CONTEMPORARY INVESTMENT CONCEPTS: AN ALTERNATIVE VIEW POINT

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A RESEARCH PROJECT SUBMITTED TO THE POST-GRADUATE SCHOOL, AHMADU BELLO UNIVERSITY, ZARIA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR AN AWARD OF MASTER IN BUSINESS ADMINISTRATION

DEPARTMENT OF BUSINESS ADMINISTRATION
FACULTY OF ADMINISTRATION
AHMADU BELLO UNIVERSITY
ZARIA

AUGUST, 1996.

DECLARATION

I hereby declare that this project has been written by me; and that it is a product of my own research work. It has not been presented in any previous application for a higher degree.

All quotations, sources of information and materials are duly acknowledged by means of references.



15th August 1986

AUWALU YAHAYA

DATE

CERTIFICATION

This project titled "**Contemporary Investment Concepts: An Alternative View Point**" prepared and submitted by **Auwalu Yahaya**, meets the regulation governing the award of Master of Business Administration (MBA) of Ahmadu Bello University (ABU) Zaria. It is therefore approved for its contributions to knowledge and literary presentation.

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DEDICATION

This work is dedicated to the Muslims: Businessmen and prospective Businessmen, who are striving for the establishment of justice on earth, believing firmly that one day Nigeria will appreciate and accept the superiority of the moral principles and values of Islam.

AUWALU YAHAYA

AUGUST 1996.

ACKNOWLEDGEMENT

All praise is due to Allah (SWT) Who Has made trade lawful and forbidden usury (Riba) (Q.2:275). I am most grateful to Him for giving me the opportunity to undergo this programme.

I would like to express my thanks and gratitude to Mal. Abdullahi Musa Abu Abdissamad through whose supervision and guidance, this work is completed. By his encouragement and patience, he has proved to be not only an academic supervisor but a true brother. Similar thanks and gratitude go to my teacher Mal. Ibrahim Ahmad Aliyu, Centre for Islamic Legal Studies, Kongo. Mal. Aliyu has been my teacher, brother and guide all through my academic pursuit right from my undergraduate days.

I would also like to register my profound gratitude to Professor Sheikh Ahmad Abdallah, the Head of Department, for his encouragement in the choice of this topic and also providing me with some useful materials, my MBA Coordinator, Mal. Nasiru Maiturare and Mal. Ibrahim Adamu of the Department of Public Administration, for their patience and their pieces of advice to me, Mal. Mouktar Alti, Usman Danfodio University for providing me with a suitable accommodation in Sokoto and his assistance, Dr. Ibrahim Ayagi for his guidance and literature offered to me.

I am also grateful to the Librarian, Usman Danfodio University, Sokoto for the permission granted me to use their research unit throughout my stay and the Library staff for their full cooperation, Mal. Aminu Mustapha Daneji, Kaduna Refinery and

Petrochemicals Company for his assistance, Mal. Saddiq Abubakar Al-Kafawy of the Centre for Islamic Legal Studies Kongo for his brotherly advice.

I have no words to use to thank members of my family for their patience and endurance throughout the period of this research. Praise be to Allah for the ability and the capability He has given me to complete this work. I continue to pray to Him to guide and protect us all, Ameen.

ABSTRACT

The overwhelming majority of the people in our society are unaware that islam has a complete economic system. The few that are aware are oblivion of the objective of business transactions and investment in Islam. This partially explains the reason why we experience the economic exploitation that is prevalent in our society of today.

A number of factors have contributed in the unprecedented collapse of many business organisations in Nigeria. These include cumulative effect of usury on many debtor nations, increasing disparities at different levels and the exploitation of the poor and afflicted by the rich and powerful.

Since the basis of all actions in Islam is the sharia, the study has discussed the nature, sources and modus operandi of business transactions and investments in the light of Sharia. The study also reviews the western investment concepts and their inherent weaknesses that are usually exploited by capitalists in enslaving the masses. Of particular significance is the theory of interest that over protects the capitalist and exposes the borrowers to all sorts of risks. The fact that only few nations of the world today are not debt-ridden conveys a lot of messages about the present system of Banking and Finance.

The study further attempts to expose the various options that are available when it comes to investment and the logistics involved. These options include Mudaraba and Musharaka.

ABBREVIATIONS

1.	A.S.	Alaihis Salam (May Peace be upon him)
2.	C.B.N.	Central Bank of Nigeria
3.	e.g.	for example
4.	*etc*	*etcetera and so on*
5.	i.e.	that is
6.	P.B.U.H.	Peace be upon him
7.	Q	Quran
8.	S.A.W.	Sallalahu Alaihi wa Salam (May peace and blessing of Allah be upon him)
9.	S.W.T.	Subhanahu wa ta'ala (Glory be unto Him (Allah).
10.	Viz.	namely

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CONTEMPORARY INVESTMENT CONCEPTS:

ALTERNATIVE VIEW POINT

AUWALU YAHAYA

CHAPTER ONE

1.0 INTRODUCTION

Economic problem of man is as old as the man himself. However, it has assumed special significance and has received much attention in the wake of the emergence of capitalism and socialism both of which have accorded a central position to the economic problem in their systems. For both of them human welfare has seemed to be synonymous with material well being. Therefore, both of these systems have concentrated on booking for the solution of the economic problem of man which they believe will bring happiness to mankind.

History is a witness that both of them have failed in achieving that goal. In fact, happiness has become ever scarce. The problems of mankind have multiplied and are increasingly getting out of hand, moral bankruptcy, corruption, exploitation, greed, high crime rates, unemployment, inflation, pollution etc, have plagued almost every country of this world, in short the world is going through a severe crisis today.

1.1 REASONS FOR THE FAILURE OF OTHER SYSTEMS

The reasons for the failure of these systems are not difficult to find. If happiness could be bought with money they could have a chance, since that is not the case, they are deemed to fail. Both of them have been designed to chase materialistic goals, though in their approach they are oceans apart. The differences in their approaches result only in differences in the kind of miseries

that they generate. In one system the unconstrained individual freedom in indoctrination of selfish motive, sanctity of unlimited property rights and glorification of competition lead to the principle of the survival of the fittest, giving rise to flagrant greed and discontentment, and resulting in exploitation and class conflicts. In the other system, restrictions on individual rights, coercion, total denial of instinctive tendencies and ignoring of natural differences kill individual initiative, make man a slave and breed ill-will, dissatisfaction, and corruption. It is obvious that both of these roads do not led to happiness. People are now looking forward to a world where even the weak ones can survive; where they can eat as well as speak; where they can work as well as pray; where there is love and peace' where contentment prevails; where justice rules and benevolence is the norm.

The Nigerian eccnomy is not in any way different. It is characterised by so many activities ranging from large scale manufacturing of consumer goods to the distributive and retail trading, provision of services, agriculture etc. All these are heavily dependent on the secular banking system the basis of which is riba (interest). A cursory look at these economic activities will immediately bring to mind the fact that they are mainly capitalist oriented.

1.2 THE ALTERNATIVE APPROACH

The alternative approach which Islam has towards the economic problem is distinctly different from other systems. Three characteristics of this approach should be mentioned at the outset.

