worked in the following manner. If someone was made a prisoner of war by an enemy, payment of ransom was needed to procure his liberation. Similarly, all bodily torts or culpable homicides required payment of damages or blood money. This often exceeded the means of the individual concerned, prisoner or criminal. The Prophet organized an insurance on the basis of mutuality. The members of a tribe could count on the central treasury of their tribe, to which everybody contributed according to his means. And if the treasury of the tribe proved inadequate, other related or neighbouring tribes were under obligation to render aid. A hierarchy was established for organizing the units into a complete whole. At Madinah, the tribes of the Ansarites were well known. The Prophet ordered the Makkan refugees there, who belonged originally to the various tribes of Makkah, or were Abyssinians, or Arabs belonging to different regions, to all constitute a new "tribe" of their own, for purposes of the said social insurance.

Later in the time of the caliph 'Umar, the branches of insurance were organized on the basis of the profession, civil or military administration, to which one belonged (or even of regions). Whenever needed, the central or provincial government came to the succour of the branches, as we have described above when speaking of State expenditure.

Insurance signifies essentially the repartition of the burden of an individual on as many as possible, in order to lighten the burden of each. Instead of the capitalistic companies of insurance, Islam preferred organising insurance on the basis of mutuality and cooperation, aided by a pyramidal gradation of the branches culminating in the central government.

Such a branch could engage in commerce with the help of unutilized funds remaining at its disposal, so that the capital is augmented. A time might come, when the members of a branch could be fully exempted from paying further contributions, or might even receive amounts of the profits of commerce. It goes without saying that these elements of mutual aid could insure against all kinds of risks, such as accident of traffic, fire, loss in transit, and so on. Also, it goes without saying that the insurance business is capable of being "nationalized" for all or certain kinds of risks (i.e. temporary motives such as the dispatch of parcels, etc.).

Without entering into technical details, it may be pointed out that capitalistic insurance, in which the insured person does not participate in the benefits of the company in proportion to his contributions, is not tolerated in Islam as this would constitute a form of game of chance.

In passing, we might mention another social institution of the time of the caliph `Umar. He had organized a pension system for all the inhabitants of the country, and according to the *Kitab al-Amwal* of Ibn Zanjawayh and *al-Risalah al-Uthmaniyah* of al-Jahiz, even non-Muslim subjects were among the beneficiaries of these pensions - so much so that as soon as a child was born, he began to receive a certain pension. The adults received the minimum necessary for living. In the beginning, the caliph practised a certain discrimination amongst the different categories of the pensioners, and if the minimum was one, the most favoured person received forty; yet towards the end of his life, he decided to observe complete equality, but he died before this reform could be introduced.

This institution, named "*Diwan*," by 'Umar, seems to have originated in the very time of the Prophet, as the following report implies: "The basis of this practice is the narration that the Prophet named Mahmiyah ibn Jaz`a to be in charge of the governmental fifth of the booty captured on the Banu'l-Mustaliq; and in fact Mahmiyah was in charge of the governmental fifth of all booties. The *sadaqat* (*zakah* taxes) were controlled separately and had their own particular administration. However, peaceful revenues from the enemy (*fay'*) were administered by separate functionaries. The prophet used to spend the *sadaqat* on orphans, the weak and the poor. If the orphan reached puberty and military service (*jihad*) became his duty, he was transferred from the list of the beneficiaries of the *sadaqat* to that of the *fay'*. If he refused to render military service, he would not benefit any more from the *sadaqat* and was commanded to earn his livelihood himself."¹¹

GAMES OF CHANCE

In prohibiting these, the Qur'an (5:90) has characterized them as the "work of Satan" for cogent reasons. It is recognized that most social evils emanate from the bad distribution of the national wealth wherein some individuals become too rich and others too poor and as a result, they fall victim to exploitation by the rich. In games of chance and lotteries, there is great temptation for quick and easy gain - and so often easy gain is bad for society. Suppose that in horse racing (and other forms) and in either public or private lotteries, as well as all other games of chance, the people of a country spend 3 million pounds every week (as is the case in certain countries) in the course of only ten years, a sum of 1,560 millions of pounds will be collected from a very large number of the inhabitants and redistributed among a ridiculously small number of people. Less than one percent of the people thrive at the expense of the remaining 99 per cent. In other words, the 99 per cent are impoverished in order to enrich the 1 per cent so that one creates one per cent of millionaires by systematically ruining the other 99 per cent. Whether games of chance, including lotteries, are private or nationalized, the evil of accumulating wealth in the hands of the few at the expense of a very vast majority, works with full force. Hence the total prohibition of games of chance and lotteries in Islam. As in capitalistic insurance, games of chance bear one-sided risks.

INTEREST ON MONEY-LENDING

Probably there is no religion in the world which has not prohibited usury. The distinctive trait of Islam is that not only has it forbidden this kind of gain, but it has also remedied the causes leading to the existence of this evil institution in human society:

Nobody pays willingly an interest on what he borrows: he pays only because he requires money and he finds that he could not get it without paying interest.

Islam has made a very clear distinction between commercial gains and interest on money-lending. The Qur'an (2:275) says: ". . . *God permitteth trading and forbiddeth interest. . .*" A little later (2:279), it says: "*If you do not give up (interest), then be warned of war against God and His messenger; and if ye repent, then ye shall have your principal, (without interest); neither ye wrong nor be wronged.*"

The basis of the prohibition of interest is also the unilateral risk. For when one borrows a certain sum for earning an increase by the rich. In games of chance and lotteries, there is a great temptation for quick and easy gain, it is possible that circumstances should not have been propitious enough for earning sufficiently to be able to pay the promised interest, the lender not participating in the risks of the exploitation.

It is not possible to compel an individual to deprive himself of his money, in order to lend it to others gratuitously and without interest. We have pointed out that Islam has ordered that one of the charges on State income is the obligation of helping those who are heavily charged. Hence, the Public Treasury organized interest-free loans, in addition to and for supplementing the loans offered by charitable men or organizations, to help those who are in need of them. The principle is mutual aid and cooperation.

In the case of commercial loans, there is also the system of *mudarabah*, in which one lends money and participates equally in gains as well as in risks. If, for instance, two individuals form a company, each one furnishing half of the capital and labour, then the distribution of the profit is not difficult. However, if the capital comes from one party and the labour from the other, or if the two furnish the capital though only

one of them works, or the proportions of the partners' share are not equal, in such cases a reasonable remuneration of the labour, on the basis of the previously agreed conditions is taken into consideration before the distribution of gains and profit is effected. Of course all possible precautions are taken, in order to prevent risks, yet Islam demands that in all contractual negotiations, the profit as well as the loss should be shared by both the contracting parties.

As far as the banks are concerned, their activities are principally of three kinds (i) remitting of amounts from one place to another, (ii) assuring safety of the savings of the clients, and (iii) lending money to others on profit. The expenses of the functioning are borne by those who utilize the service of banks. The question remains of loans for commerce, industry or any other trade motive. If the bank participates in the profit of its debtors as well as in their risks, Islam allows such banking activities, otherwise not.

Confidence is born of confidence. If the savings banks of a government declare at the end of the year (and not at its beginning) that they are in a position to pay such and such percentage of profit to the clients, not only would this be lawful according to Islam, but the public also would have no hesitation in depositing its savings with governmental banks, in spite of the silence in the beginning with regard to the quantity of the expected profit. For one has confidence in the public administration.

To sum up, the principle of mutual participation in profits as well as in risks must be observed in all commercial contracts.

STATISTICS

In all planning, it is necessary to have an idea of the available resources. The Prophet organized the census of the Muslim population, as al-Bukhari informs us. In the caliphate of `Umar, the census of beasts, fruit-trees, and other goods was organized; and cultivable lands were measured in the newly-acquired provinces. With a large spirit, full of concern for the well-being of the public, caliph `Umar had the habit of inviting representatives of the people of different provinces, after the collection of taxes, to find out if they had any complaint against the behaviour of the collectors during the year.

DAILY LIFE

We may end this brief sketch by mentioning two prohibitions of considerable importance, which form in fact characteristic features of the daily life of a Muslim - games of chance and alcoholic drinks. We have had the occasion to discuss games of chance, in which one spends sometimes continually during the course of years without obtaining anything in return. What a loss to those who are economically weak! The use of alcohol has the peculiarity that its consumption in a small quantity makes one gay and weakens his resolution to drink no more. And when one becomes drunk, one has loses control over one's acts. One may then squander money without noticing it. To these evils may be added the unhygienic effects of alcoholic beverages which are transmitted in the children and their progeny also. One of the Qur'anic verses (2: 219) speaks of it in interesting terms: "*They question thee about wine and games of chance; say: in both is great sin and some profits for men; but the sin of them is greater than their usefulness.*" (Qur'an 2:219).

The Qur'an does not deny that there are certain profits in the use of alcohol, still it declares it a sin against society, against the individual himself, and of course against the Legislator. In another verse (5:90) it relegates it to the same level as idolatry, and declares it to be the handiwork of Satan. It adds that if one desires to be happy in both worlds, one should abstain from games of chance and alcoholic beverages.

(This article constituted Chapter X, pp. 121-133, of his book *Introduction to Islam*, (1388/1969), Paris: Centre Culturel Islamique, new enlarged edition (First published in 1957.)

NOTES

1. This section is a part of Hamidullah's Introduction to his monograph *Islam and Communism* second edition prepared in 1975/1395 H. at Paris [aai].
2. See Abu `Ubayd, no. 1730 [aai].
3. Al-Bukhari, 1987, Vol. 4, p.4.
4. *Musnad Ahmad* b. Hanbal, 2:403. *al-Tirmidhi*, 5: 123.
5. As reported by Abu `Ubaid, no. 1662.

6. Recorded by Abu Yusuf in his *Kitab-al-Kharaj* and Ibn Abi Shaybah in his *Musannaf*.
7. Al-Baladhuri, *al-Ansab*, 3:391 [aai].
8. *ibid*. But it is not stated that the Greek was paid from sadaqat revenue. There were other sources to pay like *fay'* and *kharaj* [aai].
9. By "secret funds" he means money at the disposal of the ruler to spend in the interest of the *ummah* without disclosure [aai].
10. Reported by Ibn Sa`d.
11. cf. Sarakhsi. *Sharh al-Siyar al-Kabir*, ed. Munajjid. 1978.

14

Revenue and Calendar

M. Hamidullah

The Qur'an considers property a means of survival and support for mankind: "... your property which Allah has made for you a means of support" (4:5). Revenue from property is indeed important. From the very early times our jurists have written books on the subject such as *al-Kharaj* by Imam Abu Yusuf; *Kitab al-Kharaj* by Yahya ibn Adam al-Qurashi and *Kitab al-Amwal* by Abu 'Ubayd al-Qasim ibn Sallam.

Many more books were written and a few have been published.¹ with due deference to the early writers one is obliged to say that their works suffer from a drawback - they have ignored the historical point of view. They do not trace the evolution of the system. They fail to deal with the conditions as they obtained in Makkah before the Migration. What was the situation immediately after the Migration to Madinah? How did it gradually develop and what was the shape it finally assumed? These questions are not answered. Both historians and jurists agree that *zakah* became mandatory in 9 AH.² But one is somewhat perplexed when one comes across the word *zakah* even in verses which were revealed before the migration to Madinah. We shall try to grapple with this problem and determine how revenue and taxation began.

