
بسم الله الرحمن الرحيم


Verily Never will Allah change the condition of A people
until they change it themselves.
RAD Vs 11
إن الله لا يغير ما بقوم حتى يغيروا ما بأنفسهم

THE ROLE OF ISLAMIC BANKING SYSTEM

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1991/92 SESSION.

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D E C L A R A T I O N

I hereby declare that, this dissertation is a product of my thorough researches and findings about the topic. All materials and informations used in the project have been verified and acknowledged.

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D E D I C A T I O N

With gratitude to God Almighty and affection to my father and mother; I sincerely dedicate this project to my mother HAJIYA HAUWA IBRAHIM, ALHAJI AMINU A.D. and others who are helping me in one way or the other to achieve my aim.

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C E R T I F I C A T I O N

This project entitled: "THE ROLE OF ISLAMIC BANKING SYSTEM TO NIGERIAN SOCIETY" by ABDUL ALHAJI IBRAHIM (Jaga) meets the regulations governing the award of the degree of MASTERS IN BUSINESS ADMINISTRATION (MBA) of AHMADU BELLO UNIVERSITY, and is approved for its contribution to knowledge and literature presentation.

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ABSTRACT

Prohibition of interest in Islam necessitates that in countries seeking to introduce Islamic economic system, banking and financial practices be organised on a basis other than interest. Research work on the subject has proceeded to suggest that the principle of profit sharing offers the best alternative to interest in an Islamic system.

Stability in the value of money should be accorded high priority in the Islamic frame of reference because of the unequivocal stress of Islam on honesty and fairness in all human dealings and because of the negative impact of inflation on socio-economic justice and general welfare. While inflation is incompatible with the goals of an Islamic economy, prolonged recession and unemployment are also unacceptable. In Islamic system, monetary policy in Islam must therefore aim at a high rate of economic growth with full employment.

The requirement to attain material prosperity within framework of Islamic values necessitates that it should not be attained through the production of

inessential and morally questionable goods and services, should not lead to an exessive and overly rapid use of God given resources at the expense of future generations and should not harm present or future generations by degenerating the moral or physical environment.

Since Islam abhors Riba (interest), it is natural that abolition of interest should be the corner stone of all efforts at recognising the economic system on the basis of Shari'ah.

Prince Mohammed Al-Faysal Al-Saud visited Nigeria in 1983 to explore the means and possibility to establish in the country an interest free Islamic Bank on the pattern of Sudan, which unfortunately could not be possible due to our selfish and UnGodly love of Riba (interest).

However, neighbouring countries in West Africa like: Gabon, Mali, Senegal, Chad, Niger, Sierraleone, Guinea, Upper Volta, Tego etc have already established interest free Islamic Banks very successfully.

Again countries in the world like; Sudan, Saudia, Egypt, Iran, Iraq, Libya, Algeria, Somali, Pakistan,

Afghanistan, Turkey, India, Morocco, Tunisia, Mauritania and very many other countries have multiples interest free Islamic Eanks in their countries over decades. My dissertation however, explained in details the nature and relevance of Islamic Banking System to the Nigerian Populace in particular and the world in general, my prayer is that Nigerian Government would have second though and establish the interest free Banks in the country for the benefits of all.

P R E F A C E

Islam is not merely a religion but is a way of life for a muslim whom it guides from the cradle to the grave. In order to give clear guidance according to the teachings of the Qur'an and the Hadith, the 'Ulema i.e. the learned and the divine had engaged themselves from the early days of Islam to study and write about the religion. Again, Islam is a very practical religion and contains that is good and beneficial to man irrespective of time, place or the stage of his or her cultural, social and technological development. It guides us towards a perfect way of life and is free from the drawbacks of other religions.

> "Today I have perfected your religion for you and completed my blessing on you and approved Islam as the way of life for you." (Qur'an:5:3).

In these words the Qur'an claims that God has provided Islamic religion with all the essential elements of a permanent way of life which comprises a complete system of thought and practice and civilization and have laid down principles and given detailed instruction for the solution of all human

problems. Hence, there is no need for you to seek guidance and instructions from any other source.

In the Islamic system, Allah who is the real Authority must be obeyed. A muslim is first of all the servant of Allah; all his other capacities come after this therefore a muslims as indiv idual and the muslims as a community owe their first loyalty to Allah and they must subordinate all other loyalities to this, for they are called upon to give their first allegiance to Allah.

The second fundamental principle of Islamic system is allegiance and obedience to the Holy Prophet. This obediance is not inherent in prophethood but is the only practical shape of obedience to Allah. A messenger is to be obeys because he is the only authentic means through which we can receive commendments and instructions from Allah. Hence, we can obey Allah only by obeying his messenger for no other way of obedience is genuine. A tradition explains the same thing "Who so obeys me, he obeys Allah and whoever disobeys me, he disboyes Allah.

After the first and second allegiances, the Muslims owe allegiance to those invested with

authority, whether he likes it or dislikes it, provided that it is not sinful. Obedience is obligatory only in right things (Muslim Bukhari). The fourth thing that has been established as an absolute and permanent principle is that the commandment of Allah and the sunnah of his messenger are the fundamentals of Law and the final authority in the Islamic system. Islam and its message have relevance for all times, past, present and future and for all nations, black, white or brown. It is not confined to any particular age, nation or country, but outstrips the boundaries of time, space and nationality.

In any Islamic system the rules of shariah must be fulfil and must not contain any of the unlawful elements like interest (Riba), gambling (Qamar), deceit or uncertainty (garar), unspecified quantity (juhala) etc. The holy Qur'an and the tradition of Prophet Muhammed (P.b.u.h.) explained that the concept of Banking from Islamic point of view must go along with the principles of SHIRRAH (partnership). MUDARABAH (profit-sharing in Islamic Bank), TADAMON (profit-sharing in Islamic Insurance), MOSHARKA

MOTNAKESSA (partnership in other businesses), MODARABA, MORABAHA and SALAM (Sale) etc.

I sincerely hope and pray that God will make the words of this dissertation of life to many souls that they may know the practice of Islamic Banking System which is directly knowing Islamic religion and admire the simplicity of the faith which gives no proud place to any notion of priesthood whatsoever.

CHAPTER ONE

I N T R O D U C T I O N.

In the name of God the Benovelent and the Merciful

Banking as a social financial institution has had its success and failures. It has contributed greatly to the development and growth of modern industrial society; large scale production and capital formation on the magnitude involved, would not been possible without the financial assistance of the banks. Banks have performed an important and have very successfully served the needs of society by channelising the savings of the people where they were they were needed. They have been in a position to offer the needed funds through bank credits to businessmen for investment purpose on the payment of interest. They have, infact, played a dominant role in the distribution of the company's available financial resources among various sectors, although it has not always been in the best interest of the community at large.

As the main object of the banks is profit making, they have always given preference to fixed-interest earnings and short-term, but high yield

enterprises, irrespective of society's commercial or industrial needs. This policy has led to an unfair and unjust distribution of wealth and income, resulting in the concentration of economic power infewer hands, thereby causing social, economic and moral problems.

Banks undoubtedly perform useful and essential services to the community and no modern society can make much progress or even maintain its rate of growth in the industrial and technical sectors without it. On the other hand the whole credit system of modern banking is built upon the institution of interest, which has led to so many economics and social evils. Among other things, the institution of interest puts a check and brake on economic progress, especially in under-developed economics, where most of the new projects, though of high social priority, have often very low profits, yielding capacities and consequently, fail its warrant high interest rates. Such low profit yielding projects are either not undertaken at all or if they are, they are left unfinished because of the high burden of interest payments.

HISTORICAL DEVELOPMENT OF BANKS:

The first banks were the goldsmiths. Merchants and other people deposited their cash and valuable with the goldsmiths for safe custody, because few other people had facilities for the safe keeping of valuables. The goldsmiths issued receipts to the depositors to acknowledge that they had received the cash and the valuables. These receipts gradullay began to be used to make payments to other merchants. As this practice developed it became customary for the goldsmiths to issue receipts for convenient denominations instead of a single receipt for a large sum. In the course of time these receipts became the bank notes, the issuer stating on them his promise to pay any bearer on demand an equivalent amount in cash. The more highly respect the banker among the commercial community, the more widely would his notes circulate and less likely would holder wish to exchange them for cash.

Modern banking of this type is said to have originated dump the parliamentary years of the 17th Century. During that troubled period, people had recourse to the goldsmiths as depositories for their

money and valuables. In the more settled time which followed, the depositors still found it convenient to keep their money with the goldsmiths who were prepared to allow them interest upon it, upon the terms that, it should be returned as and when required. The goldsmiths were only too glad to receive it, for they had discovered that the number of demands for payment at any one time was unlikely to amount to more than a fraction of the whole amount deposited with them, and that in the meanwhile it could be profitably used for making loans to needy monarchs and noblemen, or to finance ventures in commerce and industry. As the banking side of their business expanded and prospered some of them relinquished their activity as goldsmiths and became full-time professional bankers. The practice of banking however, developed only slowly at first, and for a long time there were few bankers to be found outside London. It was the great industrial expansion of the second half of the eighteenth century that provided the stimulus to the growth of banking outside the capital.

The bank of England was established in 1964, and for over a century it was the only joint stock

bank in England. Then gradually there appeared large joint stock banks with many branches scattered over the country. They are now commonly known as Commercial Banks in England and as credit banks in Western Europe.

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1. J. J. Hanson, A Text-Book of Economics, McDonald and Evans, London 1977 Page 365 - 368.

2. Summerscale Sir John (ed) The Pengium Enclycopedia Pengium Books Ltd., Middle Sex 975, P.58.

1.2 STATEMENT OF PROBLEMS:

The quality of banking service in Nigeria, has over the years attracted alot of controversy. One common feature of the complaints about the banking services in Nigeria, is that, there is a general agreement that the banking services in Nigeria are very poor.

Always customers complain about the rate of interest being charged by the banks and the time takes before a banking transaction is completed.

Another general complain from the customers is the discourtesy of bank officials. It is the contention of Nigerian banking customers that bank's officials adopt nonchallant attitude when dealing with customers, they cause unncessary delays, gives preferential treatment to rich people or friends and relations and use various tactics to avoid the simple paper work involved in opening new accounts for potential customers. Further more the uncomfortable banking halls, the infrequent rendering of statements of accounts and the cumbersome process involved in obtaining loans have also generated alot of comments from bank customers.

Again the ways and manners the banks are being established and shares being subscribed, dividends and profits being shared and the formations of partnerships and the rules governing banking and other financial institution are always the headaches of the Nigeria Populace. Over years customers and other people benefiting the services of the banks in Nigeria have been complaining of the ways, banks extort money from them unmercifully in the name of interest and charge them seriously on turnover, overdrafts and loans. Which in Islam they are all regarded as RIBA - "Usury" on the other hand, bank officials have disputed some of the criticisms leveled against them; they claim that Nigeria is an under banked nation, that is the ratio of customers to bank branches is too high, with the sult that, the bank officials are made to handle larger number of accounts that they can effectively cope with. They feel the long queues evident in most banks are for now, unavoidable and will only be remedied, when the operations of the banks in Nigeria are fully Islamised, which necessarily has to be backed up and fully supported by both the Federal Government, State Government and the entire people of the Nigeria; and effectively communicated to the Nigeria populace,

the role, the formation, the nature of partnership, the nature of share holdings, the objectives, and the concept of Islamic banking system before the problems of banking services in Nigeria can be solved.

1.3 THE OBJECTIVE OF THE STUDY:

The objective of my study is to find the final solution of the problem of the Nigerian People especially with regard to the hard living conditions, excessive banking interest charges and poor administration of our financial institutions especially banks in Nigeria.

So the project indentifies that, only with the establishment of Islamic Bank in Nigeria, the dangerous gap between the rich and the poor in Nigeria can be bridged and the general living conditions of the people can be improved and the banking services become more equitable, and beneficial to classes of the Nigeria Society.

1.4 SIGNIFICANCE OF STUDY:

Banks in Nigeria have continued to attract unfavourable remarks regarding their performance, particularly the quality of their services. These

bad remarks always indicate that the quality of banking services is bad, and thus attempts to

(a) appraise the banks' services being offered to customer.

(b) establish the validity of the contention that banks officials are discourteous and discriminatory in their services to customers.

(c) establish the dissatisfaction of the banks' customers of banking services in Nigeria.

(d) establish the validity of the complain of the claim that banks customers have to wait for long before they can be served.

(e) identify those problems which inhibit effective banking services in Nigeria.

(f) evolve or suggest some possible measures which if adopted (Islamic Banking System) could eliminate those problems identified above and enhance better banks services to the people of the country.

1.5 RESEARCH METHODOLOGY:

This research mainly uses secondary data with the application specially of a three way approaches to the data collections, interpretation and processions as follows:-

(a) The review of partinent literature on

i. Evoluation of bank in Nigeria

ii. Banking formations in Nigeria

iii. Banking services in Nigeria.

Secondary data was mainly procured from text-books, Islamic Journals, pamplets. verses from Holy Qu'ran, Hadith which is the teaching and the practice of Prophet Mohammed (S.A.W.), the interpretations of the four Islamic Jurists (Imams) and the review of similar research works.

1.6 THE SCOPE AND LIMITATIONS:

The research project covers and forcuses only the inefficiency and ineffectiveness of the Nigerian banks and the role of Islamic banking system in Nigeria. It again attempts to find out the following:-

(a) The objective of Islamic Banking System.

(b) The nature of its partnership

(c) The principles and formations of Islamic Banking System.

(d) The rules of Islamic Banking System.