Firstly, Islam has a unitary approach towards life. It does not compartmentalise various aspects of human behaviour into water-tight cells. It takes man as an integrated whole. Numerous functions that he performs, for instance, political, social, economic and religious are not independent of each other. His economic activities are conditioned by his social environment, by moral values, by his cultural heritage and above all by his religious beliefs. In other words, in this frame work the material pursuits are not independent of spiritual pursuits. It further implies that economics is not a value - free science. From an Islamic point of view, it must be value - based. It may be mentioned here that by integrating all aspects of human activities, it removes one major reason for the failure of other systems in bringing happiness to mankind. Those systems are bound to fail because they concentrate only on one aspect of human misery or the other. And in their efforts to remove that misery with the other. This is why we find that inspite of manifold increase in personal incomes, people are discontented and unhappy; along with significant economic advancement we find wide-spread moral degeneration.

Secondly, Islam does not consider economic activity as being mundane and abominable pursuit. If properly pursued, it is an **Ibadah** (worship). Unlike other religions which high praise asceticism, Islam condemns monasticism and enjoins productive economic activity. However, Islam does not regard material well-being as the be all and the end all of human existence. It

prescribes a golden mean between the two extremes of monastic rejection of the contemporary systems that worship materialism as a deity.

Thirdly, the very perception of the economic problem is different in the Islamic frame work. According to secular economics, the economic problem arises because of niggardliness of nature. According to the secular theory, man has unlimited wants to be fulfilled but the resources available for their fulfillment are limited, which gives rise to the economic problem. The whole thrust of their approach is, therefore, on easing the supply constraint in order to fulfil unlimited human wants.

Islam, on the other hand, upholds that Allah Has provided sufficient means for the fulfillment of all human needs. Economic problem crises because of lack of effort or mismanagement of resources given by Allah on the one hand and uncontrolled human wants on the other. It should be clear from the above description that in the secular frame-work the economic problem is unsolvable. It is embedded in their approach itself. Islam ensures a permanent solution to the problem through its two pronged attack. On the demand side, it does not deserve to be fulfilled. Islam emphasises fulfillment of human needs. It is well-known that tremendous amount of resources are wasted on things which do not fulfil any human need. Investment in bear brewing, gambling, music industry and dancing girls are prohibited in Islam. On the supply side, Islam ensures mankind that Allah has provided enough means in this universe and Has made them subservient to mankind: "It is Allah

Who hath created the heavens and earth and sendeth down rain from the skies, and with it bringeth out fruits wherewith to feed you; it is He Who hath made the ships subject to you, that they may sail through the sea by His command; and the rivers (also) hath He made subject to you. And He hath made subject to you the sun and the moon, both diligently pursuing their course; and the Night and the Day hath He (also) made subject to you." (Q:41 :32 - 33). At the same time, by making economic activity an obligatory duty, it encourages man to work hard. In this way, Islam eases the supply constraints on the uncontrolled human wants to solve the economic problem of mankind.

1.3 OBJECTIVES OF ECONOMIC ACTIVITY

The ultimate objective of economic activity, nay, all human activity, is the achievement of human welfare. However, the perceptions of human welfare and the ways of its attainment differ from one system to another. These perceptional differences have very important implications for economic behaviour both at the micro and macro levels. The secular systems, for example, capitalism and socialism take a very limited view of welfare. It is limited firstly because it is defined for an restricted to a finite time span and secondly because the concept is limited to material well-being. By contrast, in an Islamic frame work the concept of welfare encompasses material and spiritual aspects. Islam broadens the horizons of human welfare firstly by viewing economic activity as a tiny part of human activity which is not independent of other aspects of life and secondly by viewing the

worldly life as one and a limited phases of life to be followed by never-ending life in the hereafter.

While the capitalist and the socialist systems take the maximisation of material well-being of the society as the objective of economic activity, they differ as to what the well-being of the society means and how it can be achieved. The capitalist model takes an individualistic approach and maintains that if each individual maximises his own welfare, then the society welfare function (which they cannot even define precisely) will also be maximised. Therefore, they give the individual the right to acquire by whatever means he can and to do with them whatever he considers to be the best for himself. The social welfare function is maximised through: (a) selfish individual behaviour, (b) perfect competition among individuals and (c) rational decision-making by the individuals. On the other hand, the socialist model takes a collective approach. According to this model if the individuals are allowed to pursue their selfish ends and to own the means of production, a group of individuals will maximise their welfare at the cost of others through exploitation and will accumulate heaps of wealth which will ultimately result in class conflict. The society would be better off, if the means of production are owned collectively and everybody is made to work to produce a bundle of goods and services and share it equally (which is defined very vaguely). The objective of welfare maximisation is achieved through: (a) centralised planning (b) coercive work-taking and (c) rational bureaucratic decision making.

Islamic approach is quite different from the two systems. Firstly, Islam does not view man to be a purely selfish being. It does recognise that man has a strong tendency to pursue self-interest but that does not mean that he is devoid of any consideration for others. If man has an instructive love for the material things, he also has spiritual tendencies. Allah has embedded in man instincts of both vice and virtue, like selfishness and philanthropy, miserliness and benevolence, love and hatred and so on. If man has selfish tendencies, so does he has many other animal instincts. Should he be allowed to pursue all of them? Not at all. As a matter of fact man has been obliged to strive and tilt the balance in favour of virtue. It is precisely his success in this conscious effort for the achievement of virtue and control of vice which entitles man to the title of "best of the creatures" in this world and a state of eternal bliss in the hereafter: "We have honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favours, above a great part of our creation." (Q: 17 : 70). If on the other hand he lets himself fall a prey to the vicious instincts, he will fall to the worst form of creatures: "We have indeed created man in the best of moulds, then do We abuse him (to be) the lowest of the low, except those who believe and do righteous deeds: for they shall have a reward unfailing." (Q;95 : 4 - 6). Keeping this in view, Islam allows man to pursue his self-interest but the moral values and beliefs motivate him to keep a balance between individual interests

and due regard for others, between material and spiritual pursuits. While the decision making is left to norm. Secondly, Islamic view of rationality also differs from the secular framework (whether by an individual or an agency) presumes that the decision-maker is rational which implies that (a) he knows what is good for himself (or his clients) and (b) he has all the information relevant for making a particular decision. From an Islamic point of view both of these presumptions are invalid and hence require a different decision-making structure.

Islam recognises that man has been endowed with the faculty of judgement, i.e. to distinguish between right and wrong, between good and bad; yet he is liable to make many mistakes. Many a time, he does not even know what is good for himself. The possibility of making mistakes in decision-making increases manifold as the information available to us is far from perfect and complete. Allah, however, has not left man bewildering. He has revealed to man all that is necessary. For certain important things, He has given specific instructions (i.e. halal and haram) while for others He has provided pointers and has left if for the man to think, search, learn, invent and innovate. For example, He has specifically prohibited eating of pork, drinking of alcohol, taking of riba and has specifically prescribed the payment of zakat (the poor due). Within the limits of halal and haram, man is encouraged to search for the good for which guidelines have been provided. Thus, rational decision-making requires that man strictly observes the shariah (the Islamic Jurisprudence) since it contains the

prescriptions given by the Creator Who has perfect Knowledge (and He alone has it) and who Knows exactly what is good and what is bad for His creatures (and He alone knows it). This will save man from making a lot of mistakes. The economic objectives of the Islamic system are therefore, achieved through (a) observance of halal and haram (b) motivated individual bahaviour and (c) decision-making by individuals in the light of shariah guidelines.