There are some hints in the Qur'an about the genesis of *zakah*. There is a verse, for example: "Pay His due on the day of harvest" (6:141). By "His due", here is meant *zakah*. There are other verses where a number of words synonymous with *zakah* have been used, the most common of them all being *sadaqat*:

"The *sadaqat* (alms) are only for the poor and the needy" (Qur'an 9: 60). Here the word *sadaqah* does not indicate mere charity but *zakah*. Similarly, in the following verse *sadaqah* has been used in the same sense: "Take alms out of their wealth" (ibid. 9:103). We also come across words like *infaq* and *nasib* at several places. They too indicate the same meaning. Sometimes one, and sometimes the other word is used in the same sense during the Makkan and Madinan periods.

However, there is nothing to prove that *zakah* had been made mandatory during the Makkan period, nor is it clear that a scale had been fixed, nor that the Prophet (peace be upon him) had made arrangements for its collection and distribution. In our view *zakah* began on a voluntary basis, with benevolence as the main driving force. The Prophet (peace be upon him) used to ask Muslims to spend a part of their income from trade, agriculture and other sources in the way of God. It would not be surprising that Muslims, of their own volition, began to offer contributions to the Prophet (peace be upon him) so that he could use the money according to his discretion. Muslims also used their own discretion in directly distributing the funds.

It was not clear, however, to whom these funds should be given. In the pre-Islamic days, good people of means used to spend their money on good causes. Muslims continued the tradition. Islam retained good pre-Islamic customs. Initially, the word *zakah* signified an act which purified the soul. The moral element was conspicuous whereas the element of legal compulsion and official pressure to contribute was missing.

When the public mind accepted that it was good to help other people, particularly the poor and the deprived, other elements gradually began to be added. When and to whom should it be given? What should be the rate at which *zakah* should be levied? Which categories of people should be considered as deserving? These problems gradually began to resolve themselves. In Makkah *zakah* was voluntary. No one was under any compulsion to contribute. It would be relevant to mention here that even the pagans had an institution somewhat

similar to *zakah*. They used to pay a part of the produce to their idols. They kept part of it for Allah and gave part of it to idols. The Qur'an taunts them in *surah al-An'am* (6:136) that if by chance a part of the allocation for idols went to the part reserved for Allah, the pagans hastened to retrieve it and give it back to the idols. But if, on the other hand, the part allotted to Allah for some reason went to the idols they allowed it to remain with them!

This was the situation in Makkah. Things changed with migration to Madinah. Both the number and the needs of Muslims increased. Money was required for defence. The resources also increased. There were many well-to-do Muslims of Madinah who pursued agriculture as a profession. They had a sizeable income from orchards and land and could contribute a fixed part of their income on a regular basis. Moreover, an Islamic state was established in Madinah. But even then *zakah* was initially a voluntary charity, not a fixed obligation. Gradually, relevant questions began to arise. When, to whom, and in what quantity was *zakah* to be given? These questions were answered and eventually *zakah* became a tax similar, in many ways, to modern taxes. If someone declines to pay a tax today his government compels him to do *so*. After the demise of the Prophet (peace be upon him), and during the early days of his Caliphate, Abu Bakr waged a war on those who refused to pay *zakah* and compelled them to comply with the law.

THE PROPHET'S MEANS OF LIVELIHOOD

When Muslims migrated from Makkah to Madinah their problem of poverty and unemployment was solved by the introduction of the institution of brotherhood which led to the creation of units that bound one Helper and one Emigrant together and resulted in the merging of their families into a single family. This joint family then lived and worked together. A question arises: how did the Prophet live? What were the means of his livelihood?

A Swedish Orientalist writes: "To begin with, Muslims were extremely poor. They indulged in loot. They had nothing to eat and were obliged to attack caravans. The Prophet used to send them on such expeditions". This is a very serious charge against Islam from the moral point of view, i.e., Islam called upon others to be just and honest, but its adherents helped themselves by all means, including loot.

But there is no truth in the allegation. We have already noted that the Muslims of Madinah had their own means of livelihood. They had lands which they tilled and they had orchards. The Emigrants from Makkah followed their example. Some started trading. Those who were craftsmen worked as shoemakers, carpenters, blacksmiths, etc. The means of livelihood of the Prophet (peace be upon him) in that period are generally not mentioned in history-books. It is necessary, therefore, to say something on the subject before we proceed further. On arrival in Madinah from Makkah the Prophet (peace be upon him) stayed in Quba in the south of the city. According to some accounts he stayed there for three weeks but we prefer the version of an historian who suggests that the stay lasted four days. He reached there on a Monday and left on Friday. He halted at noon and *en route* led a congregational prayer. He then moved forward to the settlement of Banu Najjar and stayed there in the house of Abu Ayyub al-Ansari.

It is perfectly clear that during his initial stay for three or four days in Quba the Prophet (peace be upon him) was entertained with great enthusiasm and respect by the local Muslims who offered him their hospitality. When he moved forward to Banu Najjar, his hosts there, according to *Sahih al-Bukhari*, belonged to the family of his grandparents. The mother of 'Abd al-Muttalib had been from Madinah. The Prophet (peace be upon him) was thus related to a family of Madinah. History provides evidence that the family of the Prophet (peace be upon him) kept in close and cordial contact with these relatives after the demise of 'Abd al-Muttalib. Whenever 'Abbas, an uncle of the Prophet (peace be upon him), undertook a journey to the north, i.e. Syria, he made it a point to stay with the family both while travelling to and returning from his destination.

Under the circumstances it is not surprising that *Sahih al-Bukhari* states that the Prophet (peace be upon him) stayed with Abu Ayyub al-Ansari in the settlement of Banu Najjar because he belonged to his family through his grandparents. If he was staying in his own family the question about his means of supporting himself did not arise. His relatives must have considered it an honour and a privilege to have such a distinguished guest with them.

The Prophet (peace be upon him) stayed there for a few months because he ordered the construction of a large mosque there. The number of Muslims was fast increasing all over Madinah. Those who offered prayers in their local mosques now began to visit the mosque of the Prophet (peace be upon him) for they were anxious to pray behind their leader. A small mosque could not have been adequate. The construction of a large mosque, therefore, began. A few residential rooms were provided for the Prophet (peace be upon him) in this mosque. They were not many to begin with because the Prophet (peace be upon him) was accompanied only by one wife i.e. Lady Sawdah. A few days later the second wife, 'A'ishah, to whom he had been married earlier, also arrived. Each needed a separate room. The two daughters of the Prophet (peace be upon him) viz. Lady Fatimah and Lady Ruqayyah were accommodated in one room. Later, however, the number of residents decreased for the girls were married away. But more accommodation became necessary when the number of the Prophet's wives increased. At the time of his demise he had nine wives and a slave girl - Mary, the Copt. Some explanation is required in this context. As far as Mary is concerned it is established that she did not live in the rooms attached to the mosque but had a separate house at some distance from the mosque. Lady Safiyah also had a separate house of her own. Lady Sawdah occupied a room attached to the mosque, while another room was shared by the two daughters of the Prophet (peace be upon him). A third room was built for Lady 'A'ishah. In the beginning, therefore, only three rooms were built when the Prophet (peace be upon him) shifted there from the house of Abu Ayyub al-Ansari.

What were the Prophet's means of livelihood? Most of the Helpers (*Ansar*) in Madinah who were prosperous farmers had earmarked a fruit tree in their gardens for him. This was done with the Prophet's consent. All the dates of these trees were sent to his house every season. If they were in excess of the family's requirements they were distributed among the poor and were served to the guests. This was standard practice. Muslim historians and traditionists often quote from Lady 'A'ishah that sometimes the family had to be content with dates and water for months and no food was cooked in the house. The tradition probably relates to the period when the Prophet (peace be upon him) had no means of income except date trees. Gradually the number of wives increased and so' did the needs of the family. The Prophet (peace be upon him) bought a few goats whose milk was consumed by the household. Sometimes a she-camel or a goat was gifted by people who considered it an honour to offer a present. The Prophet (peace be upon him) occasionally accepted it.

In the beginning he had one goat. The number later increased to ten. He had one she-camel, the number later increased to four. There was a grazing ground in the suburbs of Madinah. A Companion voluntarily tended the cattle and daily took the milk to Madinah. The Prophet's household used this milk. Similarly Sa'd ibn 'Ubadah, a member of Banu Najjar, and a close relative of the Prophet (peace be upon him) from his mother's side, regularly sent some food - dessert, vegetable, meat - to the house. He was a rich man who sometimes entertained as many as eighty persons to a meal at his house.

The Prophet (peace be upon him) did not like to eat by himself. He always invited the people who were present to join him in the meal which consisted of dates and dishes prepared at home or received from friends.

Soon another small means of income was added. From the month of Ramadan 2 AH began a series of battles with the enemy. Of the spoils of war, one-fifth went to the state treasury while four-fifth was distributed equally among the soldiers. The

Prophet (peace be upon him) participated in most of the battles. He had then two sources of income: one, as a soldier who was entitled to an equal share with others; and two, as a head of the state to whom one-fifth of the spoils were given. He could distribute them at his discretion. But he did not spend a penny for private purposes and kept reserve which was spent on public works such as defence, purchase of arms, etc. However, if some provisions were occasionally needed in the household, they were provided with the permission of the Prophet (peace be upon him) from that portion of funds in the public treasury which had been earned from the spoils of war. But the *zakah* funds could not be used under any circumstances for the person of the Prophet (peace be upon him), his family and the clans of Banu Hashim and Banu Muttalib. No other system except Islam forbids the use of state income to a ruler for his private purposes. The Prophet (peace be upon him) could only spend on his person part of the income received as spoils from the battles with the enemy. The words: "Say, the spoils belong to Allah and the Messenger" (8: 1), cover only the spoils of war. "And know that whatever you take as spoils in war, a fifth thereof shall go to Allah and to the Messenger and the needy and the wayfarer" (8: 41). The Prophet (peace be upon him) could spend a part of the spoils of war on his person but not a penny from *zakah*.

These were the constraints with which the Prophet (peace be upon him) lived in Madinah. In Makkah, however, he had inherited property of his own as well as the property of his wife. Also he himself was a trader. The situation was different in Madinah. He was a guest in the initial stages of his stay. Later he had permanent means of income through gifts assigned to him e.g. date trees. After some time spoils of war became another source of income. Soon after the Battle of Badr followed the Battle of Uhud. Muslim historians have recorded that a Jew called Mukhayriq³ embraced Islam. He willed that in the event of his death in the battle all his orchards in Madinah should be given to the Prophet (peace be upon him). He had seven orchards whose income was exclusively reserved for the Prophet (peace be upon him). Thus came to end the economic difficulties of the early period in Madinah.

SOURCES OF STATE REVENUE

The government laid down a law that all prosperous Muslims should help their Muslim brothers. To begin with, the order ordained only charity but later the same charity was converted into a tax. We should reiterate that only one-fifth of the income from the spoils (*ghanimah*) of war came to the state. But the entire income from the *fay'* went to the treasury. What is *fay'*? In the words of the Qur'an: "You urged neither horse nor camel for that" (Qur'an 59: 6). If without a war an enemy sues for peace and cedes an annual tax, all the income accruing from such arrangements is called *fay'*. The question of its distribution does not arise. Together with these two sources of income there is a third one called *zakah*. If someone owns wealth in excess of his needs and that surplus wealth remains with him for a whole year, he is liable to pay *zakah*. If, for example, we have a hundred thousand rupees today in excess of our needs but spend it in a few days, weeks or months, it would not be considered surplus wealth. The law in Islam stipulates that the sum above the minimum expenditure remaining for a whole year with the owner becomes liable to a charge of two and a half percent which goes to the government.

The rates of *zakah* are not uniform. There are different rates for different commodities. Money, gold and silver are taxed at the rate of two and a half per cent per annum. Agricultural produce is taxed at the rate of ten per cent. This is the *zakah* on land which is now called land revenue.⁴ A person owning a silver or a gold mine will have to pay at different rates. Cattle owners have another tariff. On goats, one may say, the tax is one per cent.⁵ The rate at which *zakah* is levied on cows and camels is a little more complex.