(e) The stages of establishing Islamic Banking System.

(f) The sources of capital and the division of profits in the Islamic Banking System.

(g) The role of Islamic Banking System.

(h) The relevance of Islamic Banking in in Nigeria.

1.7 DEFINITIONS OF TERMS:

The definitions of some terms used in the project are given as follows:-

1. RIBA: It means interest, usury or Sud which is charged or collected illecitly by banks and other financial institutions.

2.	SHIRKAT:	It is the conjunction of two or more estates in such manner that one of them is not distinguishable from the other.
3.	SHIRKAT MILK:	It applies to where two or more persons are the proprietors of one thing.
4.	BANK:	It is financial institution which accepts deposits, pays cheques values and makes other services to its customers.
5.	MUDARABAH:	Limited partnership
6.	MUDARIB:	The principal
7.	DARIB:	Agent or Manager
8.	RABBIMAL:	The Proprietor
9.	RASMAL:	The Labourer
10.	QARD:	Loan
11.	MUFAVADA:	Equality
12.	WOOJAH:	Personal Credit
13.	CHEQUE:	Bill of Exchange Act (1882) defined it as A Bill of exchange, drawn on a banker, payable on demand.

14. BILL OF EXCHANGE: It is written statement or promise to pay a certain sum, at some future specified date, guaranteed by reputable financial house.

15. COLLATARAL SECURITIES: These are securities deposited with a bank by its customers in order to secure an advance or loan.

16. CURRENT ACCOUNT: It is a demand deposit account operated by the use of cheques. It pays interest (Riba).

17. SAVINGS ACCOUNT: It is also demand deposit operated by the use of passbook. It earns interest (Riba).

18. FIXED DEPOSIT: This is a deposit of a fixed amount kept with a bank by its customers for specified period of time and which attacts a definite rate of interest in Commercial Banks.

19. SECURED LOAN: This is an advance granted to a customer against a pledged security; that is landed property or any tangible assets.

20. OVERDRAFT: It is when a customer is allowed to draw cheque beyond the amount in his account up to the limit set in the overdraft arrangement between himself and the bank management. Overdraft facilities are made to the trust-worthy and valued bank customers who are current account holders. It is usually granted for the short period of 3-12 months.

CHAPTER TWO

LITERATURE REVIEW:

2.1 INTRODUCTION:

It is observed that, very little published and publications were made on the role of Islamic Banking System especially in Nigeria Universities and tertiary Institutions. However, efforts are being intensified to make a detailed research work and studies about Islamic banking system by University Lecturers, and post graduate students which would expose the significance of the Islamic Banking in Nigeria. Also in seminars, public lectures and special meetings, the services and important of Islamic Banking System have been discussed exhaustively in trying to bring out the role of the bank into the lime light to the Nigeria public. While the main focus of this project as earlier stated is on the role of Islamic Banking System and it's relevance to the Nigeria People, but the shortage of the relevant and up to date data makes it inevitable for the literature review to be concentrated and based on secondary data mostly on written textbooks, journals and other materials or articles.

The first part of the project introduces Islamic Banking System, follows by various Islamic concepts, various provisions of Islamic concepts, the nature of Islamic Banking contract, the rules of Islamic Banking System, Organisation of Islamic Banking System, Organisation and Stages of Establishing Islamic Banking System and finally Sources of Capital and Division of Profit and Relevance of Islamic Banking System in Nigeria.

2.2 VARIOUS ISLAMIC CONCEPTS:

A. Concept of Interest in Islam:

Praise be to God who alone is enough to take care of us; and prayers and peace be on the Holy Prophet Mohammed (S.A.W.) the most selected of his worshippers.

The question of "Sud" or "Riba"(interest or usury)' is an aged-old business problem. As far as one can trace out historical evidence, it appears that most of the nations of the world has been indulging in this practice-even though it had never been regarded as a desirable one by any people during any period of history. Alough the person charging

interest was a member of the community, he was usually regarded as a criminal, not only by others, but, I have a feeling, his own conscience also depicked him as one for this reason, the usurer rarely had the courage to argue with conviction as regards/to the righteousness of his act.

Although the fact that he not been established by evidence, yet, if it is agreed that the Pagan Arabs (of the pre-Islamic period) were amongst the first to hold intellectual discourses to justify the charging of interest in the fact of prevalent taboos against usury, there is probably no historical evidence to deny this either.

It will be seen that the Holy Qur'an denounces usury in the strongest terms, and prescribes the severest penalties against those who indulge in this practice, punishment that hardly compare in severity with those prescribed for the gravest sins. For instance, the person who charges usury will rise (on the day of judgement) in the garb of one afflicted

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3. ABBASI, Manzur Ahsan, Sudaur Quard Interest and Loan, (V) Islamic Talim, Lahore (1:1) January/ February 1972 pp.31-41.

4. Quard wa Riba Loan and Riba (v) Thagafat, Lahore (8.8) August, 1960, pp.43-62.

5. ABU SA'UD M. Islamic View of Riba, Islamic Review London (45:2) February, 1957, pp. 9-16.

by the Genii; or all efforts to increase welath will be fraustrated by the ill effect of indulgence in usury; that such a person would suffer eternal punishment of hell, and finally the Qur'an declares that the person who does not refrain from usury and offer his repentance thereof, he might as well declare war against God and the Prophet.

The learned scholars of Islam also note that for no crime no matter which ever facet of life it may relate to, have there been such repeated injunctions in the Qur'an as in the case of punishment ordaimed for usury. Incidentally, since the charging of usury is a social crime, this shows that great importance the religion of Islam places on socio-economic problems.

Again, Islam prohibits interest in the strongest terms and aims at establishing an interest free-economy in every society. Islamic jurisprudence not only abhors interest (Riba), but it also discards anything that even bears any resemblance to it.

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6. Annoymous - The Economic Order Within the General Conception of the Islamic Way of Life, Islamic Review, London (55:2-3), February/March, 1967, pp. 24-26, 11.14.

7. AHMAD M. R. Ghair Sudi Maishat-Sarmaya darana aur Islami Maishat men interest -free economy in capitalism and Islamic economy. (v) Chiragh-e-Rah, Karachi (23:3) March 1969 pp.5-21.

Muslims therefore, do not like to take interest, since it has been forbidden by God. There is a severe punishment stipulated in the hereafter for those who trade in Riba or encourage its giving or taking in any form whatsoever. Infact, interest is an evil means of acquiring wealth. Money or property in Islam which is acquired through unfair means, is positively unclean and unlawful and anyone who makes use of it or spends it on his needs does himself a great harm. As the Holy Prophet has warned, his prayers will not be answered, his petititions will not be granted, and in case he does good deeds they will avail him nothing. In the next world, there will be no share for him in the special favours and grace of Almighty God.

The Prophet has narrated about a man who after undertaking a long and tedious journey arrives at his destination in such a state that his hair is dishevelled and his body is covered from head to foot with dust. He raises up his hands towards the heavens and cries out, O Lord O my preserver! but his sustenance is of the impure and he has been brought up on what is polluted; how can his prayer be granted when such is the case? "Said the Prophet.

The above Hadith amply demonstrates that, when a person draws his livelihood from impure means his prayers no longer remain worthy of being answered.

b. Concept of Islamic Banking:

The concept of Islamic banking arose from the teachings of the Holy Qur'an and the sunnah of the noble Prophet Mohammed (p.b.u.h.). These teachings form part of Sharia, the Islamic legal system. In Islam the taking and giving of Riba (usury or interest) in any form is Haram (unlawful). In this regard the Holy Gur'an says:

> "Those who devour usury will not stand except as stand one whom the devil by his touch has driven to madness. That is because they say: Trade is like usury. Those who after receiving direction from the Lord, desists, shall be pardoned for the past; their case is for Allah (to judge); but those who repeat (the offence) are companions of the fire; they will abide therein (forever). Qur'an 2:275."

For non Islamic Bank especially, the trade and usury are harmonised in to one function. The loans

8. AHMAD, Sh. Mahmud, Banking in Islam in Proceedings of International Islamic Conference, Islamabad: Islamic Research Institute, 1970 p.130-141.
9. Annoymous; Social Justice in Islam, Lahore: Institute of Islamic Culture, 1975 pp.120.
10. Annonymous: Judaism and Interest; Islamic Studies, Islamabad (20:1) Summer 1981, pp.47 -81.

earn interest, which is an obligation on the receiver to pay under every circumstance. Thus no difference is seen between the two but trade is permitted in Islam where as "Riba" or interest is forbidden, completely.

The Qur'an has not only prescribed punishment for those who take interest but also says that those who practice usury are ungrateful and wicked. Thus true believers must give up the practice of taking Riba.

> "O you who believe fear Allah and give up what remains of your demand for usury, if you are indeed believers."

According to the Holy Qur'an, if one does not stop the evil practice of usury, he is given a notice of war from God and his messenger; also the promise of prosperty in this evil practice: In this regard the Holy Qur'an says:

> "O you who believe devour not usury, doubled and multiplied but fear God that you may really prosper."
>
> Qur'an 2: 275 and 3: 130.

These who devour interest are the rejectors of faith:

> "That they took usury although they were forbidden and that they devoured men's property wrongfully. We have prepared for those among them who reject faith a grievous punishment."

There are a number of Hadith of the Prophet Mohammed (P.b.u.h.) which condemn usury. The Prophet Mohammed (p.b.u.h.) has pronounced God's curse on those involved in the practice of usury:

Jahir reported: The Apostle of God cursed the one who accepted usury, the one who paid it, the one who recorded it, witnessed to it, saying that they were all alike.

> "The receiver and the giver are equally quility. Even receiving a gift after a loan amounts to usury. Usury ultimately leads to poverty."

Narrated Ibn Mas'ud the messenger of God said:

> Eventhough usury be much it leads on the end of penury
> (a) Qur'an 4: 161
> (b) Shahihi Muslim
> (c) Baihagi and Ibn Majah

The Prophet has forecased as to what will happen in future, particularly in the age of fitnah (mishcief):

Narrated Abu Huraira, the messenger of Allah said:

> "A time is certainly coming to mankind when only the receiver of usury will remain and if he does not receive its smoke will reach him."

2.3 VARIOUS PROVISIONS OF ISLAMIC CONCEPTS:

In this chapter I examine various provisions of SHIRKAT (Islamic Partnership) and MUDARABOH (Limited Partnership) and some other provisions.

SHIRKAT:

In Islamic system it signifies in its primitive sense the conjunction of two or more estates, in such a manner that one of them is not distinguishable from the other. But in the language of the law, it signifies the union of two or more persons in one concern. The term "Shirkat", however, is extended to contracts, although, there is no actual conjunction of estates, because a contract is the cause of such conjunction.

SHIRKAT is lawful, because in the time of the Holy Prophet Mohammed men were accustomed to have transactions in partnership a practice which he upheld. Shirkat is of two kinds:-

i. Shirkat Milk: Partnership by the right of property.

ii. Shirkat Akid: Partnership by contact.

SHIRKAT MILK: Applies where two or more persons are proprietors of one thing. It is of two different natures, that is

(a) Optional

(b) Compulsory.

Optional shirkat is one where two persons make a joint purchase of one specific article; or where it is presented to them as a gift and they accept it, or where it is left to them, jointly, by beques+

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11. Annoymous: Islam Ka Nazariyyah-e Sudaur Bankari (Islamic Theory of Interest and Banking). (U) Thagafat, Lahore (8:10) October, 1960, pp.23-31.

12. AHMAD, Syed, Reflections on the Concept and the law of Riba in Outlines of Islamic Economics, Indiana, A.M.S.S. 1977, p.26-34.

13. AHMAD, Ziauddin, The Theory of Riba, Islamic Studies, Islamabad (17:4), Konter 1978, P.171-185. (Reprinted from Islamic Quarterly, London, January/June, 1978).

and they accept it; or where they both obtain possession of one specific article or where they unit their respective properties in such a away that one is not distinguishable from the other (such as the mixture of wheat with wheat): or where it may be difficult to distinguish them (as in a mixture of wheat with barky)."

Compulsory shirkat is one where the properties of two persons become united without their act, under such circumstances as render it difficult or impossible to distinguish between them; or where two persons inherit one property. In this species of partnerships, therefore, it is not lawful for one partner to perform any act with respect to other's share, without his permission, each being as a stranger with respect to the other's share. It is however, lawful for either partner to sell his own share to the other partner, in all cases here stated; and he may also sell his share to other without his partner's consent (excepting

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14. ALI, M. Ghulam, Jawaz-eSud ke hag menek Riwayat-se-Ghalat Ghalat Istidlal A Wrong Inference from a Tradition to Legitimise Riba. (v) Tarjumanul-Qur'an, Lahore (60:5) pp.306-9.

15. CHOWDHURY, M. ALAM, The Doctrine of Riba, The Journal of Development Studies, Peshawar, Vol.II, 1979, P.47-68.

16. FARID, Q.M., Is Interest Obsolete? Voice of Islam, Karachi (13:10), July 1964, pp. 485-502.

only in cases of association or a mixture of property) for in both these instances, one partner cannot lawfully sell the share of the other to a third person without his partner's permission.

SHIRKAT AKID is effected by proposal or consent. It is of four kinds:

a. Shirkat Mufavada: Partnership by reciprocity
b. Shirkat Ainan: Partnership in Traffic
c. Shirkat Sinnai: Partnership in Arts
d. Shirkat Woojah: Partnership upon personal credit.