Islamic motivational structure comprises of (i) permissibility of the profit motive, (ii) the social institution of enjoining what is good and prohibiting doing what is wrong, (iii) the institutions of state and ombuds person (muhtasib) with the authority to: (a) implement the provisions of shariah, (b) restrict individual liberty if and when desired by public interest, and above all (c) enforce values and beliefs of Islam.

The first one is self evident. One observation, however needs to be made. In the Islamic system, while profit motive is permissible, profiteering is not. This black marketing, creating artificial shortages and monopolies do not have any place. The institution of enjoining what is good and prohibiting what is wrong is a necessary component of the Islamic system. This social institution has strong effect morally to keep the individual on the right path.

The institution of state is there to oversee the operation of the system. However, the role of state is different in the Islamic system than in other systems. In the Islamic framework, sovereignty belongs to Allah alone. The authority exercised by

state is derived from Allah and is subject to the rules of the divine law. The spirit in which this authority is exercised is service of people and the affairs of the state are sum through mutual consultation. Furthermore the institution of ombuds person (muhtasib) which is independent of the executive branch of the state machinery is there to ensure that the rules of the divine law are observed and the rights of all are protected. All these ensure that the authority vested in the rulers is not exercised arbitrarily. Whatever there is a need to intervene in the public interest, the state has the power to do so but with justice and within limits of shariah. Finally, the values and beliefs of Islam exert a powerful influence on individual motivations. While all values and beliefs are important, from the motivational point of view, the belief in the day of judgement plays a crucial role which needs to be highlighted. Two aspects deserve special mention. Firstly, it adds a new dimension to the decision makers calculus. Because of the belief in the last day his time horizon becomes infinite. Even if for analytical purposes one restricts it to a finite period, the belief that there is another life to follow, which is much longer and success there depends on the actions taken in this life changes the whole approach. Even the pure selfish interest will force one to include spiritual considerations into his calculus since he would be aware that the belongings in this world are trifle as compared to the bounties of the hereafter. It is a strong deterrent against accumulation, hoarding, greed etc. Secondly, the realisation that one is answerable to Allah; makes

one more responsible in his attitude. One is more inclined towards the fulfillment of his responsibilities, be it towards Allah, his fellow beings or his own self. The belief that one is accountable for each and every action during this life, goes a long way for the elimination of injustice, exploitation, fraud, dishonesty and other social and economic ills.

1.2 STATEMENT OF THE PROBLEM

The current unprecedented collapse of many business enterprises in Nigeria is a concomitant result of a number of factors. Mass poverty; increasing disparities at different levels; co-existence of hunger and affluence; exploitation of the poor and afflicted by the rich and powerful; inflation and stagnation and above all the cumulative effect of interest on many debt ridden economies where nations or individuals are no more able to repay debts.

It is a well known fact that the western concept of investment is based on interest and its effect on society i swell known. Debt ridden countries must go on servicing them while the interest swells. This affects the inhabitants of these debtor nations by reducing their national spending and development.

1.3 PURPOSE OF THE STUDY

Islam is not a religion in the limited sense, interested only in man's salvation in the hereafter. It is a complete and all embracing way of life and aims at constructing the entire fabric of human life and culture in the light of values and principles revealed by Allah (SWT) for man's guidance. Human life is looked

at as an organic whole and its problems are approached, not in a purely mechanistic way, but in the light of the moral values and social ideals that Islam expounds.

The purpose of this project is to provide a new conceptual focus for dealing with the problem of modern business management in Nigeria.

1.4 SIGNIFICANCE OF THE STUDY

This project is thought to be appropriate because of the general misunderstanding among people of the rationale behind Islam's regulation of the day to day mundane activities of traders and consumers in the form of lawful and unlawful.

The business sector in particular can be guided by the results of this study and it is provided with an alternative to the existing inadequate conventional investment systems. Thus, the Muslims are encouraged to go back to Allah in their business transactions.

The exercise may also benefit the general public through the establishment of a just social order in which material and spiritual aspects are welded together, with the result that 'progress' and 'prayer' do not represent two water tight components but two sides of the same coin, with prayer acting as a stepping stone to human progress and progress leading to the glorification of the Creator, Allah.

It is the hope of this researcher that the findings of this work may provoke further similar studies by students of business management, toward popularising the alternative investment system.

1.5 SCOPE AND LIMITATIONS OF THE STUDY

1.5.1 Scope of the Study

This study covers the recent periods of experimentation of Islamic financial institutions.

The project locale had been restricted as regards data collection within Nigeria using some literature mostly from foreign sources. This is in order to give a wider base which is due to experience already reported by many learned scholars of Islamic economics. But due to dealings with interest-based institutions certain difficulties are still inherent.

1.5.2 Limitations of the Study

Time and financial resources constituted the major constraint in carrying out this study. It was the desire of the researcher to travel to a number of countries practising the Islamic investment system to collect primary data but because of the financial requirements of such travels which was not within his reach, he had to contend himself with the available literature on the subject.

6.0 DEFINITION OF TERMS

Ahadith — Plural of hadith - it is the sayings and actions of the holy prophet Muhammad (SAW). It is the second source of the Sharia.

Bai Muajjal — This is a sale under which the price of the item involved is payable on a deferred basis either in lump sum or in instalments.

Bai Salam — It is a sale agreement where the price is immediately advanced for the goods to be delivered

	at a future fixed time.
Barni	A kind of superior date
Falah	Felicity
Fiqh	Islamic Jurisprudence
Fuqaha	Refers to the Muslim Jurists.
Halal	The lawful things according to the Sharia.
Haram	Things which are forbidden in the Sharia.
Ibadah	The worship of Allah (SWT)
Ijara	Leasing
Ijma'a	Concensus of the Muslim Jurists
Ijtihad	Exerting oneself to the utmost degree to reach comprehension and form an opinion.
Jahiliyya	The pre-Islamic period
Khilafa	Period or Era
Mudaraba	Is another form of investment whereby one provides the capital and another provides the expertise and the labour in order to share in the profit base on the agreement between the parties involved.
Mudarib	Is the entrepreneur in the Mudaraba contract.
Qiyas	Analogical deductions from the Quran and Sunnah of the Prophet Muhammad (SAW)
Quran	The holy and supreme Book of Islam.
Rabb-ul-Mal	The owner of Capital in a Mudaraba agreement.
Riba	It refers to an addition or increase to an amount of money borrowed while making payment.
Sa'i	It is a kind of measure used mostly for the

	estimation of Zakat due for payment.
Shariah	It is a scheme of life embodied in the Quran and the Sunnah as invisaged by Islam.
Shura	Consultative Committee, policy making body.
Sunnah	The deeds and actions of the Holy Prophet Muhammad (SAW)
Ummul Mu'minin	Mother of the faithful believers
Waqf	It is a trust or endowment, something set aside and devoted for the welfare of the needy Muslims.
Zakat	Purification or cleansing literarily. It is a tax levied on earnings of every Muslim upon reaching the required measure. This is by giving a definite percentage or portion of it once a year to the eight categories of recipients stated in the holy Quran
Zikr	concious remembrance of Allah (SWT) with the hope of getting closer to Him.