Occasionally we come across another source of revenue levied - *zakah* levied on trade, minerals, etc. Without going into details, a peculiar and a distinctive contribution of Islam is noticeable. Other religions before it mentioned items on which taxes are to be levied but they omitted to indicate the purposes on which the income is to be spent. The expenditure is left

entirely to the discretion of rulers who generally spend it on their personal comfort and luxury. The Qur'an, as far as we know, is the first religious scripture which, while it does not provide elaborate details as to the sources from which revenue ought to be derived, provides considerable guidance as to the items on which it ought to be spent. For example, we know from the verse "pay His due on the day of harvest" (Qur'an 6: 141), that *zakah* is due on agriculture. The word used, however, is "due", which does not indicate the rate (two and a half per cent, or ten per cent, or fifty per cent). Such details are available in the *Hadith* for the Qur'an does not lay down detailed directives about the sources of income.

In fact, if our interpretation is correct, the Qur'an leaves it to the discretion of the state to reduce or increase the rates to be levied. We can levy taxes on items other than those mentioned in the Qur'an (agriculture, trade, etc.). If, for example, a place abounds in fish or honey-bees which provide commercial income, a part of it will become due to the government. All these taxes will be regarded as *zakah*.

ORDERS ABOUT ZAKAH

There are clear and precise Qur'anic orders about *zakah*. The well-known verse in *surah al-Tawbah* lays down the law on the subject: "The alms are only for the poor and the needy, and for those employed in connection therewith, and for those whose hearts are to be reconciled, and for the freeing of slaves, and for those in debt, and for the cause of Allah, and for the wayfarer" (Qur'an 9: 60).

The income from "alms", i.e. *zakah*, is to be spent, first of all, on the poor and the needy. This category is followed by those employed in connection with the collection and distribution of *zakah*. The next groups comprises people whose hearts need to be won over. This could be propagation of Islam or secret funds which governments spend quietly in public interest. And then follow slaves - and these include the slaves found in the Islamic realm as well as those Muslim or non-Muslim citizens of an

Islamic state who have been captured by an enemy and for whom ransom is to be paid. After slaves, a category called *gharimin* is mentioned. They are the people who were once prosperous but were rendered destitute owing to some serious financial loss or some other calamity. Suppose; for example, that someone kills a person by mistake, and has to pay for ransom money which he cannot afford for he is penniless. It is the duty of the government to help him so that he could meet his obligations.

After this category are mentioned those "in the way of God". It is amazing that the expression has been taken to mean defence, security and the maintenance of the army, but not of mosques. And last comes the wayfarer or literally "the son of the way", a traveller *en route* his destination. Modern governments impose taxes on such travellers but the Islamic law provides for their hospitality and facilities for boarding and lodging.

Having mentioned these eight items the Qur'an says that "this is an ordinance from Allah". In other words, the policy to regulate a government's budget has been laid down, and eight categories to which- *zakah* funds should be devoted have been determined. Shafi'i states that one eighth of the entire revenue from *zakah* should be allocated to each one of the eight categories. This, however, is not the view of other *imams*.

What is meant by the first two categories viz. the poor and the needy? On the face of it, they are synonymous. But there is a difference of opinion on this issue. When the difference arose, Shafi'i pointed out that God had divided the expenditure into eight categories. In His infinite Mercy He wanted the poor to have a double share and that is why two terms have been used i.e. $1/8^{\text{th}}$ for the poor and $1/8^{\text{th}}$ for the needy. This means that a quarter of the entire sum should be spent on the poor. But this is merely an academic exercise mentioned in connection with academic debates.

One aspect is, however, extremely important. It appears from the works of Muslim jurists that *zakah* cannot be given to non-Muslims. It is restricted only to Muslims. This was not the view of eminent and highly revered personalities in early Islam. Abu Yusuf writes in *Kitab al-Kharaj* that 'Umar used to help Jews from *zakah* funds during his Caliphate. It is related that he once came across a beggar in a street of Madinah and was shocked to *see* one in his caliphate for it was the duty of the state to take good care of all such persons. On being asked, the beggar disclosed that he was a Jew who once paid taxes (*jizyah*). He had his own business but having grown old could not work anymore and had to beg in order to pay *jizyah*.

'Umar was deeply moved and immediately ordered that no *jizyah* should be charged from him and he should be given a stipend. His words are: "He is a poor man from the People of the Book, and should be given adequate aid from *zakah* funds". Tabari has mentioned other Companions such as Zayd ibn Thabit, Ibn 'Abbas, etc., as holding the view that *zakah* may be given to non-Muslims. Some early authorities even go so far as to say that by the poor *fuqara'* are meant the poor Muslims, and by the needy (*masakin*) are meant the poor non-Muslim subjects of the Muslim state.

In any case, this is the first category. The next category (*al-`aminin `alayha*) comprises the civil servants employed to collect and distribute *zakah*. It will not be surprising if we interpret it to mean the entire structure of civil administration because collectors, accountants, auditors, distributors, supervisors are all involved in the task. We can say that the salaries of the entire civil administration should be met from *zakah*.

Then comes the category of those who need to be won over. Abu Ya'la bin al-Farra' al-Hanbali, a distinguished scholar, who was a contemporary of Mawardi, has written a book which, like that of Mawardi, bears the same title *al-Ahkam al-Sultaniyyah*. He is fearless and forthright. In a detailed discussion of the category he has divided it into four classes. The first comprises people who are paid to help Muslims. The second consists of those who

are paid so that they are persuaded to refrain from harming Muslims. In ordinary circumstances they are capable of harming Muslims but they may be paid to keep them neutral in a war. The third category consists of those who may be provided financial assistance in order to soften their attitude towards Islam. The fourth category comprises those who are provided funds in order that this show of goodwill will soften the attitude of their near relatives, families and tribes towards Islam. After mentioning these categories Abu Ya`la adds that *zakah* funds under this category may be spent on Muslims and non-Muslims alike. He explicitly says that *zakah* could be given to both.

As regards the freeing of slaves, the government has a responsibility towards the slaves living in the Islamic territory as well as the citizens who have been made prisoners or slaves by another state. A letter written by 'Umar ibn 'Abd al-'Aziz to his governor in Yemen has been quoted in detail in the *Tabaqat* of Ibn Sa'd. In this letter the Caliph directs the governor to spend the requisite amount from *zakah* funds in order to secure the release of citizens, Muslim or non-Muslim, from the enemy. Thus there is no distinction between the two in respect of ransom to be paid to the enemy. As we have already seen, Caliph 'Umar held that all the needy and the poor could be helped from *zakah* irrespective of their religion. The same principle prevails in respect of those "whose hearts have to be reconciled".

And those in debt - *al-gharimin* - are the people who suddenly become destitute and are unable to discharge their obligations e.g. a person who has lost his possessions during a journey, because of a flood or an earthquake. A prosperous person who has been temporarily rendered helpless can be helped from *zakah* funds. Caliph 'Umar added a new dimension to this institution. Instead of outright grants, he used to give loans to help people meet an emergency. These loans, of course, carried no interest. He used occasionally to avail himself of this concession. His income from his own salary was very low. It seems that salaries were not disbursed every month but biannually. He used to pay his debt when he received his dues. Other people made use of this concession for which sanction was derived from the word *gharimin* used in the verse.

The category covered by *fi sabil-Allah* (in the way of God) is applicable to the entire military administration. It includes salaries of soldiers, expenditure on purchase of arms and other military requirements. The building of mosques, caravanserais, schools, etc., also fall, in my opinion, in the same category.

The last category - *ibn-al-sabil* - the wayfarer, can be any traveler Muslim or non-Muslim. No distinction need be made while offering help or hospitality. It is the duty of the state to help every traveller. We may extend this category to cover the entire tourist traffic. This will include building of roads and bridges, employment of police to maintain law and order, and provision of security of life and honour, supervision of the market to prevent black marketing and fraud, and arrangements for the supply of healthy food, etc. All these functions will fall under this category.

We know that our contemporary jurists will not agree that non-Muslims may receive *zakah*. They are welcome to their view. We would reiterate, however, that a Caliph like 'Umar used to help Jews and Christians from this fund. We have mentioned earlier the case of a Jew in Madinah from *Kitab al-Kharaj* of Imam Abu Yusuf. Baladhuri has recorded that during his journey to Syria, 'Umar ordered help for poor and needy Christians. According to Abu 'Ubayd's *Kitab al-Amwal* (see sentences 1996-1997), the *sadaqat al-fitr* was also given to Christian monks.

THE CURRENT CONCEPT OF ZAKAH

A question now arises: when did we develop the current concept of *zakah*? We seem to believe that *zakah* means payment of two and a half per cent of our savings towards the end of the year to the poor individually rather than that it means the payment made to the state. During the days of the Prophet (peace be upon him) it was the state which collected *zakah*. The battle with the apostates during Abu Bakr's regime was fought on this issue for the people did not want to pay *zakah* to the government. Abu Bakr compelled them by force to do so.

How, then, did the practice change later? History traces it to the regime of Caliph 'Uthman. By 27 AH, Muslim armies had reached Europe - Andalusia and France - on the one hand, and were knocking at the gates of China on the other. Within only fifteen years of the Prophet's demise the Islamic state had spread to three continents - Europe, Africa and Asia. The overwhelming majority of the population was non-Muslim. The number of Muslims was small. We reckon that the Muslim population was no more than one per hundred square miles. A sudden conversion of the mass of population cannot be expected. Under the circumstances a very elaborate and expensive administration would be required to collect *zakah* from the three continents. The expenditure would have considerably exceeded the income. 'Uthman's finance minister must have suggested to him, therefore, that it should be left to Muslims to directly disburse *zakah* which they knew was their religious obligation. They should be asked to distribute it on their own in accordance with the injunctions of the Qur'an. Had the government wanted to keep control over it, the expenditure would have been forbidding and no sensible finance minister would have accepted it.

Perhaps it was under these circumstances that it was decided during 'Uthman's regime that the government would continue to collect *zakah* on agriculture, mining, etc., but would leave cash, gold and silver to the individual discretion of Muslim citizens who should distribute the sum in accordance with the Qur'anic injunction.⁶ The result was that we gradually forgot the meaning of *zakah* as it was understood during the days of the Prophet (peace be upon him) and his two successors. We began to look upon it as merely a charity which had to be given, once a year, on one's savings to the poor, even though the categories covered by the Qur'an are not confined only to the poor.

TAXES PAID BY NON-MUSLIMS

We have so far dealt with taxes paid by Muslims. How about non-Muslim subjects of a Muslim state?

In the early phase i.e. the period covered by the Caliphates of Abu Bakr, 'Umar and 'Uthman, a conquered country was required to pay a specific sum annually to the Muslim state. The amount was clearly stated in the treaty signed with the subjugated state. A representative of the government used to collect the sum which was given the name of *kharaj* (tribute). It applied to agricultural land and other items.

Non-Muslims were also required to pay *jizyah*. It has been ordained by the Qur'an (9: 29). The tax was initially presumed to be due only from the People of the Book i.e. Jews and Christians, but later, during 'Umar's caliphate, it was extended to cover Zoroastrians. During 'Uthman's caliphate the Berbers of North Africa, who were idol-worshippers, were also included in this category. Later, with the conquest of Sindh, Hindus and Buddhists also fell in the same category. Other taxes were also taken from non-Muslim subjects, sometimes at a somewhat higher rate than was applicable to Muslims. Muslim traders, for example, paid a poll-tax of two and a half per cent; non-Muslims paid at the rate of five per cent. In the case of non-Muslim foreigners the rate was ten per cent. 'Umar reduced import duty due from foreigners from ten to five per cent in order to reduce the burden of high prices on the people.