Shirkat Mufavada is formed when two men, being the equals of each other, in point of property, previledges and religions persuasion, enter into a contract of co-partnership. In fact MUFAVADA mean equality. This kind of partnership is a universal parnership in all transaction where each partner

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17. FARRUKH, Omar, Banking and Insurance in Relation to Islamic Concept of Riba in M.A. Khan (ed) International Islamic Conference, Islamabad: Islamic Research Institute, 1970, pp.123-9.

18. GHA NAMEY, A.H., The Interestless Economy Proceeding of the Third East Coast Regional Conference (M.S.A.) 1968.

19. HAGUE, Ziaul, Riba, Interest and Profit, Pakistan Economist Karachi (20:21-22), May 24,31,1980, pp.14-35, 13-30.

reciprocally commits the business of the partnership to the other, without limitation of restriction.

Shirkat Ainan is contracted by each party respectively becoming the agent of the other, but not his bail. This species of partnership is where two persons become partners in any particular traffic, such as in clothes, or wheat, or where they become partners in all manners of commerce respectively."

The main provisions of this partnership are:-

i. It does not admit mutual bail, but it requires mutual agency.

ii. It admits of inequality with regard to stock.

iii. It also allows unequal profits with equal stock of partnership.

iv. It is lawful for either party to engage in the contract with respect to a part of his property only, and not whole; equally in stock is not essential and AINAN does not require it.

v. A purchase made by one partner, where the stock of the other afterwards perishes, is participated in by both; and the partnership continues in force, agreeable to the contract.

vi. This partnership does not admit specification of profit on behalf of either partner.

vii. Each partner holds the stock in the manner of trust.

viii. Each of the partners is at liberty to give his stock in the manner of an agency.

ix. Each partner is at liverty to lodge his capital as a deposit.

x. Each partner is at liverty to give his capital in the way as MUDARABAH (Limited Partnership).

xi. Either of the partners, by reciprocity or in traffic is at liverty to appoint a person "his agent" to transact for him, because agent for purchase or sale is a dependency of traffic.

xii. Each partner, on making payment has recourse to the other for his proportion.

20. HUSSAIN, Zahid, Prohibition of Interest in an Islamic State. Pakistan Economist, Karachi (19:46) November 17, 1979, pp.17-21, 26.

xiii. Debts can be claimed from the partner who incurs them.

xiv. Hanafees said that a partnership is legal although the parties should not have mixed stocks, while shefai said it is illegal because the profit is a branch of stock, and the branch is not to be participated in except where the original stock itself is also participated.

Shirkat Sinnai or Takabbal is contracted when two professional become partners and agree to work and share their earnings in partnership. Imam Shafi'i regards it as illegal while Hanafi considers it quite lawful. According to Shafi'i, the design of partnership is a participation of gain between the parties, and the partnership in question is not calculated to answer this end, since a capital is undispensable as partnership in profit is founded on partnership in stock, and in the case in question there is no capital. The Hanafee argues that the design of the contract in question is the acquisition of property, which is attainable by

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21. IMADI, Tamanna, 'Riba aur Bai' (Riba and Trade. (v) Fikr-O-Nazar, Islamabad (2:7) January 1965, pp.429-34.

22. ISMA'L C.M., Islam Ka Maashi Nizam' Economic Systems of Islam (v) Thagafat, Lahore (14:2), February 1965, pp. 31-52.

23. Mas'alah-E-Sud The Problem of Interest.(v) Thagafat, Lahore (9:1,4-6), pp.37,35-50,53-61, 40-50.

each party constituting the other his agent; because upon which becoming agent on the part of the other with respect to one half, and a principal with respect to the other half, a partnership is established in the property to be acquired.

The main provisions of this partnership are:-

a. It admits an inequality of profit, eventhough the share in capital of the partners is equal.

b. The work agreed for by either partner is binding upon the other; and either is at liberty to call upon the employer for payment.

c. Unity of trade and of residence are not essential in this form of partnership, become partners by agreeing to purchase goods jointly upon their personal credit and to sell them on their joint account.

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24. al-Jassas, Abubakar, Ahkam al-Qur'an, Babalriba' Chapter on riba. (v) Trans: Ghulam Murtaza Azah. Fikr-o-Nazar, Islamabad (9:7), pp.519-36.

25. KAMALI, A.H., Banks and Loans Under Islamic Economic Order, Pakistan Economist. Karachi (18:48) December 2-8, 1978, pp.32-3; (18:50) December 16, 19-20; (19:1) January 6, 1979 pp.35-5; (19:2) January 13, 1979, pp. 27.-9.

Shirkat Woojooh is where two persons not being possessed of any property, become partners by agreeing to purchase goods jointly upon their personal credit and to sell them on their joint account. Hanafi legalises this form of partnership while Shafi'i consider it illegal.

Its main provisions are:

i. It may include reciprocity: It may lawfully constitute a partnership by reciprocity: because each partner may become both bail and agent for the other.

ii. Each partner is an agent for the other i.e. each partner is an agent on behalf of the other, with respect to what he purchases.

iii. Proportionate profit. The profit of each partner must be in proportion to the sale of each on the adventure.

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26. Mahiyat-e-riba aur us Ka Da ira-i-kar Nature of Riba and its Scope. (v) Igbal, (15:2,4), October 1966, April, 1967.

27. KHAN, M. Ajmal, Islam and Usury: Studies in Islam, New Delhi, (1:2) April 1964, pp.86-92.

28. KHAN, M. Akram, A Survey of Contemporary Islamic Thought on the Institution of Interest: Islamic Education, Lahore (6:4) July/August, 1973.

To sum up, there in Islamic Economic System, the Mudrarib (principal) supplies capital to the darib (agent) in return for a specified share of any profits, but in the case of any losses, the burden is entirely borne by the mudarib and the darib receives nothing for his services. Thus participation in the profits is an essential part of the contract of mudarabah. Some regard it as a contract of agency between the principal and the agent because the entire losses nothing except the reward of his managerial skill etc. and also he is deprived of his profit as well as wages in case of loss in business.

ORIGIN, NATURE RULES AND DISSOLUTION OF ISLAMIC BANK:

2.4 ORIGIN OF ISLAMIC BANKING SYSTEM:

Both the terms mudarabah and mugarabah mean to lend money for business (partnership). Infact, mugarabah is equivalent of mudarabah and is derived from the Arabic word 'QARD' which means a loan.

The people of Iraq called the type of partnership described above as 'mudarabah'; this word again is

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29. MA'SUMI, S.H., Mas'ala-e-Sud The Problem of Interest. (U) Faran, Karachi (17:11) February, 1966, pp. 13-20.

30. MAWDUDI, A.A., Sud Interest. (U) Lahore: Islamic Publications, 1961, 410 pp.

31. MUSLIM, A.G., The Theory of Interest in Islamic Law and The Effects of the Interpretation of this by the Hanafi School up to the end of the Mughal Empire. Unpublished Ph.D. Thesis, University of Glasgow, 1974, 270 pp.

derived from the Arabic word 'DARB' which means to walk on the ground or to travel on the earth. It is called because the darib is entitled to receive a share of the profit on account of his efforts and labour. In previous time the darib had to travel in distant lands to carry out his commercial undertakings in order to make any profit. "In the language of the law "Mudarabah" signifies a contract of co-partnership of which the one partner (namely the proprietor) is entitled to profit on account of his stock, he being denominated (rabbi mal) proprietor of the stock (ras mal); and other partner is entitled to a profit on account of his labour; and this last is denominated by (the darib) or manager, in so much as he derives a benefit from his own labour and endeavour. He gets the opportunity to use capital according to his better judgement and discreation and participates in sharing with the principal (supplier of capital).

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32. NADVI, M. Na'im, Mahajani aur Tijarati Sud' interest on consumption and Commercial Loans. (U) Zindagi, Rampur (40:2-3), February/March, 1968.

33. NADVI, M.N.S., Tahirm-e-Sud' Prohibition of Interest. (U) Zundagi Rampur (38: 1,2), January/February 1967, pp. 25-35.

34. PHULWARWI, M.J.S. (ed), Commercial Interest Ki Fighi Haythiyat Commercial Interest in Islamic Law. (V) Lahore: Idara-Thagafat-i-Islamiyya, 1959, 134 pp.

The medinities call this partnership as 'mudarabah' which is derived from the Arabic word 'qard' signifying surrender right over capital by the owner of capital to the user of capital. This is why it is called and conceded it to the user of capital (darib), mugarabah is also known as 'qurah' and there is complete unanimity of opinion among the muslim jurists with regard to the legality of girab (or mudarabah).

2.5 THE NATURE OF ISLAMIC BANKING CONTRACT:

In the United Kingdom and many of the commonwealth countries, any number of persons from two to fifty may form a private company to carry on the business of banking; and similarly any number of persons, from seven upwards may form a public company for this purpose.

But in Islamic system, muslim jurists (especially the four sunni Imams), have gone to great lengths to find out and determine the exact nature and scope of the contracts of shirkat and mudarabah and the difference between them. They have discussed the mater in great detail to find out whether mudrarabah is an act of association or partnerships; a kind of agency; or a mixture of both. Despite difference among themselves

on the point, the jurists are in complete agreement that mudarabah is lawful and permissible in Islam provided the following conditions are observed:

i. If two (or more) person, of their own free will enter into an agreement whereby one party supplies a specified amount of capital to the other who employs this capital in commerce e.t.c. to make profit for the benefit of this partnership.

ii. When either party knows for certain and without doubt what is his share of the expected profit which is a percentage or ratio of the total profit of the total profit and specified amount in the standard (money, gold or silver bullion). In the case of loses, the darib will receive nothing for his work, and all loss will be paid for by the principal (supplier of the capital): And in case of No loss No profit, the Darib will again get nothing for his efforts.

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35. QADRI'S. Mu'Inuddin, Sarmayakari ki Ma'ashi Hagigat, aur Islamic Nugta-e-nazar se us ke mu 'awada ki wajh-e-Jawaz' The Economic Nature of Investment and the Basis of Permission of Its Reward from an Islamic Viewpoint. (V) Burhan Delhi (55:3-4), September/October 1965, pp.159-76,221-9.

36. QURESHI, A.I., Islam and the Theory of Interest. Lahore: Sh.M Ashraf, 1974 (1946), 220 pp.

37. Annonymous: Views of Islam on Interest; Islamic Review, London (45:&) July 1957, pp. 5-10.

iii. The capital is handed over to the other party (manager) for the purpose of mudarabah.

iv. The darib is absolutely free to trade with capital entrusted to him in any way he thinks best and can take any steps that he deems necessary and proper to obtain maximum profit. Any conditions limiting his freedom renders the contract invalid.

v. The duration of the partnership is neither pre-determined nor limited but any party has the right to terminate the contract of partnership by informing the other party. The Zihiris as well as the other four Imams unanimously support this view. However, it seems reasonable that the duration of the contract or partnership must not be limited for it would not give full opportunities to the Darib to plan and advise long-term projects.

vi. The right of either party to terminate the partnership at any time he likes is demaging to the business and must be limited to a certain period after the commencement of the partnership. In order to protect the right of both the parties and to secure the maximum yield of profit for each (the very basis of

partnership), it is desirable and appropriate to fix a minimum period of time, say two years, after the commencement of the business, before which neither of whom can terminate the partnership. However, after this minimum period, either party is free to terminate the contract by giving reasonable notice to the other.

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38. Islam aur Sud Islam and interest. (v) Lahore: hania Publishing House, 1971.

39. Annonymous: The Economic and Social System of Islam, Lahore: Islamic Book Service, 1979, 135 pp.

2:6 RULES OF ISLAMIC BANKING SYSTEM

Al-jaziri has explained in detail, the rules governing the contract of Islamic Bank which give a clear picture of this type of partnership (mudarabah). The rules governing mudarabah can be summarised as follows:-

a. The darib takes possession of the capital stock before he actually starts his business in the capacity of a trustee, This means that he holds the capital or property for the proprietor as a trust. He must therefore look after it and return it if and when it is demanded by the proprietor. However, he will not be held responsible if the property or capital is lost.

b When the darib starts business he acts as an agent of the proprietor and represents him within the power assigned to him. The proprietor is therefore, legally responsible for all the acts and contracts of the agent performed within the limits of his authority. The agent is not legally bound to do anything outside the scope of his contractual duties.

c The agent will have a definite share in the profit of the business because participation in profit is the basic purpose of this partnership.

d. If the agent violated the terms of the contract he he will be considered to have acted wrongfully and will be held legally responsible.

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40. RAFI'ULLAH, A.S., Bankarlaur Ka Munafa Banking and its profits. (U) Fiki-O-Nazar, Islamabad (4:1-2)July/August 1966 pp.51-8.
41. RAHMAN, Fazlur, Tahagig-ur-Riba; Nature of Riba.(U)Fikr-O-Nazar, Islamabad (1:5), pp.52-100.
42. Annonymous: Riba and Interest; Islamic Studies, Karachi(3:1) March 1964 pp 1-43.Translation of his Urdu paper Tahagigur -Riba: (Fikr-o-Nazar (1:5) Nobember, 1963).

e. If the contract is rendered null the darib will be regarded as an employee and the entire profit or loss of the business will be attributed to the proprietor. However, the agent will be entitled to a reasonable reward depending on the nature of of the work.

f. If the whole profit is attributed to the proprietor, the darib will be authorised by the contract to buy a specific quantity of goods in return for his labour but he will not receive any renumeration. The proprietor will bear the expense of all such purchases by the darib.

g. If the entire profit is taken by the darib, the business transaction will be treated as a loan and he will be entitled to the whole of its profit and will also pay its total loss which ever the case may be. However, he will still be legally responsible for the payment of the loan to the proprietor.