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2.0 LITERATURE REVIEW

2.1 Background of the Study

One element which by common consent has thwarted the will, the skill and the means to invest or produce more has been the imperialism of the First World and more recently of the Second World. The new imperialism succeeding the old political and military domination of the 19th century has, by use of diverse overt and covert means, prevented the development of the areas now generally identified as the Third World. From the countries rich in oil or other mineral wealth, capital is sucked away by involving them in an unproductive arms race or actual armed conflict, and from countries relatively better equipped skilled manpower is sucked away by the process known as brain drain.

2.1.1 Theory and Models of the West

In the western world human activity in the economic field is primarily directed towards individual gain. It was widely believed that competitiveness generated by each individual's drive for personal gain would some-how bring about an overall harmony of interest and mutual gain. The west is only now discovering that this is not wholly true. Without moral or legal restraints the big fish tend to eat up the small ones. Even the most powerful legal instruments prove ineffective against the sophisticated machinations of an moral capitalist order. Laws, the west is discovering, are ineffective, if not based on faith in a higher

moral order. Secular law, for the poor is often only a shield of straw. However, diffusion of political and economic power permits the numerically large but economically weak majorities to find allies in vote hungry politicians.

The social structure in the west by and large but grudgingly, accepts vertical mobility. It has on account of diffusion of political and economic power a built-in capacity for change, adaptation, innovation, experimentation and vertical movement within the community. The freedom it permits individuals involves risks for gain and for loss. Sometimes safe and immediate profits are wilfully sacrificed for risky but larger ultimate gains. Sometimes commitment to innovation and experimentation persuades many to wilfully take enormous risks. Based on an assumption that basic good sense permeates decisions of the community as a whole, the society permits individuals to follow their personal destinies within such limits as would permit other individuals the same or similar freedom to follow then stars. Social institutions are at least theoretically devised to maximise human liberty. Such are the theoretical foundations of the West which in actual modern practive no holds are barred, and exclusion of moral self-restraint is creating enormous problems, and putting the whole system of free enterprise under severe strains. The modern corporation is as ruthless and amoral as the bureaucracy in the socialist world. A point of difference however is that within the social set-up in the West there is no absolute concentration of political and economic power to make it impossible to relieve the burden.

2.1.2 Socialist Model

In the socialist societies yet aspiring to reach the material standards achieved in the West, the motivational pattern is in one sense simpler. The state controls all the sources of production and the party controls the states bureaucracy. The economy is basically centrally planned and controlled. Workers at all levels are wage earners. The workers in relatively recent times have been encouraged to produce more, by more or less the same incentives as an industrialist uses within the capitalist world to increase the production in his factory, such as bonuses for reaching the prescribed targets, enhanced wages for efficiency etc. Yet over a period of time excessive dependence on central planning agencies has had its effect in curbing productivity and inventiveness. Recently attempts have been made to add elements of competition and necessary decentralisation to make competition real and meaningful, yet the dominant motivational factor remains the element of terror that the state possesses as its monopoly and by and large utilises to achieve its economic objectives. The state takes by force what it wants, and dictates what it wants to be done, with the real threat that disobedience many involve extremely harsh sanctions. The annihilation of sections of a population can come about if the stages expectation are not fulfilled.

Failure in the West normally means bankruptcy, poverty and languishing in the back waters of the economic world. It might as well mean imprisonment and total deprivation. The administrative machinery perforce becomes more and more centralised and wasteful.

Wastefulness is inevitable because to avoid waste the status quo in economic arrangements needs to be criticised and changed: In a socio-economic set-up where politics dominate economic principles, bureaucrats often refuse to protest against measures which might prove economically disastrous because of fear of reprisals by the more powerful political elites. so far as the capitalist and the socialist world are concerned their world-view is essentially materialistic and earth-bound.

From the above analysis it is that the charting of our future will demand consideration not merely of the economic and political factors, but also spiritual and moral factors without which politics becomes a game of oppression and economics a hunt by exploiters. Socio-economic injustices are the first object of attach under an Islamic commitment. The very first object of the prophet's (PBUH) denunciation at the beginning of his mission were the exploiting and cruel rich of Mecca. Early chapters of the Holy Qur'an, for example, "Al-Mudaththir", "Al-Humaza", "Al-Ma'oon", "Al-Layl", and "Al-Balad" bear witness to this fact. The extreme hatred of the rich Meccans for the holy prophet is in turn explicable only on the basis that he sought to alter completely the socio-economic priorities. It is common knowledge that the good morality that he (PBUH) taught was not entirely new and had some universal aspects. The Arab appreciated, truthfulness, generosity and patience in the face of danger as much as did a Muslim. We know the Meccan community also held the prophet (PBUH) to be truthful, faithful and dependable person. What hurt then most was

the new teaching which claimed that in the new social order status would not be dependent on accidents of birth, colour, family ties, national origin, wealth or sex. All the old status symbols were to be dethroned, and the only acceptable status symbol would be an individual's efforts to fulfil his covenant with Allah, to establish justice by doing justice, and by standing up to see that justice is done in terms of the divinely revealed guidance; not only that but to do more beyond the demand of justice by practicing beneficence.

2.1.3 The Islamic Framework

The fundamental doctrine of Islamic economic system is derived from four sources, the Quran, the Sunnah, the Ijmah and the Qiyas. No one would attempt to make any useful contribution regarding any subject in Islam without referring to the Holy Quran, the constitution of Muslims.

The Holy Quran is the revealed Book to humanity through the holy prophet Muhammad (SAW) and has been preserved in original. This is the word of Allah (SWT). The Quran is a vast treasure of literature from the Creator Allah. His commandments therein are final, inviolable, eternal and inalterable for all times to come and for all people to live. If the Holy Quran is carefully studied, one finds, Allah's prohibition of usury (Riba) which is the foundation upon which the western economic system is built in the Holy Quran Allah Says: "...But Allah Has permitted trade and forbidden Riba (usury)..." (Q.2:275). After denouncing usury in the above quoted verse, Allah went ahead and express how previous

the offence is and how He deprives usury of all blessing. The verses that follow express how a creditor/debtor relation should be and how tolerant Allah encourages a creditor to his debtor. Then comes the longest verse in the Holy Quran (Q.2:282), which specifies the procedure of a deal how the agreement should be, how witnesses should be found to witness it and other conditionalities, these continue in verse 283. We were once again reminded from verse 284 that everything belongs to Allah (SWT). He knows what is hidden and what is open. The Surah goes on to conclude that Allah does not place a burden on any soul greater than it can bear.