In respect of *zakah* on gold, silver, and cash savings, it was levied on Muslims but not on non-Muslims. The reason in our view was that non-Muslims enjoyed internal autonomy. All non-Muslim subjects, such as Jews, Christians, Zoroastrians, etc., enjoyed complete freedom of religion. These communities needed money for this purpose. Instead of paying to the government, therefore, non-Muslims paid taxes to their religious leaders to meet the expenses of religious obligations. One of the reasons why taxes on cash, gold and silver were levied on Muslims was to ensure that money remained constantly in

circulation and thus be beneficial to the national economy instead of remaining idle. The *zakah* was, therefore, an antidote to hoarding.

THE PROBLEM OF CALENDAR

We should like to touch briefly on the problem of calendar for our writers today seem to pay little attention to its importance. Before Islam, the Arabs had a solar calendar as they do today. Seasons have fixed months in the Western system but the Arab system was different. Months began and ended in accordance with the appearance of the moon. Six months of a lunar year are usually of twenty-nine days and the other six of thirty days. The total number of days in a year was about 354. The difference in seasons was due to the revolution of the earth around the sun. It is completed in 365 or 366 days.

When the Babylonians discovered that the lunar year was shorter than the solar one by eleven or twelve days they adopted the solar system. They noticed that while working according to the lunar year, the sowing and the reaping period remained inconstant with the result that the people who paid taxes after the reaping of crops suffered a loss. The solution they found for the problem was to add a thirteenth month to the year after every three years. Since a lunar year is shorter by eleven days than a solar year, the difference would be 33 days after three years. This would approximate to a month. That is why after every three years a month was added to the calendar in Babylon. Two years were of twelve months while every third year had thirteen months.

After some experience it was realized that the almanac was not correct. If the lunar year is shorter than the solar year by twelve days one would need to add thirty six days after three years. The addition of the thirteenth month to the calendar would account for only twenty-nine to thirty days. Based on their research they improved their system and determined that a month would be added to the calendar after a particular period of time after which the thirteen month would be added after two years instead of three.

Thus they succeeded in deriving the same benefit from the lunar months as they would have through a solar system so far as their agricultural needs were concerned. The same system operated in the city of Makkah. This system of adding a month to the calendar was referred to as *nasi'*. Because of *Hajj*, the entire Arab peninsula acted in accordance with it. The Prophet (peace be upon him) spent all but the last three months of his life under this system. The last three months were an exception because *nasi'* was abolished according to the Qur'anic injunction at the time of the Farewell Pilgrimage of the Prophet (peace be upon him). "Surely *nasi'* is an addition to disbelief. Those who disbelieve are led astray thereby. They allow it one year and forbid it another year, that they may agree in the number of months which Allah has made sacred, and thus may make lawful what Allah has forbidden".

The cancellation of *nasi'* took place during the month of Dhu'l-Hijjah, three months before the Prophet's demise. The critics of Islam have dubbed it an "immature amendment". They called it immature because with the restoration of the lunar system, the government could face problems in the field of taxation. For example, it was decided that land revenue would be paid every year during the month of Ramadan. The first two years would offer no problem but later, with a gradual increase in the difference of days, a situation would arise when the harvest would not be ready to be reaped in the month in which the taxes were to be paid.

Due to this conceptual difficulty it was presumed that the reform was a form of subversion. But the custom in vogue during the Prophet's period made it abundantly clear that it was not so. Although the abolition of *nasi'* was proclaimed in Dhu'l-Hijjah 10 AH an alternative system had already been set into motion. We find clear hints to this effect in various letters of the Prophet (peace be upon him). Deeds were given to various tribal leaders. In the agreements signed with them it is clearly stipulated that they would pay agricultural *zakah* at the time the harvest is reaped and not during a fixed month such as Ramadan or Shawwal.

REFORM IN THE CALENDAR

The greatest difficulty in the lunar calendar is that it is not suitable for agricultural purposes. The Prophet (peace be upon him) found a solution for it. He laid down that the rural population would pay taxes at the reaping of harvests regardless of the calendar month. This was the end of all difficulties. As regards other taxes levied on trade, minerals, etc., the government gained a great deal owing to the reform in the calendar, i.e. the adoption of the lunar one. Since the lunar year is shorter than a solar year by eleven days, a government which observes the solar system will receive taxes thirty times in thirty years while the one which goes by the lunar calendar will receive taxes thirty-one times during the same period. Every thirty years, therefore, such a government will secure one year's additional revenue. Is there a finance minister who will not wish to have additional income?

With the change of calendar a measure of decentralization comes into being. Taxes on some items are received in one season while taxes on other items are received at another time. This could also be beneficial for the government. The treasuries of today get empty before the new budget year begins and governments sometimes do not have enough even to pay salaries to civil servants. They issue debentures and secure short term loans to meet their immediate needs. When the treasury is full the debts are paid off. The reason for this phenomenon is the fixed time for receipt of taxes. Under the lunar system an Islamic government receives taxes at different times throughout the year. Agricultural taxes are received in a particular season while other taxes follow a different schedule with the result that the treasury is not empty at any time of the year. This is not true of a solar year. At present all Muslim countries have adopted the Gregorian calendar. Even in this system, which is aided by highly developed technology, fluctuations in time are already taking place. It is said that there will be a difference of a day after every thousand years. 'Umar Khayyam had once perfected a system of his own according to which the difference of one day only would appear after every hundred thousand years. His system was more complicated but under it hardly a day's difference occurred after a hundred thousand years.

QUESTIONS AND ANSWERS

Question

Can the government levy property tax in addition to *zakah* and *'ushr*?

Answer

Islamic governments know by their experience of over a thousand years that the revenue derived from *zakah* and *'ushr* is not enough to meet their requirements. In their own day they levied additional taxes with the unanimous consent and approval of jurists. They were called *nawa'ib* which means taxes imposed temporarily to meet immediate needs. In practice such temporary taxes become permanent; but the idea is that they do not assume the status of *zakah*, which is permanent, but remain temporary in nature. If *zakah* and *'ushr* are considered insufficient to meet the needs of the state under a set of circumstances additional taxes under the category of *nawa'ib* may be levied. But a decision to this effect will be taken by the finance ministry of the government and the parliament because *nawa'ib* are not obligatory; they are merely permissible.

Question

Discrepancy in the rates of poll-tax charged from Muslims and non-Muslims is apparently an act of discrimination. Could you kindly comment?

Answer

The point has rankled me too. I have given it thought for quite some time and I give you the answer that occurred to me. The same answer was given to an Italian professor of Jewish descent. He was highly critical but then conceded that it would be difficult for any rabbi to resist the force of logic. The answer was that certain restrictions have been imposed on Muslims which are not applicable to non-Muslims since the Islamic law grants complete internal autonomy to non-Muslims. In matters of trade and business too they are not bound by some of the restrictions which the Muslims are required to follow. Likewise, non-Muslims are exempt from the payment of *zakah* and they are not required to render military

service. In view of these privileges it would not be unfair if a non-Muslim is charged a higher rate of poll-tax. Experience has proved that notwithstanding a higher rate of this tax, non-Muslims have been better off.

Question

Is *zakah* a tax? If so, does the head of state have the power to change its rates?

Answer

I have myself used the word tax in my lecture. The word is fully applicable to *zakah* if it means that we charge a particular sum during a fixed period at a fixed rate on a fixed item and we may compel even those who decline to pay it. I have already stated that a glance at the history of *zakah* suggests that it was voluntary in the beginning but was gradually made obligatory by the Qur'an. The Prophet (peace be upon him) fixed the period and the rate of payment and collected it compulsorily.

The conduct of Abu Bakr made it clear that in the event of refusal it could be collected by the use of force. These are exactly the elements of a tax. It would not be wrong, therefore, to call *zakah* a tax, even though it is not a particularly good word. To tax someone means to bother that person. That is why a better word - *zakah* - which means 'to purify', has been used. It is obligatory on me to pay the share of the people from my property in accordance with Divine injunctions. Only the words are different although the content is the same.

Can the rate of *zakah* be changed? Our jurists are of the opinion that the rate fixed by the Prophet (peace be upon him) should not be changed. New taxes under the category of *nawa'ib* may be levied to meet contemporary demands. Our law comprises commands of God and the Prophet (peace be upon him). Hence, in the opinion of Muslim jurists, nobody has the right to change them nor has such a need arisen so far; nor is it likely to arise in that our governments will never declare that the *zakah* is a heavy tax and should be abolished or reduced. On the contrary, we need more than we

receive through *zakah*. That is why additional taxes called *nawa'ib* may be levied.

Question

Planning is done years in advance in modern times while the Muslim calendar is dependent on the appearance of the moon. The lunar system lacks precision or exactness. Different dates appear on the same day in different countries. The festival of *Id* is observed on different days in the Muslim world. How does one overcome such a difficult situation which is out of tune with modern requirements?

Answer

Many issues have been mixed up in this question. I shall try to tackle each of them separately. If you plan years in advance the solar or the lunar system makes no particular difference. The difference of time in a five year plan will be no more than a few days. All that we need to determine is our priority for the next.

I have also stated that consistent with the custom prevailing during the life of the Prophet (peace be upon him), we can also use the solar system because he told some tribes that *zakah* would be received from them at harvest time and not during the fixed month. In other words, the solar system may be used.

As regards the observance of *Id*, I do not think it matters much whether *Id* is observed on Thursday in Pakistan and on Friday in Bangladesh. The real issue is whether or not we carry out the commands of God and the Prophet (peace be upon him) in all sincerity and humility. The day on which we discharge our obligation is not important. There is a difference of an hour in time between Pakistan and Bangladesh. At the time of Maghrib prayers in Pakistan the people of Bangladesh are engaged in 'Isha' prayers.

This is not a new issue. It has always been there. During the days of the Companions the problem of appearance of moon on different days in different places came to the fore. It is related in the *Sunan* of Abu Dawud that someone was sent from Madinah to see Mu'awiyah in Damascus. He stayed there for the whole month of Ramadan. He

made a statement to 'Abd-Allah ibn 'Abbas that the moon had been sighted a day earlier in Damascus. 'Abd-Allah ibn 'Abbas replied that the Prophet (peace be upon him) had ordered that people should act according to the local appearance of the moon, even though its appearance at another place was certified by the Caliph himself.

Under the circumstances, therefore, if we observe the moon in different places on different days, there is no harm in the observance of *'Id* on different days. What is important is that it should be observed and prayers should be offered. Importance should be given to prayers, not to the day. Insistence on creating uniformity in this regard, in my view, is unproductive.

"Revenue and Calendar" extract from *The Emergence of Islam (Khutbat-i Bahawalpur)* by Muhammad Hamidullah, translated by Afzal Iqbal, New Delhi, Adam Publishers, 2007, pp. 289-311. (Delivered in Urdu 1980, First published in 1985, its English translation first appeared in 1993 from Islamabad)

NOTES

1. Works on taxation in Islam (*Kitab al-Kharaj*) and public finance (*Kitab al-Amwal*) first appeared in 2nd/8th century and within the next few centuries more than two dozen treatises were written. Shemesh (1967, pp. 3-6) gives, from various sources, a list of 21 works that were written on taxation during early centuries of Islam. The works that could survive include those of Abu Yusuf, Yahya b. Adam al-Qurashi, Abu Ubayd, Ibn Zanjawayh, al-Dawudi, Ibn Rajab, and portions of Qudamah b. Ja`far, and al-Makhzumi. In addition to exclusive works on the subject, issues of public revenue and expenditure constituted parts of juristic and political writings [aai].
2. There are reports that zakah was made obligatory in early years of Hijrah. See al-Qaradawi 1:70-2 [aai].
3. Mukhayriq was a rabbi who lived in Madinah and fought together with the Prophet Muhammad (pbuh) in the Battle of Uhud in 3 AH /625. He died in that battle against the Makkans. When the Prophet Muhammad (pbuh) was informed about the death of Rabbi Mukhayriq, he said, "He was the best of Jews." The Prophet inherited seven date gardens from Mukhayriq and used this wealth to establish a waqf. From this endowment many poor people were helped in Madinah [aai].
4. There is no zakah on land. Rather it is on agricultural produce. It is not precisely a rent or a land revenue. Again, there are two rates on land produce. *Ushr* or ten percent on crops watered by rainfall. *Nisf al-ushr* or five percent on crops irrigated by artificial means, i.e., where irrigation costs are involved [aai].