2:7 ORGANISATION OF ISLAMIC BANKING SYSTEM:

The Islamic Banking System is organised on the principle of partnership. The people who participate in it directly like the shareholders, or indirectly like the depositors of various types are all its partners in different capacities and degrees all sharing in its profits and loss according to the nature of their deposits.

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43. RAHAMAN, Fazlur Gunnauri, A study of Commercial interest in Islam: Islamic Thought, Aligarh (5:4-5) July/October 1959, pp. 24-46.

The promoters of the bank are the shareholders who put up the capital from among themselves will determine its total share capital and the value of each and then divide the share capital among them-selves in any proportion they like. It can be divided equally between them each shareholders buying an equal number of shares equal shareholder buying an equal number of shares of equal value. Where by some will have contributed more capital than others. The promoters can also fix the minimum as well as the maximum number of shares each shareholder may buy. The shareholders participate in the bank on the principle of shirket Ainan (unlimited or free partnership). They are the active partners with unlimited liability and are held fully responsible for the repayment of loans and other debts and liabilities of the bank in cases of loss in business or bankruptch. They organise banking business with their own capital and invite more capital on the basis of mudarabah (limited partnership), and also shirkat (unlimited partnership), from the public. The mudarabah partners contribute capital only and do not participate in the business of the bank but only share its profit or loss with it. Mudarabah partners, unlike shareholders are the sleeping partners in the business. The minimum and maximum number of shareholders, as allowed within the law of the country, and the amount of capital to be supplied by each are worked out by the promoters of the bank. There is

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44. RAHMAN, Maulavi Fazlur, Commercial Interest Kifighi haithiyat ka tangidi jaizah. A critical review of the legal position of interest. (V) Burhan, Delhi,(48:1-3,5-6), (49:1-3), (January-September 1962, except April 1962), pp.5-16, 69-80, 133-47, 261-80, 350-69, 32-48, 86-100,249-60

45. SAEED, K. Amjad, Business finance in Islam, Investment and marketing,Karachi (15:7), November 1979, pp. 11-15. Reprinted from: Economic System of Islam, Karachi: National Bank of Pakistan, 1980, pp. 231-44

apartnership contract between the promoters to decide the manner in which the capital is to be used, and other matters relating to the business banking or investment etc of capital. All problems relating to the acquisition of more capital for the purposes of Investment through loans are also settled by the management (the promoters) at the time of the contract.

Under the British law any two but not more than 50 persons, may form an incorporate (private) company in the manner prescribed by the law. They cannot invite public subscription for any shares.on the otherhand, a partnership can be formed by any two, but not more than 10 persons in the case of a banking partnership. In the case of non-banking partnership, there is no much limit. For mudarabah banking (limited partnership), a minimum of two persons is quite reasonable with maximum of between 15 and 21, but the number of partners must not be very large.

The shareholders must agree at the time of the formation of their partnership for mudarabah banking on the following:

a. Division of Profit: The manner and in what proportion profits will be divided among themselves. This must be clearly laid down in the partnership contract leaving no vangueness about the matter. As a matter of principle it is desirable as well as fair that profits should be divided among themselves in proportion to the

amount of their shares capital. The time or date of the distribution of profits and whether they are to be distributed annually, must also be decided along with other relevant matters.

b. No Direct Involvement in Business: The bank will not directly enter into any kind of business enterprises but will advance loans to other parties on the principle of shirkat or mudarabah.

c. Normal Banking Business: The bank will carry on normal business i.e. accepting demand (current) deposits and savings (time) deposits without interest, while also render other banking services on commission.

d Borrowing of Money: The bank will be able to raise more funds through loans under interest free loan scheme, if needed, to expand its business or on the basis of shirkat or mudarabah.

e. All business matters of the bank will be decided through mutual agreement.

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46. SHAFI, Muf ti M. Sawalnama Riba Kajawab A rely to questionnaire on riba. (U) Al-Balagh, Karachi (10:6) June 1976, pp 323 -34

47. Annonymous: Provident fund Kizakat aur Sud ke masa'u Zakat AND interest on provident fund. (U) Al Balagh, Karachi (7:7), pp 425-8. Reprinted as a booklet, Karachi Darul Isha'at, 1973.

48. Annonymous: Riba in Urdu Eucydopaedia of Islam, Lahore: Daira Ma'arifi-i-Islamiyya. (See the word riba).

49. Annonymous: Mas'ala-e-sud interest (U) Karachi: Idaratal Ma'arif, 1390 A.H., 148 pp.

f. Each shareholder will be free to receive a loan and to do any other business in his individual capacity, or on shirkat or mudarabah with any other individual or firm.

g. Each shareholder is at liberty to leave the partnership at any time he likes. It is however, desirable that reasonable notice is given before leaving so that there is sufficient time for setting the accounts e.t.c.

h. In the case of the death of any shareholder his heir or heirs can join the partnership under the same conditions as himself with the consent of other parties, or his shares long with profits or losses will be inherited by his heirs, should he have so willed. The business of bank is not affected in either way. In establishing a mudarabah bank, the promoters will have to go through again the following stages.

2:8 STAGES OF ESTABLISHING ISLAMIC BANK:

i. The promoters will first have to agree themselves on the conditions, and the terms of the total share capital, and on the share of each partner in it and in profits. They must then also agree on the terms and conditions on which they will invite the

the public for mudarabah and shirkat partnership. The ratio or percentage according to which profits or loss will be divided between the shareholders and mudarabah depositors on the one hand and the shareholders and the mudarabah entreprenours on the other and any matters relating to profits.

ii After reaching mutual agreement about the terms and conditions of the partnership, its investment business on the basis of mudarabah and its general banking business, they have to seek the help of a lawyer to draft a document of partnership containing all and each of these condition along with conditions and terms covering every other aspect of business.

iii. When the document of partnership is completed, they will register the name of their partnership (which will include the names of the partners with their respective share capitals) along with the document, with the registrar under the regis tration of Business Names Act or any other Act which requires the regulation of such agreements.

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50. SHAH, Syed Ya'qub, Islam and Productive credit; Islamic Review, London (47:3), March, 1959, pp. 34-7.

51. Annonymous: Chand Ma'ashi Masailaur Islam, Islam and some economic Problems (U) Lahore: Idara Thagafat-i-Islamiyya, 1967 259 pp.

52. Annonymous: Islamic jurisprudence, Lahore: Idara Thagafat-i- Islamiyya, 1967, 259 pp.

iv. The document of partnership submitted by the partners to the Registrar should define and state the rules and regulations and powers of the partnership. Any act of the management beyond the powers defined in it, is 'Utra Vires', the partnership and void. It must state the name of the partnership e.g., Oriental Banking and partners etc., and the address of the registered office in which the partnership is formed. It must also state that liability of the members is unlimted and give details of the share capital, showing its total amount and division into shares e.g. total share capital of the partnership; ₦20,000.000, divided into 200,000 Ordinary shares of ₦100 each etc.

It should also contain the internal rules and regulations setting out the procedure and the way in which the partnership business will be conducted. It should show the practical day-to-day machinery through which the work of the partnership will be carried on. This document is filed with the Registrar at the time of incorporation of the new partnership from the date stated therein, which will also contain the registered number allocated to the partnership.

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53. SHANI, Amir Hamza, Commercial interest our Islam: Commercial interest; (V) Tarjumanul-Quar'an, Lahore (57:1) October, 1961, pp. 32-46

54. SIDDIQU, M.A.M. Riba-Usury and interest: Qur'an's verdict is clear: Islamic order, Karachi (2:2), 1980 pp. 40-70

v. The promoters now are ready to take practical steps to launch their investment venture. It is entire up to them to decide when to commerce the investment phase of their banking business, but a limited company must start its business within a calendar year from the date of incorporation, otherwise it still become void and will automatically cease to exist. The promoters may, however, commence their normal banking business, i.e. accepting various kinds of deposits from the public after the commencement of Business Certificate from the Registrar, and delay its investment business till the total or major portion of the subscribed capital is collected.

vi. By now the bank will have collected a large amount of subscribed capital from the mudarabah depositors and a reasonable amount of capital through various kinds of deposits. A portion of the capital from these deposits may be invested if the depositors are willing to enter into mudarabah partnership with the bank and accept its terms and conditions of profit sharing. It is to be hoped that many of the depositors of saving accounts will be quite ready to do this with the

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55. UTHMANI, M.T. Tijarati Sud, Commercial interest, (V) part II of Mufti Muhammad Shafi's Islam aur Sud Islam and interest. Karachi: Idaratul Marrif, 1390 A.H.

56. YUSUFUDDIN, M., Riba (V), Bayyinat, Karachi (3:2), January 1964, pp. 69-86.

bank and become its mudarabah partners. However a great majority of the depositors of current or saving account will continue to remain ordinary customers of the bank without entering into any business deals. Such customers will be treated like ordinary depositors of current or saving accounts under modern banking and will be using the services of the bank for their normal business purposes.

By this stage the bank will bw fully operational as a financial institution doing all kinds of banking business like any other bank. It will be managed and controlled by a board of directors, clerks etc. Though the policy matters are decided by the partners (the sharesholders), the actual running and management of the bank is in the hands of the Board of Directors.

2:9 DISSOLUTION OF PARTNERSHIP IN ISLAMIC BANKING SYSTEM:

Dissolution can occur through either shirkat means of siaaolution or mudarabah means of dissolution of partnership in Islamic Banking System.

a. Dissolution under shirkat: Both can be formed by the mutual agreement of the parties, and likewise, dissolved by mutual agreement.

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57. AFZAL, M., Islamic Banking in a non Muslim society in out lines of Islamic Economics, Indiana; A.M.S.S. 1977 pp. 121-7

58. AGABANY, Foaud, Faisal Islamic Bank Sudan: A promising experience in conprehensive Islamic Banking, Unpublished presented at Internation Seminar on Monetary and Fiscal Economic of Islam, Islamabad, 1981, pp.10

b. Dissolution under mudarabah: The contract of mudarabah is dissolved on the death of either partner, apostacy or expatriation of the manager.

NOTE: The contract of mudarabah is invalidated under the following circumstances.

i. A condition of management by the proprietor of the stock invalidates a contract of mudarabah; because where such a condition exists the stock can never be possessed solely by the manager, whereby he cannot be competent to act with respect to it and thus the object of the contract (namely, participation in the profit) cannot be effected.

ii. When the proprietor imposes a restriction upon the manager to do the business in any particular part of the city, the condition become invalid.

iii. The breaking of the conditions mentioned above under the nature of the mudarabah contract or its main provisions.

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59. AHMAD, Sh. Mahmud, Banking in Islam: Muslim News International (8:1), June, 1969, pp. 5-11.

60. Annonymous: Sub ki Mutabadil Asas Ka mas'alah'. (U) Unpublished Nimeo, 1980, 49 pp.

61. Al-Arabi, M.A. Contemporary Banking Transactions and Islam View Thereon: Second Conference of the Academy of Islamic Research, Al-Azbar, 1965, pp. 83-102. Reprinted in Islamic Review, London, May 1966, pp. 10-16

62. CHAPRA, M. Umar, Money and Banking in an Islamic Framework Unpublished, presented at International Seminar on Monetary and Fiscal Economics of Islam, Makka, 1978, pp. 68

2.10 SERVICE OF ISLAMIC BANKING SYSTEM:

Islamic Bank like any other modern bank provides a variety of services to the community in various capacities as follows:-

1. Accepting Deposits.
2. Banking Business
3. Investment
4. Financial Assistance to Industry
5. Loans for Trade and Commerce
6. Loans for Agriculture
7. Investment in other Companies Shares.

Accepting Deposits: Like any other bank the Islamic bank will accept deposits of all kinds from the public, who have according to Keynesian analysis different motives in depositing their savings. The chief motive of the main categories of depositors, examine how this analysis of 'motives' applies to the three main categories namely.

a. Time or fixed deposits
b. Savings Account Deposits
c. Demand or Current Deposits.

Time or Fixed Deposits (Mudarabah Deposits): Here the main and primary motive of the depositor is "Investment Motive" or finance (i.e. profit) Motive.

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63. HAMIDULLAH, M., Suggestion for interest free Islamic Monetary Fund, Islamic Review, London (43:6) June, 1966 pp. 11-12

Their chief object is to earn some income on funds which they are not using. These depositors earn interest on their deposits under the modern banking system. The very nature and purpose of these deposits will undergo a fundamental change under interest free banking. These deposits will be called Mudarabah or 'Investment' deposits and will constitute the main profit earning activity of the bank on the principle of profit-sharing. according to the two-tier banking system. If there is a greater demand for such funds than are available under this category. They can be obtained from the second type of deposits discussed below. in Nigeria.

However, in cases of execssive demand for investment funds, the bank can call at the contral bank of the country for loans for this purpose as is often the case under the present banking system.

Savings Account Deposits: These deposits are also chiefly motivated by the desire to save some capital and, at the same time, to earn some profit on them. The chief dffe-rence between the Time Deposits and the savings Account Deposits lies in the nature and disposition of the people who have deposited these funds. The Time Depositors are mostly deposited by businessmen and other wealthy members of the community, who have excessive funds which they cannot utilise and manage for themselves because they lack the initiative to take a risk themselves. For this category of

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64. HASSANUZZAMAN, S.SM., Interest-free consumption loans and consummer behaviour in some economic aspects of Islam, Karachi: Mu'tamar-e-Alamal-Islami, 1965, pp. 147-62

depositors, the primary motive of savings is 'investment of finance (i.e. profit) motive' while their secondary motive may be 'precautionary motive' in the Keynesian sense.