The Sunnah is the second source of the Shariah. The Sunnah means the practices, the sayings and the implicit approvals of the holy prophet Muhammad (SAW) as the official interpreter of the Quran. He was the first person to receive it and was divinely guided to understand it. He explained the Quran by his words and actions. His words and deeds have been preserved authentically through oral and written traditions in various books. These books are known as books of ahadith. The ahadith attributed to the prophet (SAW) are accepted as authentic after due scrutiny of both the text and the chain of transmission. The third source of the shariah is the Ijma. It is a consensus of opinion of the Muslim jurists on a given problem. The Ijma of the jurists (fuqaha) becomes part of the law. The Qiyas provides the fourth source of the Islamic Law. An issue which cannot be analysed by an explicit decree in the quran, hadith or it is not found in the Ijma may be decided by a doctor of law qualified for Ijtihad (Mujtahid) on the

Qiyas of an existing decree similar to it. Ijtihad may be done on all investment problems which emerge and have no solution in the former three sources. But it has to be done within the framework of the shariah and by the competent persons only. Each problem is examined in the light of the shariah and it becomes possible to reconcile divergent views. Thus the area of disagreement has been harrowed down by reliance on one agreed source - the shariah.

2.1.3.1 Principles of Islamic Economics

2.1.3.1.1 Correct Weights and Measures

Islam emphasises the importance of proper and standard weights and measures in business between sellers and buyers. There are stern injunctions both in the Quran and the a hadith with regards to giving full weight and measure. Thus the quran (83:1 - 6) says:

> "Woe unto those who give short measure: those who, when they are to receive their due from (other) people, demand that it be given in full, but when they have to measure or weigh whatever they owe to others, give less than what is due! Do they not know that they bound to be raised from the dead, (and called to account) on an awesome Day, the Day when all men shall stand before the Sustainer of all the worlds?"

This passage refer not only to commercial dealings but also touches upon every aspect of social relations, applying to every individual's rights and obligations. In the hadith, it is narrated by Al-Miqdam bin Ma'diyakrib, that the messenger of Allah (SAW) has said: "measure your foodstuff and you will be blessed." (Bukhari v.3, p.192).

2.1.3.1.2 Goodwill

Islam has laid emphasis not only on giving full weight and measure but also on creating goodwill in business transactions since it is considered to be the very foundation of present day business. Goodwill can be attained by abstaining from the use of vulgar remarks and falsehood. Jabir bin Abdullah reported Allah's messenger (SAW) said: "May Allah's mercy be on him who is lenient in his buying, selling and in demanding back his money". (Bukhari, v.3, p.164).

Goodwill between market participants can also be attained by ensuring that the terms of all credit transactions are promptly and carefully reduced to writing. The holy Quran has enjoined that debt contracts for a stated term should be reduced to writing. A scribe is required to write it down equitably for the parties. The one who contracts the debt (i.e. the debtor) dictate the extent of debt. However if the debtor is of low understanding or weak or is not able to dictate himself for any reason, then the guardian of his interest will dictate on his behalf. Two Muslims male are required to bear witness to all such documents. However, if two men are not available, then one man and two women are needed to bear witness so that as the Quran explains, if one of them makes mistake, the other may remind her. In this Quranic verse, believers are directed not to neglect to reduce to writing any transaction for a specified term, whether it be big or small. A part from complying with divine injunctions, documentation of credit transactions in the way needed by Islam will facilitate the

establishment of evidence and will lessen doubts and suspicions. The scholars explained that this Quranic injunction affects all sorts of credit engagements even if it is among friends or relatives.

It is imperative that equal opportunity be given to all people, so that they might earn the necessaries of life. Individuals may reap diverse materials rewards by utilising their talents and capacities. Inequality in ownerships through personal effort, inheritance, and other Islamically approved means is possible. Since private ownership is temporary and real owner of everything is Allah, however, people must use their acquired resources by adhering to the rules laid down by Allah, as revealed in the holy Quran and observed in the sunnah of the prophet Muhammad (SAW). In other words, Islam makes wealth a trust from Allah which must be used properly so as to earn his rahma. It is absolutely necessary that Allah's given resources be used to fulfil the essential needs of all human beings and provide them with decent living conditions. Islam does not ever emphasise material incentives, because physical rewards are seen as a means rather than an end in themselves. Muslims entrusted with material resources have a duty to Allah to see that they are not abused.

Islam emphasises moderation in personal consumption. It is obligatory for one to save for personal future needs and the security of ones posterity. Wealth in the form of accumulated savings may be used to meat religious obligations such as payments of Zakat, a religious levy resulting in a transfer of resources

from haves to haves not. The remaining wealth may be invested in personal business activities or by means of a partnership.

Thus, Islam coordinates in a most balanced way the economic and spiritual aspects of man, for a defect in one leads to a defect in the other. It is as a result of this, we find men who, while engaged in the economic pursuits of life, are not unmindful of the existence of Allah in their day to day affairs. Allah praises these men in the Holy Quran: "Men who neither merchandise nor sale can divert from practicing regular charity". ( ) The messenger is advised to maintain this true harmony in life in these words: "And contain thyself in patience by the side of all who at morn and at evening invoke their sustainers, seeking His countenance, and let not thine eyes pass beyond them in quest of the beauties of this world's life; and no heed to any whose heart We have rendered heedless of all remembrance of Us because he had always followed (only) his own desires, abandoning all that is good and true". (Q. 18:28).

'Poverty takes man to the boundary line of disbelief' as the prophet (SAW) said. Thus Islam teaches man to take proper care of his material life in order to improve his spiritual life. This moral conception of life has given a workable means between diametrically opposed views of life. It declares that everything of this world is for the use of man, on one hand, and on the other, the responsibilities of man are; emphasised; just as he is responsible for himself, so is he responsible for his family and for his relation and then for his nation and all humanity. Islam

has given solution practically to the most complex and difficult problem by diverting the selfishness of man into unselfish channels, and by harmonising the material with the spiritual aspects of life. Man is enabled to profit from the material and spiritual aspects of life in order to establish an economic system on the basis of justice and equity. This objective is achieved through moral education and training that the individual, instead of indulging in rivalry and greed, becomes a cooperative and useful member of society.

It is clear from the above analysis that business in Islam differ fundamentally from business in the modern conception; while the former is linked up with the moral and ethical values of life, the latter is not revealed through prophet Muhammad (SAW). The Quran lays down a few basic principles which govern general economic behaviour and involve the ethnics of business too. But the Hadith literature refers pointedly to a number of specific practices which fall below the standard of Justice and fair dealing.

The Hadith literature, as expected, subjects business to moral principles: 'An honest and righteous Muslim business man will fall in with the martyrs on the day of Judgement' (Ibn Majah); 'Allah shows mercy to a man who is kindly when he sells, when he buys, and when he makes a claim' (Ibn Majah), 'If the seller and the buyer both tell the truth and negotiate frankly, both will be blessed; if they conceal from and mislead each other, blessing (baraka) will be withdrawn' (Bukhari), Allah blesses the person who is lenient in

sale, in purchase and in making a claim' (Bukhari). These are some such a hadith which seek to inculcate in the people the true spirit which should inspire a muslim in his business dealings.