5. There is one goat zakah on every forty goats upto one hundred.
6. Generally it is said that due to increasing wealth and prosperity the caliph authorized the rich to spend zakah from the non-visible assets – gold, silver, money and merchandise – on its recipients using their own discretion. Hamidullah's interpretation is based on another economic reasoning, i.e. increasing cost of collection [aai].

15

FINANCIAL ADMINISTRATION IN THE MUSLIM STATE

M. Hamidullah

Unlike Budhism and Christianity which despise wealth and well-being in the life of this world, the motto of Islam, as assigned by the Quran (2: 201) itself, is "Our Lord, give, unto us well-being in this lowly world, well-being also in the Hereafter". It (4:5) recognizes further. "...your goods that God has constituted for you as means of subsistence..." And orders even (28:77) "... and neglect not thy portion of this world, and do thou good as God has done good to thee..."

Individual talents of earning differ. In His unlimited mercy and solicitude for human beings, God has therefore imposed duties on the prosperous with regard to the poor.

After the revelation nominating Muhammad of holy memory as His messenger to the world (96: 1-5) the very next Commandment that God sent was (93: 8-11): "Did He not find thee (O Muhammad) dependent and then He made thee independent (and rich)? Therefore, the orphan oppress not, and the beggar drive not away, and the bounties of thy Lord be thy discourse."

The Prophet began therefore demanding his disciples to be charitable-doing himself more than he demanded of others,- and ended by making this help of the fellow-beings an organized duty,-a tax fixed in time and quantity and with sanctions against the recalcitrants.

The Qur'an employs the terms *zakah*, *sadaqat*, *infaq fi sabili'llah*, *'ita'*, *haqq*, *nasib*, among others, in the sense of spending on the poor and needy for the pleasure of God; and later added to it the sanction and coercion. And even when the *zakah*-tax became obligatory, the Qur'an continued to insist on further voluntary expenditure on deserving persons, even on animals other than human beings.

In the present study, we want to limit our investigation to the single verse 9: 60 which promulgates a sort of law of State-expenditure, mentioning the categories of recipients, and concludes by the declaration that it is an obligatory duty:

"Nothing but this, that the *sadaqat* (government revenues coming from Muslims) are, for the needy (*fuqara*), and poor (*masakin*), and those who work for the (taxes), and those whose hearts are to be won, and to (release) the necks from the yokes and those who are heavily charged, and *in* the path of God, and for the son of the road (wayfarer); a duty (imposed) by God, and God *is* knower, wise."

This restrictive enumeration is nevertheless wide enough to include all the needs of a welfare State. Let us explain this verse word by word:

"There are eight beneficiaries of the "*sadaqat*": The word "*sadaqat*", plural of *sadaqah* is synonymous of *zakah*, and meant at the time of its revelation, (about the year 9 H.), all taxes that the Muslims paid annually to the government on different taxable goods, such as agricultural product, commercial earnings, exploitation of mines, herds of domesticated animals (i.e. sheep and goats, ox, camel) and no more just a charity fixed neither in quantity nor time. These 8 kinds of deserving persons are the following:

1,2) The *fuqara* and *masakin*. These terms may be translated as the *needy* and the *poor*. They have caused head ache to commentators and jurists. The Andalusian Abu Hayyan records¹ that according to the Imam al-Shafi'i and some other jurists, these two terms are synonymous, that the tax has only eight categories of recipients, each one getting one-eighth and that God in His unlimited solicitude for the poor needy has mentioned them twice, so that they get $2/8^{\text{ths}}$ of the State-revenues. But the great caliph 'Umar ibn al-Khattab maintained that *fuqara'* means the poor from among the Muslims, and *masakin* are the poor from among the non-Muslims of the country.² Zaid ibn Thabit, Ibn 'Abbas, Ikrimah also opine like-wise. The Semitic philosophy also supports it; in fact in the celebrated code of Hammurabi, king of Babylonia, the word *moshkina* (cognate of the Arabic *miskin*) means a "resident alien". This word comes from *sakan* in the sense of staying, residing, and not from *sakan* in the sense of rest and repose.

3) Those who work for the taxes (*`amilin alaiha*): that is to say the civil and military administration of the State, for there is collecting of the taxes, there is accountancy, there is spending the revenues on those who deserve aid. Seeing the list, of the beneficiaries, it concerns in practice the whole administration of the State of those days, and *grasso modo* even today. The caliph 'Umar's letter is well-known in which he commanded the governor of Syria to select a *Rumi* (Greek) to send to Madinah for taking charge of the Finance department, - at least a part of it, in the capital.³ Of course he was a non-Muslim who, perhaps, knew some Arabic.

4) Those whose hearts are to be won (*al-mu'allafat Qulubuhum*).

This is what we call now-a-days "secret funds" in the interest of the State and its inhabitants. This topic merits a bit more detailed investigation:

a) There is a wide-spread belief among later, particularly. Hanafite jurists, that this item is now abrogated, and they 'base themselves on a certain practice of caliph 'Umar. There are divergent reports: Some say that the Prophet used to give monetary help to persons like Uyaynah ibn Hisan al-Fazari; Caliph Abu Bakr continued, but 'Umar stopped it, saying that there was no more need of helping people like 'Uyaynah. (But this argument is baseless, since the Prophet had granted aid to Uyaynah from the booty of the war of Hunayn-Hawazin, whereas we are considering here the beneficiaries of zakah, and not of war booties).-The other report says that a certain non-Muslim in the finance department of Madinah embraced Islam,-perhaps the same Greek mentioned above - and certain well-intentioned persons recommended the caliph to grant some aid to him from the zakah fund, in order to encourage people to embrace Islam. Umar is reported to have refused. (This decision may concern an individual case, and not the decision of a general principle. For, the abrogation of a verse of the Qur'an, which was put to practice by the Prophet and, after him, by Caliph Abu Bakr, cannot possibly be undertaken by 'Umar. (A ruler must certainly have the liberty to select persons deserving State aid, and not spending money indiscriminately). It may be brought into relief that Ibn Rushd reports⁴ that not only the Imam al-Shafi'i, but even Abu Hanifah had opined that this part of the Qur'anic verse was not at all abrogated.

b) Tabari says:⁵ "God has imposed taxes (*sadaqah*), for two purposes: one is to help the poor among the Muslims, and the other is for aiding Islam and fortifying it. As to the aid of Islam and strengthening its causes, it is sure that one will give both to the rich and the poor, since one does not give for the reason of the personal needs of the beneficiary, but to fortify Islam. In this way, one gives aid to those whose hearts are to win even if they are rich, with the aim of seeking to ameliorate the cause of Islam, fortifying it and aiding it. So they have no right who assert that in our epoch it is not necessary to win hearts of non-Muslims, because the number of Muslims is now great, and Islam is strong enough to defend itself against its enemies". A bit earlier,⁶ the same author says that 'Umar ibn al-Khattab and Ibn Abbas among others have opined that in the Qur'anic terms *fuqara'*- *masakin*, *fuqara'* means the poor among the Muslims, and *masakin* signifies the poor among the non-Muslims. 'Umar accorded a poor Jew of Madinah a pension, saying: he is one of the miskeens of the people of the Scripture.⁷ Further, when `Umar went to Syria for inspection he ordered pensions for poor Christians from the Muslim zakah funds.⁸ Even before him, in the time of Caliph Abu Bakr, similar was the practice, and the commander Khalid ibn al-Walid helped from Muslim revenues such non-Muslims as had no friends or relatives to maintain them.⁹

c) The celebrated Hanafite jurist al-Kasani,¹⁰ the Shafi'ite al-Shawkani,¹¹ the Hanbalite Abu Ya'la al-Farra,¹² the mystic Ibn 'Arabi,¹³ all say that non-Muslim may lawfully get aid from this category of zakah expenditure. The jurist Abu Ya'la is particularly interesting and convincing: 'As to those whose hearts are to win, they are of four kinds: (i), One tries to win the heart of certain (non-Muslims) so that they help Muslims, (ii) of others so that they abstain from doing harm to Muslims, (iii) of yet others in order to attract them to Islam, and (iv) of yet others so that their relatives and clans should be persuaded to embrace Islam; it is permitted to spend the part of those whose hearts are to win on each and every of these kinds of people, be they Muslims or non-Muslims".¹⁴

5) The fifth category of the beneficiaries of zakah is for *Riqab* 'liberating the necks from the yoke', whereby one has always understood two kinds of persons, firstly ransoming Muslim citizen prisoners in the hands of the enemy, and secondly manumission of slaves. As to prisoners, there are orders of caliph 'Umar ibn Abd al-'Aziz that no

distinction is to be made between Muslim and *Dhimmi* citizens of the Muslim State.¹⁵ As to helping slaves to get liberated, it is a particularity and glory of Islamic policy, no other system of law, either in the East or the West, has known this solicitude for slaves. Imagine that the Bible orders Enslaving enemies, yet there is no permission either in the Old Testament or the New Testament to liberate them. The situation of slaves was bad enough under the Romans; according to League¹⁶ at the advent of Christianity, their situation worsened. The governmental aid for liberating slaves is only a part of and in addition to what Islam has provided for this purpose.¹⁷

6) "To those who are heavily charged" (*al-Gharimin*). According to commentators of the Quran and the jurists, this does not at all refer to the poor, of whom there has already been mentioned under No. 1 and 2; but to well-to-do people who are momentarily in need for help. For instance victims of earth-quakes, inundations, a traveler whose money is stolen, one who has involuntarily committed homicide and has no means to acquit himself of the duty of paying heavy blood-money (one hundred camels), and the like. There was a development of this law in the time of caliph 'Umar ibn al-Khattab; he organized interest-free loans.¹⁸ The caliph 'Umar sometimes borrowed himself money in this way. He lent money even to commercial people, and the State treasury shared profit with them, as a sort of *mudarabah* or commercial bank.

7) "In the Path of God" (*fi Sabil-Allah*) has been interpreted in a most wide sense: helping volunteers going for war, construction of works for territorial defence, mosques, schools, carvansarays, free residence for orphans, widows, old or handicapped people, etc.

8) "For the son of the road" (*lbn al-sabil*), a graphic term to signify the traveler in transit. Not only his hospitality but also many other of his needs, such as police vigilance, security of the route, construction of bridges, health measures, etc., are to be assured by the government, in short for tourist traffic. Persons in transit are not exploited by the finance ministry, but treated as guests of the Muslim community.