On the otherhand, the primary motive of the depositors in the Savings Account Deposit is 'Precautionary Motive' while their secondary motive may be (investment motive) or finance (i.e. profit motive). The depositors in this category usually belong to the middle class who resort to saving chiefly because of 'precautionary motive. Unlike the Time Depositor. They prefer to deposit their spare funds in the savings account because they wish to earn some income from their savings. Under the modern banking system the banks invest funds in short-term loans on interest to other people, or securities in order to keep ready money available on demand. Under interest free banking system the banks may invest whole or part of these deposits on the basis of profit-sharing (Mudarabah) or buying the shares of some successful industrial or commercial firms in order to keep part of its funds in readily convertible cash form.

Demand or Current Account Deposits:- The Primary purpose of those people who deposit their funds under this category is the 'transaction motive' for keeping the extra liquidity readily available in a convenient from for spending and making payment to other people. The aim of these deposi-

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65. IRSHAD, S.A. Bila Sud Bankari, Interest free banking, (U) Karachi: Maktabah Tahrik-i-musawat, 1965, pp.152(English trans: Karachi: Orient press of Pakistan, n.d. pp.100).

66. KHAN, A.J., WASSY, M.A. AND SIDDIQUI, K.H., Interest-free Commercial Banking Framework. Mimeo-Pakistan Banking Council, 1978, pp. 10-20

tors is not to earn any income on their deposits but only to keep them safe and readily available for use. The banks do not pay any return or interest to these depositors, but instead charge them a nominal sum to cover expenses incurred in maintaining their account. Thus, demand deposits are treated as loans payable on demand and no profits are paid to these depositors. Repayment in full is guaranteed by the control bank under all circumstances no matter what happens to the bank. These depositors will be issued with payment to other people from their funds whenever they wish without any limit.

The Islamic bank will not invest any part of these deposits for making profits, but will keep a reasonable amount of it for making short-term interest-free loans (Qard-al-Hasna) to needy industrialists and agriculturists,who may not otherwise quality to receive a loan. It is quite appropriate for the bank to give interest-free short term loans as well as over-draft facilities from this category of deposits for which which it pays nothing to the depositors. However, a small portion of these deposits may be used for buying industrial shares which keep the funds in near liquidity form and, at the sometime, will earn some profits. If the profit this source is sufficient to meet the expenseof the bank than it may not charge the demand account depositors for maintaining their account, but if the cost of book keeping, administration clerical work etc., becomes unbearable, it may charge a small

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67. Annonymous; Some Queries and Replies on interest-free banking Framework, Mimeo: Pakistan Banking Council, Karachi 1978 pp.15

68. KHAN, A. Jabbar, Commercial Banking Operations in interest framework: Presented at International Seminar on Monetary and fiscal Economics of Islam, Islamabad, January 1981 pp.66

fee from them to cover its expenses, like the modern banks.

2. Banking Business: The experience of banking over a period of time has shown that in practice the last two depositors (i.e. of saving and current accounts) do not withdraw their funds all at once; instead they draw a small portion occasionally and much of it remains with the bank most of the time. The proportions of funds withdrawn from the banks by the depositors varies with different countries and is influenced by many factors i.e. the economic habits of the people, political stability, industrial development, the use of cheques and the general creditability of the banking system etc. The Islamic bank, like any modern bank, will use a considerable part of its total deposits in investment on a profit sharing basis and not on interest it will invest these funds in short-term industrial, commercial and other profitable but secured enterprises, on short-term basis, preferably in industrial shares as this will enable the bank to earn profit without blocking its capital for a longer period (because the industrial shares are like ready cash and can be sold on the market at any time). This is cautionary advice to the bank about the use of its funds deposited in saving and demand account.

The bank's main business however is concerned with the investment of the time deposits on a profit-sharing basis

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69. KHAN, M. Fashim, 'A report on the Islamic Banking as practised now in the world 'Unpublished Presented at international Seminar on monetary and fiscal economics of Islam. Islamabad 1981 pp. 33 Annexures.

70. KHAN, M. Akram, Comments on the Report of the Panel of Economists and Bankers on Elimination of interest from the Economy: Unpublished, Mimeo, 1980, pp.17

and the deposits under discussion are mainly motivated by precautionary motive' and transaction motive or safe-keeping motive. The depositors, intend to utilise them and are, therefore, not interested in earning profits on them. They also do not expect any return or income from these deposits. It is, therefore, logical and reasonable to expect that the bank will not utilise these funds at least a major portion of it, in long-term investment projects for making profit. But it is desirable that a major portion of it is used by the bank in meeting the short-term loan requirments of its clients free of charge.

The case for funds under a savings account is slightly different from this category of deposits. These deposits are motivated primarily by 'precautionary motive', but their secondary motive may be the 'earning of profit'. The bank can safely invest a reasonable portion of these funds in long-term investment on a profit-sharing basis, but again, it will be desirable that some portion of it is invested in buying short-time industrial shares which will enable the bank to keep some of its resources in liquidityform. However, it is for each bank to decide how much of its capital is to be kept in liquidity form, and how much is to be invested for earning profit. In as far as funds under savings account and demand account are concerned a safe ratio will be determined by experience of the Islamic banks over a period of time.

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71. Annonymous: Interest free banking: Some further further Question: Islamic Education. Lahore (5:20), March/June, 1972 pp. 29-47.

72. Annonymous: Interest-free banking Islamic Studies, (16:2) Summer 1977

The case of time depositors is comparatively simple. They are chiefly interested in earning profit from their savings and the bank can very easily invest a major portion of these funds in long-term investment projects and keep a small portion to meet their demand for cash.

3. Investment is another service being offered by Islamic Bank. The bank invests its capital either through Shirkat (unlimited partnership) or Mudarabah (Limited partnership).

Since the main source of Islamic bank revenue is derived from its share in the profits of these partnerships, it is desirable and necessary that it should diversify the investment of its funds to ensure a regular income from its ventures. Islamic bank invests its capital on either of the following principles.

a) Shirkat Ainan (Unlimited partnership)

b) Mudarabah (Limited partnership).

SHIRKAT AINAN:

To the bank which invests its capital on the principle of unlimited partnership. as such, it will sign a contract of partnership wuth the enterpriser and actively participates with him in the management of the enterprise in order to safeguard its interests However, the option of active participation in the business under this type of partnership is open to the bank at all times.

In the case if both the parties have made equal contributions of the working capital of the business, they will equally share the profit (as well as loss), of the business. If the

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73. MOHSIN, M., Problems and Development of Islamic Banks: Journal of the Rabitah, Makka (6:7) May 1979,pp.22-7

74. Anonymous: A Profile of Riba-Free Banking: Unpublished. Presented at International Seminar on Monetary and Fiscal Economics of Islam, Makka 1978, 31 pp.

capital contributions are unequal, the share of the partners will be unequal, each receiving his share of the profit in proportion to his capital. If the bank compels its partner to give it a greater share of the profit out of its proportion to their respective contributions, the partner may refuse to enter into shirkat with it prefering instead to take capital on limited partnership(mudarabah) with it or any other bank and share the profit according to mutually agreed terms pay it one-quarter, or one-third of the profits, or evenless. It is, therefore, in the interest of the bank to agree to share the profit on reasonable terms and not to compel its partner to agree otherwise.

In fact, Shirkat partnership is suitable for the bank only when it is the active participant in the business, which for the bank is unpracticable and very expensive. The bank will however, make sure that its liability is limited to the amount of its invested capital in the business in order to safeguard the interests of its depositors. The best and most appropirate and desirable form of partnership for the bank is Mudarabah (limited partnership).

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75. MUSLEHUDDIN, M., Interest-free Banking and the feasibility of Mudarabah: Unpublished. Presented at the first International Conference on Islamic Economics, Makka. 1976, Mudarabah is not a suitable basis for interest-free banking.

76. Annonymous: Islamic Banking System Law. Karachi: Islamic Research Academy, 1974 153 pp.

MUDARABAH:

The main banking function of the Islamic bank is to give its capital to individual businessmen or firms on the principle of mudarabah. Both the bank and its partner share in the profit (but not in the loss which falls on the bank) and mutually agreed terms which are clearly stated in the contract of mudarabah. The bank neither parricipates nor interferes in the day-to-day business of its partner. It may however, ensure at the time of contract that its capital is not invested in any haram, makruh, or unsafe enterprise. It may also if it desires take a written guarantee from its partner as a part of the contract that its capital will be invested only in certain specified profitable trades or industries.

The bank has the right to check the account of its partner and its business operations at any time it likes in order to ensure that the conditions of the contract are fully adhered to by him. Whenever it finds that any clause of the terms and conditions of the contract is not fully observed by the partner or partners, it has the right to terminate the contract unilaterally by giving reasonably notice to the other party. The profit is shared by the partners as fixed in the contract of partnership, but the bank is free to

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77. Annonymous: Islamic Banking System: Comments on Egyptian Study. Muslim News International, Karachi (11:7), pp. 25-7: (11:11-12), pp.11-15 (January 1973, March/June 1973).

78. Al-NAGGAR, Ahmad, The Healthy Path Towards Economic Development The Islamic Alternative: presented at International Seminar on Islamic Social Justice, A.B.U., Zaria, Nigeria (3-8 January, 1978).

re-negotiate its percentage at any time it likes. (It must be remembered that the shares of the partners in business must be fixed as percentage or ratio of the profit and not as specified amount of it.

4. FINANCIAL ASSISTANCE TO INDUSTRY:

The bank will do its utmost to assist in the industrial development of the country by providing all kinds of financial help (i.e. short, medium and long-term loans) to industry. It will take all possible measures to ensure that the required funds are readily available to genuine applicants. The bank will however, make sure that the industry concerned is viable and likely to make a profit. Like the modern banks, it will satisfy itself before advancing loans that the party is financially and business-wise sound and trustworthy in o order to ensure the safety of its funds. To ensure the safety of its funds, it will like the modern banks, satisfy itself before making any advance that form a financial and business point of view the party is sound and trustworthy. It will investigate the industry thoroughly and only after receiving a satisfactory report from its experts will advance the loan.

The profit or loss will be shared by the parties in accordance with the following principles clearly laid down in the contract:-

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79. Annonymous:- Islamic Banks: A Model and the Challenges' in Altaf Gaubar (ed) The Challenge of Islam. London: Islamic Council of Europe, 1978, pp. 220-34.

i. Industrial practice of the country

ii. Amount of working capital of each partner.

iii. Duration of the loan

All matters relating to the amount, time or manner of payment of the profit or loss and other relevant problems will be settled between the partners by mutual agreement according to the terms and conditions of the contract. The bank will provide working capital for long-term expansion or improvement of industry and will become its owner to the extent of the proportion of its capital to the total capital of the industry.

5. LOANS:

Note that in Islamic Bank Loans take two forms as follows:-

a. Loan may be given to customers as charity loans (Quard-Al-Hasna)

b. Loans may be given to buy goods of limited value on credit form specified goods.

LOANS FOR TRADE AND COMMERCE:

Islamic bank will advance loans to individual traders as well as firm on the same basis of Mudarabah. A partnership contract, stating the amount and duration of capital. The terms and conditions of the contract, and the respective shares of each partner (as percentage or proportion) in the profit or loss, and other relevant matters, will be signed between the parties. The partnership, in general, will be based on the principles explained above under the organisation of the Islamic Bank.

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80. QURESHI, D.M., 'Comments on the Question-Answer Memorandum Prepared by the Sub-committee of Bankers on Interest-Free Banking'. Unpublished. Mimeo., 1978 pp.9

6. LOAN FOR AGRICULTURE:

Islamic bank will provide financial assistance to agriculture for permanent improvements in land on the basis of Mudarabah. The bank will enjoy the right of ownership of the land to the extent of the value of its capital on proportion to the value of land assets until the loan is returned. The partnership between the bank and farmer is discussed under the organisation of the Islamic Bank.

7. INVESTMENT IN OTHER COMPANIES SHARES:

A very useful Government Industrial shares and the shares of successful industrial and commercial companies. In modern times all banks and financial institutions invest a portion of their capital in the purchase of each shares. They are bought and sold in the open market like any other commodity. The holders of such shares are the owners of the company inproportion to the value of their shares and accordingly receive profits annually or bi-annually on them.

The buying and selling of shares with suitable modifications can be maintained in the muslim economy. All kinds of malpractices of the modern stock markets, especially the speculative buying and selling of shares, will be forbidden by law. All shares which carry guarantee of minimum profit, or are given special interest treatment will also be declared illegal. There is every likehood that, after much measure, the market for common stock will develop and grow on healthy

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81. Annonymous: Bila Sud Bankeri, Interest-free banking. (U) Lahore: All Pakistan Educational Congress, R.D.,pp.50

lines and the price of all shares will be determined in the open market by the actual-earning capacity of their respective companies. This will guard the muslim economy from the scourage of the modern stock exchange with speculative buying and selling and thereby keep it free from the evils of trade cycles, the offspring of the interest-riddent economy of the western world.

The best way for the Islamic bank to earn some profits from its liquid funds and maintain their liquidity as well, will be to buy government industrial shares and shares of different industrial and commercial firms. This diversification of investment will ensure an over-all profit at all times. If there is a loss or no profit on some shares it will be neutralised by profits on others. It is always the best policy to spread out investment by buying various types of shares in the market to avoid the risk of loss.

The purchase of shares has another advantage for the bank. It will help the bank to maintain its liquidity ratio at a reasonable level at all times, because it can sell these shares in the market whenever it wishes to meet its financial commitments. In fact, the banks stock of shares is equivalent to hard cash or liquid money because it can be sold at any time for cash.