While the Quran prohibits eating one another's property by unlawful means (batil), the hadith point out what in practice these unlawful means are. The hadith further regulate business practices in such a way that the legitimate interests of both the distributor and consumer are protected. If any of the practices involves uncertainly or loss to either in business it is treated as unjust. Similarly those transactions which benefit a few individuals at the expense of the common good or which lead to exploitation of either party are forbidden.

The basic guidelines which Islam has however prescribed *concerning business are a high standard of straight forwardness*, reliability and honesty. Many of the present-day market imperfections would have been eliminated if these principles had been adopted by the business communities. The following three moral principles are more specifically enforced by Islam for realisation of maximum benefits in all kinds of business relationships:

2.1.3.1.3 <u>False Oaths</u>

Because of the indifference of the people towards the moral and spiritual values of life, now a days businessmen resort to untrue a vowel in trying to convince prospective buyers. Islam has condemned all business transactions where business men resort to false oaths. Abu Hurairah said: I heard the messenger of Allah

(SAW) saying, "Swearing (by the seller) makes the commodities sell, but that deprives Allah's blessing (therein)." (Bukhari, v.3 p.170). This hadith explains that unlawful earnings are devoid of Allah's blessing. In another hadith narrated by Abdullahi bin Auf, a man displayed some items for sale in the market and swore by Allah that he had been offered so much for that, that which infact was not offered. In that occasion, Allah revealed the following verse of the holy Quran:

> "Behold, those who barter away their bond with Allah and their own pledges for a trifling gain- they shall not partake in the blessings of the life to come...." (Quran 3:77).

Again, it is related on the authority of Abu Dharr (RA) narrated that the prophet of Allah (SAW) said: "Allah will neither speak to, nor look at, nor absolve from the impurity of their sins three (types of) persons; they shall suffer a great chastisement" Abu Dharr (there upon) suddenly said: "Ruined and lost are they (indeed)! Who are those persons, O prophet of Allah?" The prophet replied, "one who displays his affluence by letting his trousers fall below his ankles, who is ever conscious of his obligations done to others, and one who sells out his goods by means of false oaths." (Muslim).

2.2 Investible Areas

In the capitalist economics, the aim of investment is to maximise profits regardless of the overall social consequences of such oppressive and retrogressive profiteering. An entrepreneur is therefore free to make investment in anything to achieve this aim.

Investment in Islam, like in consumption, is also guided by the principle of righteousness i.e. halal-haram principle. Only those items which are halal resources can be invested in. Once halal is determined, the economic issue of what is desirable and less costly to produce are taken in the usual way of cost-benefit analysis. Islam solves the problem of striving for profit maximisation by setting the goal of maximisation of falah for the investors. An investor in the Islamic system, therefore, links up his investment process not only with what he has to obtain from the consumers in terms of profit but also what he has to obtain from Allah in terms of reward in this world and in the hereafter. The investment function of a Muslim therefore extends beyond the confines of the market. A line of business which offers higher worldly reward may not be as attractive to the Muslim entrepreneur as the one which through offering less material benefit offers better rewards in the hereafter which is better and over lasting.

Because of this drive to acquire falah in their enterprises, Muslim entrepreneurs invest their resources in those ventures which Islam prefers, namely, those that give maximum benefit to the society. Maximisation of output (not the maximisation of profit) therefore is the goal of the Muslim entrepreneur in compliance with the emphasis in the Holy Quran to strive for the maximum benefit of society. He is obliged to invest in order to contribute his own quota to the self-sufficiency of the Muslim Ummah. A firm in an Islamic economy will achieve the required optimum at a level different from that obtained under the conventional systems of

profit maximisation. The driving force is to invest and produce socially desirable items at reasonable prices and at the same time allowing reasonable profit for the entrepreneur.

The Muslim scholars have prescribed a three-level hierarchy in the field of investment: Necessities, Conveniences and Refinements. Necessities comprise all activities and things that are essential to the preservation of the five foundations of good individual and social life according to Islam: Religion, Love, Mind, off-spring and Wealth. Conveniences comprise of all activities and things that are needed to relieve or remove impediments and difficulties in life. Refinements consists of activities and things that complement, brighten and adorn life. In the hierarchy of desirable things, necessities occupy the highest position followed by conveniences and then Refinements. The simple rule of precedence is that the actions or things related to a lower-level category (e.g. refinements) are disregarded if they conflict with the objectives of a higher-level category. To sum, therefore, investment in the Islamic system is tailored towards a socially harmonious balance of justice and fair play between the investors and the consumers.

Islamic system will not condone misallocation of resources to areas that are not socially desirable even if they are permissible. The guiding principle is social benefit not private benefit alone. Islamic state may therefore, seek ways and means either through the market or if necessary by force to make people invest in socially desirable ventures.

The Shariah has laid down the following rules regarding the validity of any investment:

1. Investment must not be made in items prohibited for use by the Shariah. The Creator Allah Has commanded the Muslims not to use as food dead meat, blood and also flesh of swine and many other prohibitations (Refer to Quran 5:3). In a tradition, narrated by Jabir, the holy Prophet (SAW) made the sale of pigs illegal (Bukhari, v.3, p.168). In another tradition, narrated by Aisha, the holy prophet (SAW) recited the last verse of Surat al-Baqarah when they were revealed in the mosque and proclaimed the trade of alcohol as illegal (Bukhari, v.3, p.168).
2. The commodity must be legally possessed by the seller and it must be available for transfer to the buyer after agreement is reached. In a hadith reported by Ibn Abbas (Bukhari, v.3, p.195), the Prophet (SAW) forbade the selling of foodstuff before receiving it. According to the narrator, Ibn Abbas, all types of selling should be done similarly.
3. For the avoidance of any doubt and ambiguity, price must be established for the commodity and the buyer must know it.
4. To remove any element of Riba (usury) from the business, the medium of exchange in the whole transaction must be goods for money. It is not allowed in Islam to exchange money for money or goods with similar goods because this would lead to Riba where the rates of exchange are unequal. In a tradition reported by Abu Sa'id al-Khudri (Bukhari, v.3, p.242), the

Messenger of Allah (SAW) said, "Do not sell gold for gold unless equivalent in weight, and do not sell less amount for greater amount or vice versa and do not sell gold or silver that is present." In another hadith from the same reporter (see Bukhari, v.3, p.291): Once Bilal brought Barni (a kind of dates) to the prophet (SAW) and the prophet asked him, "I had some inferior type of dates and exchanged two sa'i's of its for one sa'i of Barni dates in order to give it to the prophet to eat." There upon the prophet (SAW) said, "Beware ! This is definely Riba! This is definely Riba! Do not do so, but if you want to buy (a superior kind of dates), sell the inferior dates for money and then buy the superior kind with that money."

5. Before any agreement is reached regarding business transactions, any defect in the commodity must be made known otherwise its sale will be considered null and void

Muslims must give priority to invest in those things which are beneficial and help to improve the quality of life. Goods for mere display or for stimulating artificially created wants should not be encouraged into the society and should have very low social priority. Production too must be by means which are approved and under no circumstances should be by means which are disapproved, because even if there is the appearance of an immediate gain, as in usury, there is really a loss which is not immediately apparent.