EXPENSES OF THE HEAD OF THE STATE:

On the contrary, the Prophet himself has said in his well-known sayings that zakah revenues are forbidden for the Prophet and all members of his tribe (Banu Hashim) and also the members of the allied tribe Banu'l-Muttalib.¹⁹

COLLECTION OF TAXES:

So long as zakah was a recommendatory part of the duties of a Muslim there was no need of organizing it under an administration. But such was not the case with other State revenues, such as payments on treaty basis, especially from non-Muslims. So when in the year 7 H., a punitive expedition occupied Khaybar, in the North of Madinah, the Prophet decided that the local (Jewish) population should continue to stay in the oasis and exploit it until further order, and should share with the government in 50:50 ratio the harvests of date palms.²⁰ For this purpose agents were sent every year from Madinah. In the first year it was a certain `Abdullah ibn Rawahah who went there. He ordered collection of all the harvest in a place, scrupulously divided it into two equal heaps, and told the local farmers: Take whichever of the two heaps you like. This touched them so much that they shouted: By God, it is for this honesty and justice that the heavens and earth stand? (heavens stand on the earth)!²¹

Another interesting report of the collection of taxes is the following: The Prophet sent Ibn al-Lutbiyah (or: al-Utbiyah) al-Asadi as tax collector for a certain region. When he returned to Madinah, he said: Such and such things belong to the government and such and such other things have been offered personally to me as a present. The Prophet mounted forthwith on the pulpit of the mosque, and said: "How is it that agents sent by us say on return: This is for you and this is for me? Let him sit in the house of his father or mother, and see if gifts come to him or not! By Him in Whose hand is my soul, all illicit gains will come loaded on the neck of such a person on the day of Resurrection... Have I caused it to reach to you", repeating it thrice?²²

When zakah, which seems to have been only voluntary in the beginning of Islam became obligatory on well-to-do persons in the years 9 H., the Prophet began sending agents from the capital for collecting

taxes. Provincial governors organized local administrations for collecting and spending taxes under the over-riding supervision of the Central government. The Prophet fixed rates for different categories of goods: agricultural products, commerce, import and export, exploitation of mines, herds of domesticated animals living on public pastures (camels, cow, sheep and goats), fixing also taxable minimums, below which the owner was tax-free. What is interesting, he included in taxable items the savings of money also. The idea seems to have been that cash money should always remain in circulation, and not hoarded to remain idle.

The charter given to the tribe of 'Abd al-Qays on its Islamisation had far-reaching incidents. It said, among others: "They will have the right that their route of the harvest of grains should not be cut (closed), ..or their going (with their herds) in search of the grass on rainfall, nor from harvesting their fruits on their maturity", (i.e. they need not wait for the arrival of the tax collectors).²³ This meant that land tax was on harvest, and not in a determined month. On the one hand the Prophet says that he has trust in the honesty of his people to declare later to the tax collector what was the exact quantity and on the other a precaution for eventual change of calendar. In fact soon the Prophet abolished the Arabian luni-solar calendar and instituted a purely lunar calendar, in which seasons rotate from month to month. Thereafter the tax collector began visiting regions in fixed months of the lunar year, no matter if they coincided with the season of harvest or not. This resulted in dividing Muslim taxes into two categories: some depended on the lunar calendar, such as mineral exploitation, savings, etc., and others depended on solar calendar and seasons. This saved the Muslim treasury from getting empty at the end of the "fiscal year" of the solar and luni-solar calendars, when governments are obliged even to borrow money for short terms for current expenditures before the perception of the new taxes.

FINAL REMARKS:

Everybody knows that the edifice of Islam has the belief in the unicity of God as its root which is supported by four pillars, viz. service of prayer, fasting, pilgrimage and payment of zakah taxes. These are the pillars of the faith (*arkan*), the most obligatory and essential duties. In the same breath prayer and tax!

To understand the significance of this amalgamation of the spiritual and the material, one must take into consideration the conception of State that the Holy Prophet had in his mind. The prayer and fasting for instance stay at a par with the payment of taxes on the surplus property and with the so-called holy war. The Prophet wanted to amalgamate and coordinate the temporal and the spiritual of the man in one single whole, subjected to the same authority. Citadel and mosque will not be separated, much less become antagonists. The accomplishment of temporal duties will be as much in the path of God as the performance of spiritual duties. Scores of the verses of the Quran pronounce in the same breath "*aqimu al-salah wa atu al-zakah*" (establish the service of prayer and pay the zakah). A political philosopher will not fail to discern therein the advantage that the payment of the tax when it becomes a part of the religious belief, a pillar of the faith, the conscience of the Muslim is thereby impressed so that he should not try to cheat the government but pay tax as scrupulously and punctually as he performs prayer and fasting for instance; even when there is no government pressure or government presence, even when the government forgets to demand payment, one must pay the tax.

A principle of policy: One day Abu Musa al-Ash'ari came to visit the Prophet along with two friends, and told that they desired to be employed for some official function. The Prophet replied: "We do not employ for a function those who desire that function."²⁴ Naturally when one asks somebody to do some work, one is willing to help in order to persuade somebody to accept the job, whereas if somebody desires a post, the employer will hold him responsible entirely for doing the job in a correct manner. According to the Holy Qur'an (27: 39) an employee must have the necessary forces to perform the job and be also trustworthy (*qawi amin*). Again (12: 55), the candidate must be honest and also expert in the field (*hafiz 'alim*). So the Holy Prophet once appointed 'Umar ibn al-Khattab as collector of taxes, and when he wanted to pay him the salary, 'Umar refused to accept it and said: Give that to someone who has greater need of it than myself. But the Prophet insisted: "No, take it; if money comes to you from this (Government) property, and you neither look at it with greed nor desire it, then take it; and do not let your soul pursue that when it is not like that."²⁵

A last word which perhaps is not of the least importance, especially for unthinking minds: the zakah is a tax, and in the time of the Holy Prophet and the rightly-guided caliphs there was no tax on Muslims other than the zakah!

(This article is part of a collection of his papers entitled *The Prophet Establishing a State* which was published in 1986. Obviously, it was written on an earlier date. But no information is given at the end of the paper.)

NOTES

1. Abu Hayyan, *Tafsir al-Bahr al-Muhit*, 5: 441.
2. Ibid. See also *Kharaj* of Abu Yusuf, p. 72; Ibn Abi Shaybah cited by Shawkani in *Fat'hal-Qadir*, 2/357; Baladhuri in his *Futuh 'al-Buldan*, p. 129; *Tafsir* of Tabari X, 110; etc.)
3. إبعث إلينا برومي يقيم لنا حساب فرائضنا cited by Baladhuri, in his *Ansab al-Ashraf*
4. Ibn Rushd in: his "*Bidayat al-Mujtahid* (ch. zakah, *jumlah* 5, *fasl* I, *mas'alah* 2.
5. Tabari, *Tafsir*, 10: 113.
6. Ibid. 10: 110.
7. Abu Yusuf, *Kharaj*, p. 72.
8. Baladhuri, *Futuh al-Buldan*, p. 129.
9. Abu Yusuf, *Kharaj*, pp. 84-5; Hamidullah, *al-Watha'iq al-Siyasiyah*, No. 291.
10. al-Kasani, *Bada'i*, 2: 45.
11. al-Shawkani, *Fath al-Qadir*, 2: 365.
12. Abu Ya'la al-Farra, *al-Ahkam al-Sultaniyah*, p. 116.
13. Ibn 'Arabi, *Tafsir*, p. 394-395.
14. Abu Ya'la al-Farra, *al-Ahkam al-Sultaniyah*, p. 116.
15. Ibn Sa'd, 5: 260, 272.
16. *Roman Private Law*, p. 55-62.
17. See the author's Urdu book رومی اور اسلامی ادارہ غلامی (Slavery in Islamic and Roman Law), 1938, Hyderabad, Law Association.
18. Malik, *al-Muwatta*, 32: 1.
19. See any book of *fiqh*, chapter zakah.
20. Bukhari 64: 40.
21. Ibn Hisham, p. 777.

22. Bukhari, 93: 24.

23. cf. Ibn Sa'd, 1:2, 32-33, Hamidullah, *al-Watha'iq*, No. 72.

24. Bukhari 37: 112.

25. Ibid. 24: 51.

16

Book Review - 1

PUBLIC FINANCE by S.A. Siddiqi, Published by Md. Ashraf, Kashmiri Bazar, Lahore, W. Pakistan, pp. 242, Rs, 5.

Reviewed by M Hamidullah

This is a very welcome new addition to the meager literature on the subject. The now-out-of-date book of Aghnides did not treat so extensive, and as a matter of fact even so intensively as the present work. The aspects of the subject combine both old and new; and naturally the new aspects require pioneer in research and consequently are less exhaustive.

For instance, there are only two pages on budgeting. The author surmises the Islamic budgeting proceeds from income; and expenditure is provided for accordingly, and not that income should somehow be procured for necessary expenditure. No references are given. Elsewhere the author recognizes that extra-Shari`ah taxes have from time to time been levied. Is this not in itself a proof to the contrary? Shar`i taxes did not prove sufficient for legitimate or luxury expenditures, and the rulers had recourses to new taxes! Even in the time of the Prophet, the expenditure of Tabuk provides abundant material for how the Prophet procured necessary funds for that particular year.

It is also a pity that the author does not the trouble of referring to older classical authorities, and is sometimes misled by degenerate late authors. For instance (p. 155) regarding مولفته القلوبهم [sic] he could correct himself easily by referring to الأحكام السلطانية of Abu Ya`la al-Farra' (not Mawardi) that this item does not lapse even now and that it is not at all confined to the new converts: it means in fact what we now term "secret services," and he says:

وأما المؤلفه قلوبهم وهم أربعة أصناف: صنف منهم تتألف قلوبهم لمعونة المسلمين وصنف تتألف للكف عن المسلمين، وصنف ليرغبهم في الإسلام. وصنف يتألفهم ترغيبا لقومهم وعشائرهم في الإسلام فيجوز أن يعطى كل واحد من هذه الأصناف من سهم المؤلفه، مسلما كان or رقاب (p. 156) is not mere manumission, but also ransoming prisoners of war.

The printing of Arabic quotations is simply horrible. Probably the author does not know Arabic, and has used only translations.

References are meager and often important quotations are given without giving the source.

Transliteration also leaves much to be desired. Who would reconcile (p. 237) to *Kanz al-Da'wa's* as *Kanz al-Daqa'iq*?

The bibliography is not enough wide; much could be gained by the pursuit of further studies on the part of our author in "irrelevant" sources. For instance the correspondence of the Prophet (if not in the exhaustive *al-Watha'iq al-Siyasiyah* at that contained in Ibn Sa`d) would give the author much material on many aspects of public finance in the time of the Prophet.

We welcome the book; yet hope that this would not be the last word by our author; rather he would continue his studies. Much work on the subject has been done in the Osmania University. The work of Prof. Manazir Ahsan Gilani is published; Dr. Yusufuddin's thesis on the "Principles of Islamic Economics" would give our author very many sources not yet tapped by him. Smaller yet informative monographs also abound both Indian and European. Of latter our author takes no notice whatever in his bibliography.

(*Islamic Culture*, Sept. 1948, pp. 415-16)

17

Book Review – 2

CONVERSION AND THE POLL TAX IN EARLY ISLAM

by Daniel C. Dennet, Jnr., Harvard University Press, Cambridge, U.S.A.;
Geoffrey Cumberlege, London, 1950. Price \$2.50, pp. 136.

Reviewed by M. Hamidullah

It is extremely rare, in fact, once in decades, that somebody in the West studies Islamic subjects with sympathy and comprehension. The book under review, by the late Dr. Dennet, whose untimely death - he was born in 1910 - we have to deplore, is one such. The title is a bit misleading, for it deals more with the revenue system of early Islam than the *jizyah*.