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82. RAHMAN, Afzalur, Banking and Insurance. London: The Muslim Schools Trust, 1979, 424 pp.

8. OTHER FUNCTIONS OF THE ISLAMIC BANK:

The bank will also perform all those functions which are normally done by modern banks, but it will not charge any interest from any of its client. It will help in the transfer of funds from one place to another on reasonable commission. It will keep custody of jewellery and other valuables of its clients. It will accept bills of exchange either on reasonable commission or just as gurantee for the payment of a loan. The bills of exchange will be accepted like ordinary cheque without any interest by the bank but these must be cashed at the proper date because under no circumstances in the interest free economy, will they be allowed to remain in circulation after the expiry of their period. This will help and encourage the successful and healthy circulation of bills of exchange like ordinary cheques, without the involvement of the element of interest and will provide stimulus to profitable and successful industries.

The bank will also help and encourage various industries by buying their shares on the open market. This will increase industrial production and at the same time provide the bank with some income from the profits of industry. In addition, a number of personal services will also be provided by the bank to its customer, such as safe deposit and foreign exchange facilities, the issue of traveller's cheques, executor and trustee business all of which will be done on reasonable commission like modern banks.

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83. Annonymous: Report of the Panel of Economists and Bankers on Elimination of interest from the Economy., Islamabad: Council of Islamic Ideology, 1980, 113 pp.

2.11 SOURCES OF CAPITAL AND DIVISIONS OF PROFITS:

As already explained previously the main sources of the banks capital will consist of the three principal types of deposits together with the profits derived from their investment. If it needs more funds, for banking purposes or investment, it can, like any modern bank, borrow money from other banks, financial institutions, or the government. It can also raise such loans from the public or the government for fixed periods. The bank does not pay any profit to its creditors and repayment is guaranteed under all circumstances; no matter what the financial state of the bank.

Loan capital can also be invested along with Mudarabah or Shirkat capital and included while calculating the percentage rate of profit on its total investment capital, but excluded from the division of profits. The whole of the profits on loan capital will go to the shareholders who are responsible for the return of this capital. If there is a loss in business, the entire loss on the loan capital will be borne by the shareholders and the Mudarabah depositors are not liable to pay any part. The shareholders, therefore, are entitled to have the full share of profit on loan capital plus either share on Mudarabah or Shirkat capital. Mudarabah bank will definitely prefer this method of raising capital to that of issuing bonds or debentures on fixed interest unlike the modern banks and other companies. It seems to be a more effective and desirable

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84. Annonymous: Report of the Council of Islamic Ideology on the Elimination of interest from the economy. Islamabad: Council of Islamic Ideology. 1980, 127 pp.

way of collecting capital for investment, especially for short periods without any risk or loss to the creditors.

A further sources of capital can be the sale of its bills of exchange, share certificate and government owned Mudarabah and Shirkat shares on the open market. As explained earlier, every Mudarabah bank is required to keep a certain part of its demand and savings deposits in cash or ready cash to enable it to meet the daily cash needs of the public. Bills of exchange and various share certificates form a reasonable asset for the bank to keep in almost ready cash which could easily be cashed by selling them on the open market.

DIVISION OF PROFITS:

The Mudarabah bank serves as an intermediary between the suppliers of capital (proprietors or Mudaribs) and users of capital (enterpreneurs; Darib). It collects funds from the former who agree to share the profits and losses with the bank in proportion to their capital. Then the bank advances capital on the basis of profit sharing to the entreprenour or entrepreneurs. Thus the Mudarabah bank acts as banker - depositor to one party and banker businessman to another on the basis of partnership.

In order to determine the profit per ₦100 or per share of capital, it will be necessary to calculate the total Mudarabah capital received from mudarabah depositors and share-

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85. Al-SADR, S.M., Bagar, Islamic Bank Islamic Bank. (U) (Urdu Trans. Dhi Shan Haidar Jawwadi.) Sargodia: Maktaba Asghariyya, n.d., 324 pp.

holders and capital from demand or savings account used for investment purposes (loss capital reserved for short-term interest free loans) will also be calculated. Then the total profit out of all the bank business will be calculated and after being divided by the total.

NOTE: The distribution of profits or losses in these two tiers of partnership will take the following forms;

a. Bank - Businessman

b. Bank - Depositor

c. Loan Deposits.

BANK BUSINESSMAN:

The mudarabah bank will advance loans to various businessmen of business firms on the basis of partnership and this principle will not be effected by the composition of the investment capital. Whether the capital with which the businessman is working whether it is capital supplied by the mudarabah bank; or mudarabah capital and with some of his own; mudarabah capital, his own capital and some borrowed capital on a mudarabah basis from another mudarabah bank none of this will in any way effect or change the basic rule of mudarabah partinership. That the profit will be shared by the partners on mutually agreed terms (percentage or proportion). In the bank business tier partnership, the liability for losses falls only on the madarabah bank and the entreprenour bears no part of them.

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86. STTAR, S.A. Interest-free Banking: Pakistan Management Review, Karachi (15:1) 1974. Reprinted in Criterion, Karachi (9:6), June 1974, pp. 15-26

The division of the profit between the partners depends upon the contribution of each to the total working capital. In general, the greater the share in the capital of any partner, the higher will be the percentage or ratio of his profit. If the business partner of the bank is working only with the capital of the bank, then the profit will more or less be equally divided between them, The partner perhaps receiving a little more. The bank may receive 50% (or ½) or any other percentage or ratio agreed between them at the time of the contract.

Let us assume that they have agreed to share the profit equally between them. In that case the bank will receive half the profit of the business for its capital and business entropriser, half for its labour, managerial skill etc. For example, if a businessman or a business firm has borrowed ₦50,000 mudarabah capital from the bank and invested it in business and made ₦5,000 net profit at the end of the year, then each partner the bank and business partner, will receive ₦2,500 in profit. And incase of a loss of ₦5,000 the bank will have to bear the total amount.

If banks partner has invested ₦100,000 of which ₦50,000 is mudarabah capital the remaining ₦50,000 belongs to the partner (either from personal saving or is borrowed from other sources) and the business has made ₦10,000 net profit at the end of the year, the bank will receive ₦2,500 on the

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87. SA'UD M. Abu, Islamic Banking: The Dubai case in outlines for Islamic Economics, Indian: A.M.S.S.,1977. pp. 129-35

basis of mudarabah contract according to its share of the capital, while its partner will receive ₦7,500 i.e. ₦2,500 profit from mudarabah capital and ₦5,000 on his own capital.

In the case of loss of ₦10,000, the bank will loss ₦5,000, its share of the total loss on the mudarabah capital, and its partner ₦5,000 on his personal capital. The bank will not be held responsible for the total less of the business, it will pay at the most, ₦5,000 out of a total of ₦10,000, in proportion to its share of the total working capital of the business. Likewise, its partner will pay at the most, ₦5,000 out of a loss of ₦10,000, in proportion to his parsonal share of the total working capital of the business. Thus, for all practical purposes, the purposes, the liability of the bank on its mudarabah capital invested through individual businessmen or firm will be limited.

Let us now assume that, the shares of the parties are unequal, the bank receiving 40% (or 2/5) and its partner 60% (3/5) of the total not profit. For example, if the bank invests ₦50,000 with a partner on mudarabah, who has no capital on his own, and makes a net profit of ₦10,000 at the end of the year, the bank will receive ₦4,000 of the profit and its partner ₦6000. Again in case of a loss of ₦10,000 the entire loss will fall on the bank and the partner will not bear any

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88. SIDDIQI, M.N. Chair Sadt Bakari; Banking without interest. (V) Lahore: Islamic Publications, 1969, pp.224.

89. Annonymous: Banking without interest, Lahore: Islamic Publication 1973, 3206 pp. A translation of his Urdu book on the same subject (1969). Revied trans. Published by the Islamic foundation, leicester, 1983

part of it. Again, using the same percentages, if the total working capital of the business is ₦100,000 of which ₦50,000 is mudarabah capital of the bank, ₦50,000 the personal capital of its partner, and the net profit at the end of the year comes to ₦20,000; then the bank will receive ₦4,000 as its share of the profit on its capital, while its partner will receive a total profit of ₦16,000 i.e. (₦6,000 as his share of profit from mudarabah capital of ₦50,000 and ₦10,000 on his personal capital of ₦50,000). In the case of loss ₦20,000, the bank will loss ₦10,000, its share of loss on its capital of ₦50,000 and its partner, ₦10,000 on his personal capital of ₦50,000.

In the case of neither profit or loss, neither party will get anything. Each will be entitled to its capital, if he wants to leave the business at the end of the accounting period. If the entrepreneur did not invest any of his own or borrowed capital, and used only the mudarabah capital of the bank, he will get nothing and the capital will be returned to the bank, if they decide to close the business. But if they want to carry on their business partnership it will continue without any interruption.

This principle will apply to all forms of Islamic Banking business, old or new, When ever capital is invested on the basis of mudarabah. It is, however, essential that a standard procedure is adopted to calculated the total value of the old and establish business, including machinery, equipment,

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90. Annonymous: A model of interest-free banking: Criterion, Karachi (6:4), pp. 19-33.

buildings, finished and unfinished goods etc. All this must be taken into account at the same time of estimating the total value of the business, so that any profit or loss can accurately and fairly be divided between the partners. This will greatly help to settle impartially important issues between then thereby keeping partnership free from any disputes arising out of misunderstanding and uncertaintly.

Another matter worths considering is the length of the contract. In certain industries, like farming or commerce, the whole business is completed within a specified period and it is therefore easy and convenient to calculate the total cost of investment as well as profit or loss in cash at the end of that period. In such industries, capital costs can be determined for the specified period and not profit or loss calculated and shared between the partners without much difficulty. But in the modern industrial world, the business is continuous and capital costs cannot so easily be calculated in cash without much loss to either of the partners.

In these circumstances, the banks method of investment will be to advance loans on mudarabah either for a specified period, (and this must be a fairly long period, say five to ten years) or on unspecified period while keeping the option open to claim back its capital whenever its

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91. Annonymous: Banking in an Islamic Framework' in the Muslim World and the future economic order. London Islamic Council of Europe 1979, pp. 101-11.

partner is not adhering to any of the conditions or terms of the contract, by giving reasonable notice to the party. At the end of the period, or when the bank has claimed its capital owing to the infringement of any of the conditions or terms of the contract, the invested capital and the amount of net profit will be calculated in accordance with the principle explained above to determine the share of each partner in the profit of the business. In order to facilitate, ensure and encourage continuous investment in industry and commerce under the 'too tier' system, it will be much better if the profit in such cases is determined with reference to the annual or bi-annual profits of the business in general.

All debious and unfair practices, which could lead to misunderstanding, fraud, or damage to the interest and reputation of the business of either of the partners, should always be avoided. Moreover, any calculation of the profit and total value of the invested capital at any particular time, will require the joint agreement of the partners, since this will be essential for the success and reputation of the business.

Profit may be paid annually or bi-annually to the Partners on mutually agreed terms, and, if desired by them, the contract may be terminated after the division of the profit, or extended for a longer period, if it was for unspecified period. However, the period of contract is a matter for the

bank and its partner or partners, who will take into account many factors to determine its duration; such as the nature of the business, conditions of the market, availability and extent of capital etc.

B BANK DEPOSITOR:

This is the first-tier partnership in the two tier system of mudarabah banking. The bank receives mudarabah deposits of various durations from its customers on the basis of profit sharing. It is in the best interest of both the bank and its customers that this capital is invested in some profitable enterprise at the earliest opportunity. It is also necessary that these investment are spread out to ensure a regular flow of profits for the bank. This policy of diversification will ensure that the bank will always get some profits; losses from some investments will be made good by profits from others while some may have yielded neither profits nor losses. The banks will share these profits with their mudarabah depositors on agreed percentage.

The total profits, as explained earlier, will be divided by the total mudarabah capital in order to determine the actual rate of profit in percentage. Then every mudarabah depositor will be paid his share of the profit according to his total share capital and the balance will be distributed among the shareholders in proportion to their respective share capital.

92. Annonymous: Comments on the Elimination of Interest from the Economy: Presented at Internation Seminar on Monetary and Fiscal Economics of Islam, Islamabad, January 1981, pp. 12.

If 20 shareholders established a bank and each puts up ₦10,000 and a further 8,000 mudarabah depositors each contributes ₦100, the total investment capital of the bank will therefore be ₦1,000,000 of which ₦200,000 is share capital and ₦800,000 is mudarabah capital. This capital is invested on the basis of profit sharing - mudarabah depositors receiving three fifth i.e. (60 percent) and the bank two fifth i.e. (40 percent) of the total profits of the business.

The bank invests this capital in partnership with some businessmen or firms on the condition that any profit will be shared between them on mutually agreed terms. At the end of the year, the bank finds, that some of its business partners have made profits, some have incurred losses and some of them have made neither profits nor losses. The range of profits and losses made by different partners also varies considerably. Thus, the bank can find itself in three situations. Firstly, after adding the profits and subtracting the losses of its various business partners, it may make a profit; secondly, after such additions and deductions, it may make a loss, and thirdly it may make neither.