2.2.1 The Concept of Probability or Risk (Garar)

The Arabic word garar means risk, hazard, danger, peril etc. In business terms it means to under take anything blindly without sufficient knowledge; or to risk oneself in a venture not knowing exactly what will be the outcome, or to rush head long into a peril without regard to the consequences. In all these circumstances, the element of risk is present. According to Ibn Taymiyya, garar is involved when one does not know what is in store for one at the end of a business venture or bargain. Every contract of an open-ended nature contains some element of garar. The concept of garar may be divided into two groups:

1. In the first group the element of risk involving doubt, probability and uncertainty is dominant.
2. While in the second group the element of doubt due to the deceit or fraud on the part of one of the parties is paramount.

The Holy Qur'an has explicitly forbidden all business transactions including injustice in any form to any of the parties; it may be in the form of deceit or fraud, or undue advantage or peril leading to uncertainty in the business or any dealing. (Q.6:151-152).

i. Garar owing to doubt and probability

a) Sale of fish in water: The sale of fish which is not yet caught is null and void as it is not in the state of property. In the same manner also, the sale of a fish which the investor

may have caught and afterwards thrown into a large pond from which it cannot be taken without difficulty is null and void, because there the delivery is impracticable.

b) Sale of a bird in the air: The sale of a bird in the air, or of one which after having been caught is again set a liberty, is null, because in the one case it is not property, and in the other the delivery is rendered impracticable.

c) Sale of transactions and others of the same kind which contain an element of garar are forbidden by the holy prophet (SAW). In this type of transaction there is not guarantee that the seller can deliver the goods for which he receives payments, for the goods are neither in his possession nor has he complete control over this delivery. The bargain should be struck what is at present in the possession of the seller. What lies uncertain in the air, water, or in the womb of the future or what stands outside the possession of the buyer cannot be a commodity in a valid transaction in Islamic law.

According to Imam Ibn Taymiyyah, garar is present in all those business dealings in which one party does not know what is in store for him at the end of a bargain. In other words, every contract of an open ended nature contains some element of garar. Therefore one should try to avoid garar in all forms, in the price, quantity, or quality of the thing as well as in the time of delivery in business contracts where an exchange of goods, money or some other consideration is involved. Everything must be clearly stated in the terms and conditions of the contract and no doubt or vagueness

be left with regard to the price, quantity or quality of the goods or any other consider under the contract. If any doubt or vagueness is found regarding any of these matters in the contracts, it will become void because of the presence of an element garar of garar.

Muslim jurists agreed that the presence of garar in any business contract makes it invalid but they disagreed on the matters relating to certain details of the specification of quantity or quality in goods that may lead to garar.

ii. Garar due to Fraud and Deceit

a) Sale of milk in the udder: The sale of milk in the udder is null, because there is the possibility of fraud. The udder, may be void of milk, and full of wind or there might be implicated in the sale something not properly the subject of it. Because of this the holy messenger prohibited it.

b) Najsh is forbidden: Allah's messenger prohibited all bargains which contained an element of fraud and deceit or were transacted to defraud other people. One such sale contract was called Najsh. It was a kind of fraud in which one would offer a high price for some thing without having the intention to buy but merely to cheat somebody else who really wanted to buy. Such a person would apparently agree with the seller to buy the thing at a high price in the presence of the actual buyer in order to cheat him. The seller would falsely tell the buyer that he had previously bought the goods at a certain price which was in reality higher than the actual price.

2.2.2 Business and Devotional Practices

Unlike in the contemporary investment concepts which are divorced of any religious taught, in Islam all business transactions, whether in the form of buying or selling, must not distract one from performing obligatory religious rites especially the five daily prayers which should preferably be offered congregational in the mosque. It is reported from Abu Huraira (RA) that the prophet (SAW) said: "Prayer performed in congregation is twenty five times more superior (in reward) to the prayer offered alone in ones house or in a business centre, because if one performs ablution and does it perfectly, and then proceeds to the mosque with the sole intention of praying, Allah upgrades him a degree in reward and crosses out (forgive) one sin until he enters the mosque." Business must also not deter one from Zikr (i.e. remembrance of Allah), for example recitation of the Holy Qur'an, providing Islamic training to his family and participating in formal and informal Islamic training programmes. Allah indicated in the Holy Qur'an (24:37), those people whom neither merchandise nor striving after worldly gain can divert from the Zikr of Allah and from establishing regular salat and paying zakat, then only fear is for the day when the hearts will be transformed and the eyes will become immobilised.

It is obvious from the above verse that prosperity is not to be measured by wealth or worldly gains. As such, one should not be distracted by the craze for worldly possessions. Allah bestows His magnanimity with a reason and only on deserving ones. These are

those who does not follow their lustful desires and are not lost in material pursuits. They are always conscious and mindful of Allah inspite of their worldly engagement.

2.2.3 Defective and Forbidden Commodities

In a hadith narrated by Hakim Ibn Hazam, the prophet (SAW) said, "The buyer and the seller have option to keep or return goods so long as they have not separated; and if they both speak the truth and describe the defects and qualities (of the goods), their transactions shall be blessed, and if they conceal and tell lies the blessing of their transaction shall be obliterated (Bukhari). In another hadith, narrated by Uqba bin Amir (Bukhari, v.3 p.166). It is illegal for one to sell a thing if he knows that it has a defect, unless he informs the buyer of the defect. Before any business transaction is concluded, it is necessary for the investor to fully know the quality, measure or weight of what he is investing in. That is, it is unlawful for one to invest in ambiguous commodities or to engage in credit sale for ambiguous period. For example, it is not permissible for one to buy or sell products such as clothes or fruits or animals in the dark which makes it difficult for careful examination of the items.

Islam allows investment in lawful commodities provided that they are legally owned by the seller and the buyer is given every information pertaining to their characteristics. In this regard Islam allows investment in crops even before they are harvested. However, where the investment in unharvested crops has been concluded and afterwards they become affected by natural disaster,

the loss will be borne by the investor if the portion destroyed is not more than one third. If it is more than one third, the seller will bear part of the loss on the basis of mutual agreement between him and the investor.

Islam prohibits all types of business transactions which are harmful and are likely to create and increase inequalities of wealth in the Ummah. The most important form of this speculation, hoarding, monopoly in goods or services which are beneficial to the people profiteering.

2.2.4 Speculation:

Islam has condemned speculative business. That is the idea of investing in something cheap at one time and selling the same thing dear at another time. When the future price is expected to be higher than the present price, speculative investors purchase now with a view to selling at a high price in future. Similarly, if the price in future is expected to be low then the present speculators will not invest and sell now in order to avoid selling at a lower price in future speculation leads to hoarding.

Islam prohibits all forms of hoarding and black-marketing. During the time of Holy prophet (SAW) the traders or their agents used to meet the caravans outside the city of Madina and purchase all the stocks of corn. Thus, by monopolising all the stocks of corn, they charged prices arbitrarily as they liked and thereby caused great inconvenience and hardship to the people.