The subject of revenue in early Islam requires not only the knowledge of Arabic sources at first hand, but also of Greek and Latin (for the study of conditions at the time of the Muslim conquest in what were formerly the Byzantine provinces), and Persian or Pehlavi sources (for the Iranian provinces), not to speak of modern learned languages like German, French, Russian, etc., which contain useful studies on the subject. In the absence of such a polyhistor, the best thing would be to work in collaboration. Nevertheless our author has done his best in spite of certain deficiencies in his armoury. The main point in his favour is that he has used his knowledge of Arabic to good use, and has not relied on hearsay evidence of even such well-known Arabists like Wellhausen and Carl Becker.

If we admit that in the time of the Orthodox Caliphate particularly, and to some extent even later, religious fervour, to the exclusion of worldly gain, was the leitmotif of State policy, we cannot reproach the proselytising tendencies in taxes, on cultivated land as well as imports and the like. In her city-state days, Venice used to levy on foreigners

double the customs duties levied on her citizens. In our own days the so-called "Imperial preference" of the Britishers, as also other discriminations against foreigners, are swallowed as something not only normal but even legitimate. All this is for purely material interests. If some other community does not worship money but attaches greater importance to the spiritual well-being of the fellow human beings, why should it not be considered as legitimate?

In the time of the Prophet and his successors, the Caliphs, what had happened was not that heavier taxes were levied upon non-Muslims, but only that Muslims were given some relief! Far from imposing fresh taxes on the non-Muslim-population of conquered countries, the Islamic State abolished several of the former vexatious duties. Even the much-maligned *jizyah* was not innovated but simply retained (both in Iranian and Byzantine territories), with this exception, that henceforward all those who embraced Islam got exempted from this tax. As far as the land revenue is concerned, conditions could not be uniform: lands submitting voluntarily and lands capitulating after a contest of arms, cannot obviously receive equal treatment. There were other problems: conditions previous to Islamic occupation differed in different regions, Arabia, Syria, Egypt, Iraq, Iran, Turkistan, etc.; the exact significance of old technical terms which have long fallen into disuse; in case of terms having more than one significance, the ascertaining of the correct sense in each passage; there being abundance of sources, and consequently at times their differences, the question of their context and chronological arrangement of the narrations in different sources; these and many other problems cannot naturally be solved by one monograph.

The work under review is direct, and a successful, challenge to the theories of Wellhausen (*Das arabische Reich und sein Sturz*), Carl Becker and Leone Caetani, among others, who all maintain that the downfall of the Umayyid Caliphate was due to taxation tyranny and economic maladministration. Wellhausen had led the way and others followed him blindly. As our author shows (p. 125 ff.), Wellhausen (1) translated a passage wrongly, and evolved a whole system on false assumptions, (2) although the case was particular, relating to a certain place at a certain epoch, he generalized it, and (3) in order to substantiate his preconceived notions, rejected all that went against him in the original sources, declaring that almost all Muslim narrations are

tendentious. (The last part of the sentence hails from Carl Becker, cited by Dennet on p. 4. One will wonder whether these learned critics are themselves angels and without any anti-Islamic tendency!

Dr. Dennet has done well by treating every region separately, the chapters being surveys of main problems, the Swad, Mesopotamia, Syria, Egypt and Khurasan. He rightly deplores the method of his forerunners (pp. 8-11) that they first present a hypothesis, then cite their evidence, and finally, dismiss as spurious all evidence in Islamic sources which contradict this hypothesis. They go so far as to accept part of a sentence in a work and reject the rest. Obviously any and everything can be "proved" in this way with the greatest ease. It goes to the credit of Dr. Dennet to show that even this ingenious method has not been successful. For instance (p. 9): "On the one hand, Wellhausen and Becker cite the loss of revenue to the Arabs by conversion as the sole explanation of the legislation of al-Hajjaj and Umar II; on the other hand, they cite the intolerably mounting burden of individual taxation in each fixed-tribute community to explain the political unrest occurring throughout the community. Now either the Arabs were heavy losers or the separate communities were the losers, but logically both could not be losers."

He further shows (p. 34) that "the error made by Wellhausen and Caetani is the assumption that this was the only kind of settlement made" (namely the stipulation that yearly a certain sum of money had to be paid as tax); that old Christian writers on Islamic history, even of contemporary events, do not fail to lie (p. 78); that (p. 69) the pre-Islamic "tax structure of Byzantine Egypt was complex and cumbersome, unjust in its incidence, inefficient in its method, divided in its authority, and overwhelmed by red tape in its operation," and that the Arab conquerors reformed all these deficiencies; and that revenue settlements were regularly effected by censuses of men and even of trees, taken from time to time, beginning with the time of the Caliph Umar I (p. 61, etc.).

Dr. Dennet has brought to light how non-Muslim functionaries of the Islamic State abused their authority (pp. 124-126), viz., in regions where the local population had treaty relations with the conquerors in order to pay a fixed sum annually, which was unchangeable. The Christian, Jewish and Parsi officials, in charge of collecting and handing over the tax, had authority over the entire population of the local peasantry,

Muslim as well as non-Muslim; and these officials had been responsible for the fact that once in a certain place "80,000 unbelievers were getting off scot-free and 30,000 Muslims were paying their poll taxes (*jizyah*) unjustly".

Dr. Denet has found another self-contradiction in the hypotheses of Wellhausen, which shows the remarkable insight of our author in the current of events. According to Wellhausen, the downfall of the Umayyads was due to their unscrupulous taxation, especially on land; and according to the same author, Khurasan, from where the Abbaside revolt and rebellion against the Umayyads began, was the best governed and most contented of the provinces, for it was under the governorship of Nasr ibn Sayyar, that most just and magnanimous administrator who had won the hearts of all the non-Arabs (cf., p. 128). He governed there for ten years before the revolt began.

It will amuse our readers to know the opinions and "tendencies" of another great Orientalist, Hartmann (p. 21), who thinks that "'Umar deliberately or through misunderstanding quoted scripture falsely" - as though Hartmann himself understood, the Qur'an better than the Caliph `Umar! The author has died, otherwise we would have asked him to take note of two points, untouched by him now, in a future edition:

1. He is positive that a large number of people left their lands and migrated to cities, "in order to escape taxes," which were heavy. Now, it is a commonplace that with each succeeding generation the population increases: the father leaves, say, two children, and these two children leave, say, four children; and the piece of land sufficient for the grandfather can certainly not support the four grandchildren with their families. It is not the heaviness of the tax, but simply the larger number of mouths that eat the product of that piece of land that forces some of them to leave the ancestral land and try their luck elsewhere. This population problem has been entirely neglected so far by Western authors in explaining the emigration of rural populations to towns in early Islamic centuries.

2. He should explain, on the basis of facts, the material difference between the tithe (levied on Muslims) and the revenue tax (*kharaj*) levied generally on non-Muslims. It is easy to say that there was discrimination.

But unless we know how much the *kharaj* amounted to in product, or how much the tithe meant in money, it is unjust to say that Muslim peasants were better off, particularly when we know that these Muslims had to pay the surplus-property tax (*zakah*), also from which the non-Muslims were entirely exempt. In one place the author seems to think that the ratio of *kharaj* and *jizyah* on non-Muslim peasants was 50:50. This requires clear proof to substantiate.

Our author has been particularly fortunate in studying the papyrus, contemporary to events in question, discovered in Egypt, dealing with official taxation documents (p. 75, 115, etc.), and I am tempted to quote him verbatim: "The papyri substantiate so many of the statements of the Arab historians and jurists that we are warranted in placing greater faith in the historical sources than has been the practice in the past".

There are a few misprints, though of no importance. On p. 18, he says that the Prophet Muhammad made an agreement with the people of Tabuk. This does not seem to be correct. The Prophet halted in Tabuk and sent several detachments, with the result that people of not only Adruh and Maqna, which he cites, but also of Jarba', Ailah and Dumat al-Jandal, solicited for treaties of friendship and protection. On the same page, Abu 'Ubayd is to read Abu 'Ubaidah. Or on p. 20 he certainly means Madinah when, by a slip of the pen, he writes Makkah.

The book is to remain a reference work for long, and we are afraid it will provoke much hostile criticism among the diehards of Western learning. This book is so good that it should be translated into Arabic, Urdu, Persian and Indonesian.

(*The Islamic Review*, July 1951, pp.44-45)

18

BOOK REVIEW – 3

HOMO ECONOMICUS ISLAMICUS

by Dr. J. Hans, Publishers Joh. Sen, Klagenfurt, Wien (Austria), 1952, pp. 114, with a map showing foreign investments in Muslim 'petrol centres.

Reviewed by M. Hamidullah

This is the fifth of a series of works on economic problems of the East which Dr. Hans has been publishing for the last quarter of a century. The present book deals with the economic movements and social upheavals among Muslims today. The purely technical points have been dealt with so summarily - be they Islamic notion of interest or problems of foreign exchange - that one has the impression that room is still left for such a work. More than half of the work is a general introduction. Nevertheless it is a sympathetic and objective approach to the subject, a pioneer work at least (after that of the now antiquated book of Agnides),¹ dealing not only with the classical Muslim law on the subject, but also new trends in Muslim countries, which are trying to adapt themselves to the new conditions of the world created by the impact of the Judeo-Christian enterprises of global dimensions. The book also refers to the fact that at long last the non-Muslim world too is seeing the wisdom of many Islamic laws of economics, such as the evils of interest (cf. Prof. Lord Keynes's opinion considered as heretic) etc. The field chosen being too vast (the entire Muslim world, from Morocco to Malaya-Indonesia), one must not expect on the part of the author an equal mastery of all the details of all the countries. A few may be brought into relief:

p. 10: The author does not seem to know that Afghanistan is also a member of U.N.O., and this since before the creation of Pakistan in 1947.

p. 11: Gandhi was certainly a great man; there is no denying the fact that he was a politician and not a saint or lover of peace and justice irrespective of creed and religion. What greater authority is required than that of the Premier Nehru replying to an interpellation in the Indian parliament, who had assured in 1948 that the invasion of the Muslim States of Junagadh and Babriawad (having acceded to Pakistan) and of Kashmir (having concluded a standstill agreement with Pakistan, recognizing it as a substitute of British India) had the approval of Mr. Gandhi? May be this gentleman had also given similar directives to invade Hyderabad (another Muslim State), which occurred a few months after his murder. Praise on the basis of 'hearsay evidence degenerates into Chauvinism.