If it has made profits, say ₦100,000 on its investment capital of ₦1,000,000 it has achieved a 10 percent of profit on its total investments. Now these profits will be distributed among mudarabah depositors according

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93. TASIN, M., Nafa'wa Nugsan men shirkat ka Mu'amalah aur us Ki shari Haithiyat 'profit-Loss sharing and legal position. (U) (Fikr-o-Nazar, Islamabad (19:1), July, 1981. pp.6-13.

to the agreed terms of the contract i.e. three-fifth or (60 percent) share of the profits. On the basis of this percentage, their share of the total profits will come to ₦48,000 and the remaining ₦52,000 will go to the share capital of ₦10,000, giving him an average rate of profit of a shareholder will be much greater than that of a mudarabah depositor.

In the case of a loss of ₦100,000 each mudarabah depositor as well as shareholder will suffer a loss at the rate of 10 percent. Either they will pay this loss to the bank or their capital will be left with ₦96 instead of ₦100 in his deposit and each shareholder will have only ₦9,000 instead of ₦10,000 left in his share capital. And in the case of bank making neither profit nor loss, the mudarabah depositors as well as the shareholders will neither receive nor pay.

On the whole, the shareholder receives a higher rate of profit than that of a mudarabah depositor, but in the case of loss, both bear the burden at the same rate. This is because in the case of profit, the shareholder not only receives the full profit on his own share capital but also gets a share of the profits of mudarabah depositor thereby depriving the later of the full profit on his own capital. This is due to the fact that the

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94. UTHMANI, M.T. Chair Sudi Counter; Interest free counters (U) Al-Balagh, Karachi (15:4), February 1981, pp. 3-16

shareholder does all the banking business, spends his time, ability, skill and experience in making that profits possible from the business and has, of course to pay his employees. It is share in the profits includes wages for his hard work, reward for his managerial and entrepreneurial skill and return on his own capital

The mudarabah depositor on the other hand supplies only a part of his capital while he is engaged in his own business affairs without taking in any capacity, part in either in the management or investment functions of the mudarabah bank. Above all, the shareholders assume complete responsibility for the business and all the risks attached to it. Their liability is unlimited and in the case of loss they may not only loss their own entire capital from their other sources to cover the heavy losses. In addition they are deprived of any reward for all their work and hard labour. It is therefore, equitable that the profits. And that a part of the latter's share is paid to him to compensate him for his work and labour without which these profits would not have materialised in the first place.

We may add that the rate of distribution of profits in the two-tier partnership must be based on equitable principles. It must also take into account the customary rate of profit commonly accepted in the two-tier

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95. UZAIR, M., An outline of interest-free economy' in Economic System of Islam. Karachi: National Bank of Pakistan, 1980, pp. 172-97.

partnership, without ignoring the competitive rate that might be offered by the mudarabah depositors and the businessman. The rate of profit offered by the bank to its mudarabah depositor and business partner must be realistic and competitive, otherwise the bank may loss a considerable number of its mudarabah depositors and thereby the supply of capital; it will find it equally difficult to get good and profitable business partners. If a mudarabah bank does not give or show reasonable and competitive rate of profit on its mudarabah capital, the supply of its capital from this source will decreased and, consequently, it may find itself short of capital. In that case it will be forced ultimately to change it policy in order to attract more funds.

The same applies to its dealings with its business partners. If the bank does not offer them good terms they will seek better alternative sources of capital else where. It is therefore, to their mutual advantage that the bank offer attractive term of profit sharing to its business partners. The business partner must also be aware of the fact that the rates of profit-sharing on two-levels, between the bank and its mudarabah depositors and the bank and the business enterprise, determine the volume of mudarabah deposits. In otherwords, the supply of investment capital is a function of the

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96. Annonymous: An outline of Interestless banking: Karachi: Raihan Publications, 1955, 21 pp. Incorporated in his interest free banking (1978).

two profit rates. If the business partner offers reasonable terms of profit sharing terms to its mudarabah depositors and, as a result, the supply of mudarabah deposits will rise and make available a greater volume of investment capital.

It is therefore, in the best interest of the business partner both in the short-term and long-term to offer good profit-sharing term to the bank (and thereby enabling the latter to offer similar profit sharing terms to its mudarabah depositors). A business firm which shows poor results and offers lower percentage returns on bank loans will not have much chances of obtaining new loans. Banks will try to look for better alterntives for their investments because they themselves cannot attract any great volume of mudarabah deposits at lower profit rate. A poor show of profits will deprive the business firm of its supply of loans from the bank and the latter will be drprived of fresh supplies of mudarabah deposits. This then shows the singular importance of the rate of profits both in the bank business and the bank-depositor relationship. The total volume of investment depends on the terms of these two rates of profits.

C. LOAN DEPOSITS:

Any loan capital raised by the bank from various sources example from the "Deposits Account, and invested

along with mudarabah or shirkat capital on the basis of profit making is the bank's own responsibility and any profit realised from it being wholly to the bank. It is only the loan obtained for a certain fixed period that has to be repaid under all circumstances. The bank has nothing to pay to its creditor in the form of profits but has only to return capital after the expiry of the loan period irrespective of the financial position of the bank.

For example, if ₦200,000 of ₦1,000.000 capital in the example mentioned under the Bank Depositor partnership is raised by loans, ₦200,000 by shareholders and ₦600,000 by Mudarabah depositors and is invested in business along with other capital profits of ₦100,000 on its total investment of ₦1,000.000 this will give it a 10 percent of profit. According to the previously agreed terms, mudarabah depositors will get a profit of ₦36,000 on their ₦600,000 mudarabah capital at the rate of 3/5 (or 60 percent), and the remaining ₦64,000 of the profits will go to the shareholders; (₦32,000 on their mudarabah capital and ₦32,000 on their loan capital) because it is their responsiblity to repay it whether or profit or loss in business. In the case

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97. Annonymous: Foreign Trade in an Interestless Economy: Voice of Islam, Karachi (7:2-3) pp 96-103. Incorporated his interest-free banking (1979).

98. Annonymous: Interest-free banking: Karachi: Royal Book Co., 1978 pp. 217

of a loss of ₦100,000 shareholders will bear a ₦20,000 loss on their share capital and ₦20,000 loss on loan capital thus bearing a total loss of ₦40,000 i.e. 20 percent. Mudarabah depositors will bear a loss of ₦60,000 inproportion to their mudarabah capital i.e. (10 percent). In case of profits, shareholders make greater profits partly because of a share of mudarabah profits and partly because of profit on loan capital and because in the case of any loss, they bear greater burden owing to the loss on loan capital as well as mudarabah capital. The greater the amount of loan capital the higher the gain in case of profits and higher the burden of loss in case of losses.

As explained above under bank reserves, in order to make the system more reliable banks should maintain a bigger Reserve Fund from the profits. Whenever there is loss in business, the bank can pay off the losses from the Reserve Fund instead of demanding it from Mudarabah depositors and shareholders.

The maintenance of the Reserves Fund will practically eliminate the danger of loss in this form of partnership, both for the mudarabah depositor and the shareholders. Although technically, both partners share in profits as well as losses they will share only in

profits;losses will rarely fall on them because, if there are losses in any year, these will be paid off from the Reserve Fund. It is therefore desearable and in the best interests of both the mudarabah depositors as well as shareholders, that mudarabah Reserve Fund be kept separate from the 'Banking Reserve Fund'. This will inspire greater confidence in the money market and keep the flow of mudarabah deposits and thereby, the supply of investment capital both steady and stable.

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99. Annonymous: Some conceptual and practical Aspects of Interest FREE Banking'. Islamic studies, Islamabad (15:4) Winter 1976, pp.247-69. Reprinted: Quarterly Economic Journal National Bank of Pakistan, Karachi (4:4) October/December, 1977.

100. Annonymous: Interestless Banking: Will it be a Success? Incorporated in his interest-free Banking (1978)

101. ZAMAN, M. Raguibuz, Feasibility of a Muslim Bank and an Insurance Company in the U.S. Points out certain areas in which an interest-free banking and insurance business can be established.

CHAPTER THREE

3:1 CONVENTIONAL COMMERCIAL BANKING:

A commercial Bank is a banking institution which accepts demand and time deposits from businesses, institution and individuals and engages in both business and customer lendings. The development of commercial banking insititutions has taken place under different banking system in different countries. Notably the branch banking system and the unit banking system as practiced in the United Kingdom and the United States of America respectively. The branch banking system is the most prevalent banking system being practiced in most countries of the world.

In the branch banking system, the typical commercial bank is a very large institution having a large number of branches scattered all over the country or at any rate over a large portion of it while in England and the bulk of the banking system is controlled for four banks vis the Middland, the Llords, the banclays and the National West Minister which had a network of over 10,000 branches spreaded all over the country. In Nigeria the Big three banks are the First Bank, the Union Bank, and the United Bank. These banks controlled over 50% of commercial banking business in Nigeria.

Commercial banks in all countries offer essentially similar services, they only differ in the quality of services provided. The bank services, though essentially similar very slightly differ from bank to bank and from country to country. Notably among the various services provided by commercial banks are the following:-

1) Acceptance of Deposits
   a. Current Account Deposits
   b. Saving Account Deposit
   c. Fixed Deposit Account

2) Lending services
   (1) Overdrafts
   (ii) Loans

3) Safe custody
4) Safe deposit.
   Executor and Trustee
6) Investment Management
7) Mail and Cable Transfers
8) Issueing of Travellers Cheques
9) Collection of Cheques
10) Standing Order
11) Bankers Drafts
12) Credit Cards
13) Letters of Credits
14) Negotiable Certificates of Deposits.
15) Certified cheques

3:2 ADVERSE EFFECTS OF CONVENTIONAL BANKING SYSTEM IN NIGERIA:

COMMERCIAL BANKING SERVICES IN NIGERIA:

The quality of the services of commercial banks in Nigeria has been a controversial issue. Various views have been expreseed about the deteriorating of the quality of the services of the Nigeria Commercial Banking businesses. Notably among the strong expressions made to denounce the services of the conventional banking services in Nigera are the followings

a) M. A. Adeyemo who feels that some employees of Commercial banks lack simple courtesy, their human relations is absurd while many of them do not know more than recording debit and credit in the ledgers.

b) G.O. Nwanko observes that bank offices are too few and far in relation to the population and size of the country and that there are frustrating delays in making enquires before opening accounts; in otherwords, bank services in Nigeria are not conveniently cheap or easily accessible to the public.

c) S.N. Ekpo (Managing Director of Chindex International Nigeria Ltd). Feels that Nigeria has the worst banks in the world. According to him "In his bank, the method of clearing cheques is so poor that you have to wait for over one and half hours, you are given a tally while waiting. Your pater passes from one officer to another and if you want to cash a large amount of money, then you have to wait for the manager to counter sign. By the time you have finally collected your money, if there is an armed rubber around he would have spotted you and tried to plan on how to finish you completely.

Ekpo suggested that, every banking service in Nigeria should be computerised so that, one doesn't have to wait very long in a bank. He further claimed that, a customer who happens to know either a counter clerk or any official of his bank may not wait for a long time as his "contact" will go personally to worry the officers who counter-sign or approve the necessary papers. He went on to say that, those who are not familiar with any worker in the bank may have their cheques left in in-coming trays for a very long time without being touched, and some bank workers are good while many of them are hostile and discourteous, he alleged that,

this depends on your familiarity with them and most of them receive bribes.

d) Albert Adun (Chairman of Emodun Industries Ltd) Said that services of banking institutions in Nigeria are the worst compared with any similar services in the world. According to him, opening of bank account could take a whole one day. He condemned the nonchalent attitudes of bank officials. Whom he alleged, some times go on shopping spress during office hours, he believes that, most Nigerian Bank staff are irresponsible and they see themselves as special people given special services. He concluded that, to obtain a loan in most banks in Nigeria is very difficult the conditions set by the banks favour only the rich people who always obtain the bank loans without tears

e) D.O. Nwanchukwu observes that "the quality of banking services falls below customers 'expectations'. He said even though commercial banks have grown tremendeously in their sizes, assets, profits, and economic influences, there is the need for them to improve their services in the areas that have come under severe criticisms.

f) G.O. Nwankwo feels that poor banking services is a distinct feature of commercial banking in Nigeria. According to him, if one visited any banking premises, he would quickly notice the long qucues and many customers struggling to be served.

He said that, it could take as much as an hour for a bank to refer a cheque from one table to another, and in some cases, it appears to be that the bank staff take pride in the long queues and the number of people seeking their custom. Mail transfers take as long as 3 to 4 weeks to reach their destination within the country and almost as long again before the beneficiary be finally paid in the case of cash payments.

g) P. Ogwuma of the United Bank for Africa argues that congestion in banking halls is largely due to the fact that Nigeria has a cash economy and almost all transactions have to be carried out in cash. He further suggested that, the introduction of credit cards and underwriting of issues of cheques, he blamed the society for the discourtesy of bank officials and feels this can only be effectively checked with the help of the society.

h) S. O. Asabia Ex-Managing Director of First Bank of Nigeria, admitted that long queues and congestion are prevalent in most banks and that bank customers are not happy about it, he however, pleads that commercial banks operate under alot of presure, and observes that, banks are heavily regulated and have to operate with some caution.

i) Anthony Ogundeyi said that, the large volume of customers' complaints should be sufficient to dispel any complacency that may exist, perhaps not many banks staff realise that, they derive their profits from their customers and that the banks total reason for existing as an organisation is to satisfy customers demands. He continued to say that, eventhough certain individuals have put up good efforts, too many staff are contented to move at a slow pace, they make too many mistakes and quite frankly should not have been employed in the bank at all. He further believes that, bank cashiers have the most contact with members of the public (customers) and thus should take pride in being points, tactful, efficient, helpful and neatly dressed. He attributes their inefficient to many reasons like.

(i) the authority given to bank cashiers to pay at sight is rarely exercised and most cashiers are careless with records and hardly review them to ensure compliance.