No doubt Muslim revival begins with the rude shock given by the First World War, yet it is the Second World War which has hastened the pace. Among Muslim countries of major importance still under Western domination, the author has neglected to mention Kazan, Turkistan, Azarbaijan, and other Central Asian Sovietized territories, yet even there one finds a marked relaxation of the central authority. So, during the Second World War, these republics were given a distinct individuality; and in 1955 the Bulganin regime² has even accorded them the right of separate foreign and defence ministries. The Russians were the first to renounce their own name: their realm is called Soviet Union, not Russian. The Britishers have come later, and evolved a Commonwealth, without the adjective 'British'. The Dutch, with their short-sightedness, have lost Indonesia, ten times bigger than Holland. One does not 'know yet what turn French policy will take with regards to its Associated States and the 'French Union'. Both logic and expediency go against the nomenclature 'French'.

p. 16: The author has rightly admitted: 'The later historiography of the West has very unjustly attributed to Islam a warlike note'.

p. 19: It is not correct that the number of Muslims in Bharat (India) cannot be ascertained. One year before the publication of the work under review, the decennial census was taken there, and general results announced forthwith. Unlike Western countries, Indian census notes the religion of the inhabitants of the country also.

p. 20: It is rather curious to read that the West 'protected' Muslim countries from invasion of the Berlin-Rome-Tokyo axis. The fate of Malaya, Indonesia, Somaliland, Tunis, Western Egypt, &c., belies this assertion. The invasion of the neutral, peaceful Iran by these 'protectors' was based on pretexts which would have been disdainfully rejected by these protectors themselves if Iran had proffered them for occupying their territories. Why not call a spade a spade, or at least keep silent?

p. 21: It is also curious to maintain that Spain has no Muslim colony. What about their zone in Morocco?

p. 25: Among Muslim countries where women are exercising right to vote and to be members of parliament, Pakistan is not mentioned.

p. 32: The repeated transcription *haquq* is wrong; it is *huquq*.

p. 33: In the discussion of the etymology of the Western and Islamo-Arabic equivalents (*socialism* and *ishtirakiyah*), it is noteworthy that in 'socialism' the emphasis is merely on the question of belonging to a society, which may be hierarchic; whereas the Arabic word is more expressive, meaning sharing, participating with others.

p. 38: *Zakat* means, according to our author, 'to be liberated (*sich befreien*),³ to purify'. It is a half truth; it means 'to grow, to purify'. It is also a fallacy to call it a poor tax (*Armensteuer*). *Zakat* is the revenue of the Islamic State, to be collected and disbursed on the basis of a welfare State, yet not merely for the poor. (*Fuqara'* and *masakin* are certainly poor; *gharimin* may also be considered as such; yet the five other heads of the expenditure are not exclusively for the poor, but for the entire population.⁴

p. 41: There is question of London as the exchequer of the world. It was; it has already lost much of its importance due to short-sighted policy of keeping all gain to itself; it will lose further: if it continues' to refuse to share the benefits with other members of the sterling bloc.

p. 42: He has not known Hyderabad, which began issuing currency notes during the First World War, and this on a basis which even England had to adopt after the Second World War, viz. issue by the State, and not by private banks, profiting a few capitalists.

p. 43: England, which was a creditor all over the world formerly, became a debtor after the Second World War, also everywhere, even in Muslim countries like Pakistan, Egypt, Sudan, Malaya, etc. There is a very important lesson for Muslim countries to learn from the war-torn Western countries, like Germany, France, England, etc., as to how they have adopted intricate and ingenious methods to finance and to cope with their empty hand. The author has not told much on this technical problem.

p. 48: Banks run by Muslims, with Muslim capital, are not rare: Habib Bank of Bombay (which is now prospering in Pakistan), Hyderabad Bank, and several others in Madras and other parts of the sub-Himalayan continent were quite big concerns before the Second World War. Of course these were on Western models, indulging in interest. The interest-free lending was also not wanting, though in more modest proportions. It began in the last century in Hyderabad, and later developed into co-operative lending societies, with affairs running yearly in some cases into six figures. Its members were not exclusively Muslims. One such, the Interest-free Co-operative Lending Society of the Department of Survey and Settlement in Hyderabad, has been revived now after the occupation, by the non-Muslim director of this department!

p. 49: It may not be out of place to reproduce the testimony of the author: 'Neither in Ankara, nor twenty five years later in Karachi did one require to have recourse to foreign help with a view to bring in order the monetary and financial structure.' In Pakistan the credit goes to the Finance minister Ghulam Muhammad (now Governor-General) and to the director of the State Bank Zahid Husain (now chairman of the planning board).

p. 51: It is certainly a deplorable fact, from an Islamic point of view, that practically all Muslim countries of the world are actually according official tolerance to interest. Yet they are in a transitory stage, and are struggling as best they can to get rid of it. The evil is that the economists among them do not specialize in Muslim law, and Muslim jurists are not economists. A collaboration was required, which had begun in the Osmania University with its faculties of Muslim Theology and of Economics. The results were very encouraging, as the doctorate theses, prepared under the joint guidance, show.⁵ Since the invasion and

occupation, one is deprived of this enlightened centre of learning and cool thinking.

p. 53: According to him practically all the Afghans and Turkistanis are Shi'ites; just the contrary is the fact.

p. 54: The author deals very briefly with the famous *hadith* 'gold with gold . . . equal with equal'. There is another: 'Don't sell a dinar for two, a dirham for two', purporting to abolish inflations and the discount of exchange business which is one of the sore points of modern body-economics. Here again the holy Prophet has led the world, which alas is so slow to recognize its own ills and evils.

p. 56 ff.: Here begins the real theme, Islamic economic thought. The author has rightly remarked that interest being a gain, from a purely economic point of view it is incomprehensible how logically Muslims can refuse it. Moral ground, propounded by the author, is true, yet not all; even on economic ground, taking into consideration the long-term interest of the community for avoiding the cumulation of the national wealth in the hands of the few and the unbearable impoverishment of the rest, one arrives at the same conclusion. But it is not enough to prohibit interest; one should also arrange for interest-free loans to the needy (which Islam has done, making it a state duty, ear-marking for it in the annual income of the State). Otherwise we know that in the Middle Ages, European Christianity thought even commerce as unlawful,⁶ with the necessary reaction to the other extremity. The Qur'an has chosen the golden mean: 'God has made commerce lawful and has forbidden interest.' Naturally Muslims have been able to abide more by their religion than other communities. It is perhaps worth pointing out that Islam does not forbid gain, but only a one-sided risk. Say, in a commercial loan, the borrower must pay a fixed surplus as interest even if his enterprise has not earned necessary profits. The dilemma is resolved, for instance, in the form of *mudarabah* (sort of debentures)⁷ in Islam, and the sting is taken away: the lender participates both in the risk and in the profit. A certain amount of both vigilance and confidence is the basis of the good working of human society, in order to avoid temptations of fraud.

p. 58: He brings into relief that in the international Finance Conferences of 1920 and 1922 (in Brussels and Genoa) Muslim countries had not taken part, otherwise they would have been forced to face a dilemma and to refuse the resolutions. They did participate in the Bretton Woods Conference of 1951 for the same purpose, yet this latter gathering proceeded on quite different methods of international monetary exchange, very much approaching to the Islamic notion on the un-fluctuating exchange rate with no discount on sale or purchase of foreign currency.

p. 61: He is not right in maintaining that the Qur'an does not refer to workers and capital. In 28: 26-27 one can read the story of a good contract: the capitalist says: 'I do not want to be hard with thee'; and the qualities required of the worker are in a nutshell 'strong and honest'. Again in 12: 55 a would-be employee describes his qualifications with regard to finance and accounts: 'I am trustworthy and well versed in (this) science.' I may further refer here to an important yet neglected study on the subject: Sarakhsi, *Kitab al-Mabsut*,⁸ (profession and means of livelihood). It has also been published separately, attributed to Imam Muhammad al-Shaybani.

p. 66: it is a sad habit in the West to despise Eastern conditions. Victor Moremans (a Belgian, writing in 1951) has been quoted here by our author, which is refreshing reading: 'Here 27,000 Egyptians work under such technical, hygienic and social conditions that many a worker in Belgium would be envious of'. After giving many details, our author adds: 'It is significant that all these amenities are given in Egypt, whose State constitution has a religious impression, and not merely in Turkey which claims to be a lay State.'

p. 68: There are two international unions of workers, one is communistic and the other of the so-called free labour. A third is in the formation, since in many Muslim countries governments do not allow affiliation to foreign federations; and the author encourages the idea of having a third, purely Muslim, labour federation for the Muslim world.

p. 71: He is not right to think that labour organizations are new in Muslim countries; they have always existed, and all Fiqh books for instance speak of them in the chapter on *ma`aqil* or insurance against heavy damages to pay. The *Chaudhri* of Indian Islam, the '*arif* elsewhere,

are heads of trade guilds. Of course the old order had to change yielding place to a new one, to cope with new needs.

p. 76: It is painful to read, even as a passing or hypothetical hint, that Muslims can be xenophobe. Which people is xenophile? Do even Austrians prefer foreigners to themselves? In fact Muslim hospitality cedes to none even in point of fact; for instance, how many Egyptians are allowed to settle as traders in Greece or Italy, compared to Greeks and Italians in Egypt? The same is true everywhere. Non-Muslim ministers were known in Muslim States from very early times, continuing to our day; has Rome, Paris, London, Washington, Vienna, or even Athens to boast of similar tolerance of Muslims?

p. 79: When the Khedive was indebted, he was obliged to sell Suez Canal shares to England; yet in 1945, when England became indebted to Egypt, she would not only not sell back the Suez shares to Egypt, but even refused to pay off the debt, freezing Egyptian assets. Contrast the two civilizations!

p. 101: He seems to be unaware that a Pakistan journal (*Ma'ashiyat*, iii. 4-5, November 1949) has published the proposal for the federation of the currencies of the Muslim countries, forming a new bloc by the side of dollar, sterling, franc, etc. From Morocco to Malaya-Indonesia, including the Central Asian colonies, if Muslim countries gradually realize this union (and they are in a favourable position for their products of petrol, jute, tin, cotton, etc.), they would secure their economic independence better than in any other way of merger with other blocs or floating in loneliness as in Egypt, Saudi Arabia, Syria, etc. He also seems not to know a scheme, of which Makkans heard first in 1946, to irrigate the desert continent of Arabia. The promoting engineers think it possible to divert part of the final course of the Euphrates: instead of falling in the Persian Gulf, it could, by constructing upstream dam or dams and preparing a guided and controlled course, be taken as far as the Red Sea, if not even to the Arabian Sea, passing through the Empty Quarter. Some billions could be spent, and yet the result would be for as long as the world lasts, thus realizing the prayer of the holy prophet Abraham, who, seeing 'a valley without any cultivation by the side of Thy sacred house', had hoped one day it would be possible for his children living there to eat delicious fruits (*w'arzuq-hum min al-hthamarat*, Qur'an 2: 126). Fortunately Iraq and Arabia are in a position to raise necessary funds;

and even, like the Hijaz railway, the rest of the Muslim world also will not lag behind in contributing towards the financement of the scheme. Cannot both Russian and American engineers collaborate in the conquest of nature in this domain rather than wasting their energy in a struggle for mutual destruction? Let us hope.

p. 102: Yes, royal families of Arabia and Kuwait are far from Islamic frugality, yet repeatedly to call them *nouveau riche* is bad taste.

(*Islamic Quarterly*, 1955, Vol. 2, pp. 143-145)

NOTES

1. Nicolas (son of) Prodromos Aghnides, a Turk of Greek origin, wrote the first work on a topic of Islamic economics – *Mohammedan Theories of Finance* – in 1916. It is a Ph D. dissertation from the Department of Political Science, Columbia University. The book is jurisprudential in nature which examines the opinions on financial matters in the four schools of fiqh, published from New York, Columbia University Press [aai].
2. Nikolai Alexandrovich Bulganin (1895 –1975) was a prominent Soviet politician, who served as Minister of Defence (1953–55) and Premier of the Soviet Union (1955–58) [aai].
3. 'to be liberated (*sich befreien*),
4. See for details my 'Budgeting and Taxation in the Time of the Holy Prophet', in the *Journal of Pakistan Historical Society*, January 1955.
[It is included in this volume. aai]
5. See the endnotes nos. 7-9 above on this issue in "Haidarabad's Contribution to Islamic Economic Thought and Practice" [aai].
6. cf. Nys, *Origines du droit international*
7. It is not very precise to say that "the lender [more correctly, the investor] participates both in the risk and in the profit". "Participation both in the risk and in the profit" is somehow ambiguous. In *mudarabah*, capital is given by one person and labour is by another person who carries out the business on specified shares in the profit. In the event of a loss, the capital loss is borne only by the party that provides the capital, while the second party bear the loss only of what he provided, namely labour, which in the event of loss, goes unrewarded [aai].
8. Sarakhsi, *Kitab al-Mabsut*, Vol. 30, ch. *Kitab al-Kasb*.
9. Hamidullah, Muhammad (1949), "Islami sikkon ka wifaq" (Federation of Islamic Currencies), *Ma`ashiyat*, Nov. December, Vol. 3, Nos. 4-5, pp. 17-20.

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