(ii) most cashiers are deviating from the practice of first recording a stransaction before passing such items to'Ledger keepers' for authorisation, they thus have a difficulty in tracing which items have passed through them for payment.

He concluded that these shortcoming should be remedied to enable cashiers know which items are still unpaid and to ensure correct order of presentation to customers.

j) E. K. Image. feels that, the distinctive competence of banking is commitment to quality services and that the quality of services which banks provide to customers give the banks their public image. If banks provide poor quality services, customers suffers the effects in various ways. He believes that, long delay which customers suffer for depositing or withdrawing their cash, is caused by poor management by objectives. He wonders why bank tellers and inferior support staff

fail to recognise their customers as assets to their continuous employment and he claims that most of the sitiles and please can help where you are completely out of place in Nigerian banking system. He accuses bank Management staff of not practising what they learned in the real banking business.

k) Onyemi Ugochekwu observes that, inspite of the threat by the government to promulgate a decree to discipline bank staff found wanting in their attitude to their customers. things have not changed, the long customers' queues which have for long characterised out commercial banks, are still there. He opines that, it is not that, the bank officials are not doing their best, the problems originates from the long period it takes for cheques. submitted at the counter to be cleared. He feels that in spite of the high calibre staff working in most of the commercial banks, the high enthusiasm and morale, commercial banking services still remain poor even in banks that have introduced some degree of mechanisation. He went on to question the adequacy of the training giving to bank staff and attribute the ability of the commercial banks to keep pace with conditions in a dynamic economy to their belief in 'traditionalism'. and that this has killed inifiatives in new areas where

banks could have given leadership for the benefit of the whole economy.

Ugochukwu further accuses commercial banks of conservation and believes that, this is largely responsible for the slow service at the counters. He concluded by saying that, bank staff inventions merely seem to perpetuate a system that has become inadequate to the size and aspiration of the Nigerian economy and that banking in Nigeria has got to a stage where contrary to the generally accepted belief that practice makes perfect, practice here no longer makes perfect. The Nigerian Banking System needs to have dose of modern management methods and new ideas to trasform it to meet the requirements and aspirations of the people and economy of the country. Note that, the various contributions made above by various personalities on the continued deterioration of the services of the Nigerian Conventional Banking System reflect the total assessment and appraisal of the contributors complained about unlawful high interest charges, long queues, bad management lazy and discountesous bank staff, inefficient and ineffective services, discriminator of services and more dangerously making rich people richer and poor people poorer. Again most of these complaints are a pointer to the claims that, commercial banking services in Nigeria fall short of customers expectations. In order to establish the validity or otherwise of this claims, it is necessary to Investigate the complaints, thus, this is to be done with special reference to the 3 big Nigerian commercial banks (F.B.N,UBN,UBA) or else it would be best recommended to establish Islamic banking system thorugh out the Federa-

riskpin order to do away with all the aforementioned problems created by the conventional banking system in Nigeria.

3:3 RELEVANCE OF ISLAMIC BANKING IN NIGERIA:

Nigeria is one of the largest and biggest countries in Africa, and usually called 'the giant of Africa", with a population of over 88 Million people. The percentage of Muslims in Nigeria is very big, which constitutes the greater number of Nigerian Population. The Nigerian muslims society therefore is supposed to be governed according to the dictates of Islamic laws and the Economic Doctrines of Islam which are the Shari'ah Since Islam is not merely a religion to mankind especially the muslims, but a complete way of life which emcompasses all human aspects, be they national or international, So it is better for the entire people in the country to evolve Islamic rules into financial institutions in the country.

Again, we all know that once the interest-free banking is put into practice, it would invariably provide some provision for short term interest-free loans to Nigerian people with the dominant form of transaction in the system to be investment and not lending as in the conventional banking system.

CHAPTER FOUR

DATA ANALYSIS AND EVALUATION:

a) Islamic banking system if properly implemented will help Nigeria to increase the volume of investments to Nigeria economy. The entrepreneur's obligation to repay the borrowed capital as well as to a pre-determined rate of interest to the bank severely constraints his willingness to take risk. No project can be taken up unless the expected profits are sufficiently high to cover the risk of loss, assure a return equal to the rate of interest, plus yield a surplus to the entrepreneur himself at least equal to his alternative earnings on the labour market. A change over to profit sharing removes the obligation to pay a fixed rate of return as interest.

b) Nigerian Muslim Society should know that, in Islamic Banking, the supply of savings is not in any way affected by a change over from interest to profit sharing. Given the supply of savings to bank deposits, the supply of investible funds to the entrepreneurs would be a positive foundation of the rate of return the banks expect to realise.

c) Islamic Banking System in Nigeria will provide justice and equity in distribution of resources. The maximum loss an entrepreneur can suffer in the system is to go unrewarded for his entrepreneurial services. An unsuccessful act of entroprise will not entail transfer of his own assets to the supplier of capital, as in the case of interest bearing loans. Every successful enterprise will on the otherhand, yield to the entrepreneur a proportionate share of profits realised, whatever the rate of profit. This too is in sharp contrast with the present arrangement under which the entropreneur gets only the residue, the supplier of capital having a prior claim to the stipulated rate of interest.

d) Islamic Banking System rules out any net transfer of existing wealth from the entrepreneurs to the weathy people. The addition to capitalists wealth comes out of the additional wealth created as a result of the productive employment of their capital. Part of this compensates for the losses which are regarded as erosion of equity and are borne by the owners of capital. The remainder is a net addition to the wealth of the capitalists. The relative shares of the owners of capital and the entrepreneurs out of the net addition to social welfare will depend on the average rate of profit sharing in the economy.

Ways within the framework of Islamic concept of profit sharings. Example, the sellers or users can be funded on profit sharing basis to encourage them to sell or use and receive or give payments instalmentally, involving no interest, but allowing for cost of collecting the instalments and accounts maintenance.

g) Islamic Banking System provides social services and other consumption loans to alleviate the suffering of the masses, deprivations or neglects of the down troddans who are consisted unproductive or unuseful in the Nigerian society.

h) Islamic Banking System in Nigeria would help the country to device ways of handling payments which are deficits or shorts in the international economy form which profit sharing funds obtained from an international bank or some agencies especially the ones set up for this purpose be judiciously used; to reconstruct the world economic order based on fair play, justice and co-operation.

i) Islamic Banking System in Nigeria can help to curb high amount of risk due to many business speculattions. Arbitrage through space and time is a useful function performed by traders,

but experience has shown that it is vulnerable to abuse by speculators who can create artificial goods scarcities, engineering price increase (inflation) for their benefits, which is a bottlenect to the Nigerian economy.

Note that:

Several provisions of the Shari'a are directed at climination of such practices so that arbitrage activities are kept within socially useful bounds. Hording with a view to raising prices is prohibited in Islam and forward transactions are allowed only in a restricted way.

j) Islamic Banking System in Nigerian would ensure sanity in the Nigerian markets which are conductive to diversion of resources to productive activities. The existence of common stock and security certificates in the Nigerian market can be used to bear the promise to shares in the actual returns on investment which will provide sufficient means for organising an orderly secondary capital market enabling business to raise funds and ensuring liquidity to equity holders.

k) All the investment accounts of the Islamic banking will provide the Nigerian savers with a convenient means of earning profits through their savings, by pooling of resources, diversification of investment a positive return on these deposits.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS:

51. SUMMARY

Based on the findings about the topic of the research and what has been discussed and highlighted in the preceeding chapters; one can rightly summary his findings as follows:

Islamic Banking System has received biggest encouragement today in Africa with the efforts of Prince Muhammed Ibn Faisal, a member of the Saudi Royal Family.

The first Islamic Bank was established in Sudan in August 1977, looking at the success of this bank many other African countries like Egypt, Gabon, Mali Senegal, Niger, Sierra Leone, Gunea, Upper Volta, Togo, etc followed the suit. In the afore mentioned African countries, the Islamic Banking Systems have been operating in their various countries very successfully.

Prince Muhammed Bin Faisal of Saudi also established Dar-al-Mal of Islam (DMI) in Geneva which acts as the parent body for all these Islamic banks. The D.M.I. has floated over $250m or ₦5000m in 47 developing countries both muslims and seculars. The D.M.I. started as a trust body in Bahanas with administrative headquarters

in Geneva. Its main aims was the establisnment of Islamic investment companies, Islamic banks, Islamic solidarity companies etc. All the functional areas of the trust body have been established in most African nations with the aims of assisting the economics of the developing nations affected. So it is highly adviseable to Nigerian society to try to establish not only Islamic bank but even Islamic Investment company and Islamic solidarity company for the benefit of the lower level citizens and for the reconstruction of the Nigerian Economy.

In the same veins, findings on conventional banking system especially the adverse effects of the performance of commercial banks in Nigeria can be summarised in the following forms:

1. Most operations in commercial banks in Nigeria, are carried out with absolute maximazation of profit through charging of high rate of interest, contrary to the principles of Islamic Banking System which is the maximazation of welfare of the people without interest rate.
2. The formation, investments, share holdings and profit sharings of the conventional banking system do not actually favour the lower class of the Nigerian Society. For example in order to establish a commercial bank. In the United Kingdom and many of the commonwealth countries,

any number of persons from two to fifty may form a private company to carry out the business of banking, and similarly any number of persons, from seven upwards may form a public company for the same purpose. But in Islamic system, Muslim Jurists (especially the four Sunni Imams), have gone to great length to find out and determine the exact nature and scope of the contracts of shirkat and mudarabah and the difference between them.

3. The nature, rules and dissolution of conventional bank are quite different from Islamic bank. The nature of conventional bank is either formation of private company of public company while the nature of Islamic bank is only mudarabah (partnership). The rules and dissolution of conventional bank are guided by the laws related to financial institutions and Bills of Exchange Acts, while the rules and dissolution of Islamic bank are guided by the teachings of the Holy Qur'an and the sunnah of the noble Prophet Mohammed (P.B.U.H.).

5.2 CONCLUSION

Islamic Banking System which is an interest free banking business can pave way to cement Nigerian economy by providing normal banking services to Nigerian people in occardance to the provision stated in the doctrine of Islamic Laws and the Sharia.

Once Islamic Banking System is put in place into the Nigerian Banking and financial businesses, it would invariably provide and promote short-term interest free loans among others to the Nigerian businessmen, government and private sectors, in forms of investments instead of lendings usually provided by the conventional banking systems. The system enhances credibility of Nigeria which would promote and enhance the Nigerian relationship with other countries in the world especially the muslim world.

Nigeria through Islamic Banking System can ask or request Islamic Development Bank (IDS) whose headquarters is in Jeddah to assist the country with interest free loans. Similarly, Dar-al-Mal al-Islami, the parent body of the Islamic investment company and Islamic banks in Geneva can also offer interest free loans to Nigeria through the established Islamic banking in the country:

thus saving Nigeria from borrowing from International Monetary Fund (IMF), the world bank and other world monetary institutions which were established to favour the Western World in dealing with the developing world especially the Africans.

Very important thing for Nigeria to take note is that, Islamic banking system doesn't require a very large capital before it can take up, and the system provides almost all functions and roles of the conventional banking system with maximum participatory and investment policy instead of lending policy in the usual conventional banking system.

Even though prince Muhammed Bin Faisal of Saudi established Dar-al-Mal of Islamic (DMI) in Geneva which acts as the parent body for almost all Islamic banking system world wide, and which already floated over $250m in developing countries especially Islamic and secular states, Nigeria can still benefit from the (DMI) kind gesture.

Finally, I strongly recommend that, Nigeria especially Northern part should immediately and without western more time to arrange to establish a Northern Islamic banking system as a leading example for its practicability and acceptability to the Nigerian people and the Nigerian economy.

5:3 RECOMMENDATIONS:

Below are the proposed recommendations to the Nigerian governments, society and even individuals to which if adhered would tremendeously assist the economy of Nigeria and enhance the general living conditions of the people of this country.

1. Nigeria should as soon as possible liase with both the Islamic Development Bank (IDB) headquarters in Jeddah and Islamic Investment Company under Dar-al-Mal al Islami (D.M.I.) headquarters in Geneva to establish an Islamic Bank to be called NIGERIAN ISLAMIC BANK.

2. The Nigerian Bourgeosies, Tycoons rich and higher class citizens both muslims and non-muslims should endeavour to see that the dream of establishing an Islamic Banking in Nigeria is realised, since it is all aware that the concept and principle of Islamic banking system are the welfare of all especially with the bridging the dangerous gap between the rich people and the poor people in Nigeria.

3. Management of Commercial Banks should strive to improve their knowledge of the practice of banking businesses and the morale of their workers for effective and efficient managements. Furthermore, the line of communication between various levels of management in commercial banks which are inadequate should be improved, and the objectives and targets of all banking businesses should be highlighted to all members of the working force.

4. The rural banking scheme introduced in 1976, and which has brought many bank branches in Nigeria is a step in right direction. It shold thus, be encouraged and strictly adhered to by commercial banks. Again, the structural changes brought about by the rural banking scheme is commendable because the expansion of rural and urban bank branch networks has a potential answer to over-crowdiness, the inefficiency and ineffectiveness of banks in Nigeria.

5. The commercial banks should device another modality on how to maxim ze their profit without charging interest or with changing of minimum rate of interest if it becomes unavoidable. Again, the managements of commercial banks should embark on vagorous publicities and compaigns to further

enlighten their services to the Nigerian public, and Federal government should compel them to carryout their social responsiblities of promoting the welfare of the Nigerian public instead of maximization of profits.

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