According to Abu Hurairah, in a hadith, the prophet Muhammad (SAW) forbade the people to meet the caravan (outside the city)

which brought corn." (Bukhari). Abdullahi Ibn Umar, also reported that "the Holy prophet told the sahaba not to go forward (outside the city) to purchase goods until they are brought into the market." (Bukhari). The holy is reported to have said, "The hoarder is a very bad person for he is grieved at fall in prices and is happy at rise in prices (Baihaqi, Razeen). Thus, the Holy prophet explicitly prohibited the hoarding as well as blacking-marketing of foodstuff or essential goods or services.

The second Caliph Umar (RA) forbade hoarding during his time in the following words: "No one should hoard in our market. Those who have capital more than their needs should not invest in corn (or other things) that come into our country for hoarding purposes. And anyone who with great hardships brings corn (or other things) in winter or summer into our country, is a guest of Umar (that is the state) and may sell or keep it as Allah wishes." (Muwatta, Imam Malik, op. cit., p.563-564). The third Caliph, Othman (RA) also prohibited hoarding during his time. Most of the jurists have prohibited hoarding in corn, wheat and other foodstuff only but Imam Abu Yusuf includes all those things hoarding of which is harmful to society, like money which could have bring gainfully invested for the benefit of both individual and Ummah.

2.2.5 Forward Transactions

Unlike in the capitalist system, Islam does not give any encouragement to forward transactions. It regards all such businesses as harmful and dangerous to society. Therefore, Muslims are warned against indulging in forward transactions. Abdullahi

Ibn Umar reported that the prophet (SAW) said: "Whoever invests in cereals he shall not sell them until he obtains their possession." (Bukhari). Again, it is related from Hakim b. Hizam that the holy prophet (SAW) said: "Bargain not about that which is not with you." This means that the practice of investing in some companies like cement factories, flour mills etc for the purpose of selling out the allocation papers is prohibited in Islam.

2.2.6 Securities Markets

It should be pointed out that it would be naive to declare the entire operation of the secular securities market as wholly un-Islamic. It is true that a substantial part of the operations of the western securities market may not be lawful according to the shariah, but it is relevant to our understanding of the functioning of the Islamic financial market.

The shariah permits investment in only those shares, bonds and investment certificates which entitle the holder to the profits of the company in proportion to the number of shares held, because Islam believes in risk taking in investment. This shariah position immediately makes other forms of investment, both short-term and long-term, in securities markets unlawful. The investment in this class include preference shares and Debentures.

2.2.6.1 Preference Shares

Preference shares carry a fixed rate of dividend before any dividend is allotted to ordinary shares. The degree of risk the investor is prepared to bear is what determine the choice of investing in preference shares or ordinary shares. A greater

prospect of high dividend is with the ordinary shares. A greater prospect of high dividend is with the ordinary shares to compensate for the higher risk. Both of these shares carry with them the right to attend and vote at the shareholders' meetings and thus, to exercise some influence over company policy. While investment in ordinary shares to be lawful, investment in preference shares is not, because of its association to a pre-determined fixed rate of interest. However, this does not prevent the possibility of introducing some principles of Islamic economics into it, for instance, the concepts of the preference dividend with a higher predetermined ratio of profit which is within the framework of the sharia.

2.2.6.2 Debentures

Investment in debentures is clearly not permissible in the shariah because it is a special type of loan with a fixed rate of interest. This interest must be paid. Whether there are profits or not. A particular asset of the company is often assigned as a guarantee for debentures.

2.3 FORMS OF BUSINESS OWNERSHIP

The fundamental principles of Islamic business are Khilafa and Shura. The first is saying that Muslims are personally responsible for what is done with the resources entrusted to them; the second requires them to listen to the advice and grievances of those affected by what is done in their name. Unless the Muslims are physically or mentally unable, they must take a personal interest in the management of each of the organisations in which their funds

are invested. Islam provides guidance to its adherents in all phases and activities of life, in matters, material as well as spiritual. Its basic teaching with regard to investment is mentioned in several passages of the Quran. Far from despising material well-being, it recognises that "And do not entrust to those who are weak of judgement the possessions which Allah Has placed in your charge for (their) support;..." (Q.4:5); and it orders: "...nor for get thy portion in this world..." (Q28:77). However, it lays emphasis on the dual composition of man, by reminding that "...there are men who say: "our Lord! Give us (they bounties) in this world!" but they will have no portion in the Hereafter. And there are men who say: "our Lord! Give us good in this world and good in the Hereafter, and defend us from the torment of the Fire." (Q2:200-201). In other verses we find it stated plainly and definitely that, all that is found on the earth, in the seas and even the heavens has been created by Allah for the benefit of man; or that all that is on earth, in the heavens, the ocean, the stars and others have been made subservient to man by Allah. It remains for man to know and to profit by the Creation of Allah, and profit in a rational way, paying due regard to the future. With these comments, however, the various forms of business ownerships in Islam are given below:

2.3.1 Sole Proprietorship

This is a one man business and essential the entrepreneur depends on his own finance and management. The success or failure of the organisation solely rests on him. His financial resources

may be supplemented by suppliers' credits which plays a vital role in any Muslim society.

Trade credits are made available by most suppliers to all retailers who qualify. The suppliers interest is served by the increased sales. Most fuqaha (jurists) are of the opinion that difference between cash and credit prices is allowed in Islam. This differentiation is, however, strongly opposed by some jurists that such a difference could lead to a built-in element of interest and become a hidden door to interest-based financing. It should not be difficult to have profit-sharing according to an agreed formula on the goods sold and the retail price. The fact that interest-based loan financing is not available in an Islamic setting need not constrain an enterprising businessman in his ambitions by his own finance. He can still expand his business by securing loans on a profit and loss basis. This should actually be better for him as well as the financier in terms of justice; the financier does not expect to receive a predetermined rate of return irrespective of the outcome of the business and does not get a low return even when the business is paying high dividends. Financier or entrepreneur suffers from injustice because the outcome of business is not certain. Islam wishes to eliminate injustice.

The sole proprietor form of business organisation needs to be encouraged as it will help achieve the goals of Islam. It provides self-employment and enables entrepreneur to stay in his own town or village, thus help to reduce concentration of population in a few large urban centres. It is conducive to increased efficiency

because of the personal stake and interest of the proprietor in his own business. It also encourages competition; but to avoid the adverse effects of this on society, competition can be made to take a healthy form through the organisation of entrepreneurs in specific areas or businesses into cooperatives to help each other and solve their mutual problems in the spirit of Islam.

2.3.2 Partnership:

Partnership in Islam may take one of the following forms:

2.3.2.1 Mudaraba: Mudaraba is derived from the arabic word daraba, i.e. travelling (striving through the land). The Mudarib travels in order to earn some profit. Allah (SWT) says in the Holy Quran "...others travelling through the land, seeking of Allah's bounty.." (73:20). Mudaraba is a partnership between the financier and the worker. The first provides the money and the second provides ability and technical know how for the purpose of trading or investing in legitimate business. The Mudarib is entitle to profit according to an agreed share for the efforts he exerts in investing the money of his partner. It is an ancient form of arrangement which as known before Islam and was endorsed by the shariah.

Mudaraba partnership is the basis upon which the most important Islamic investments depend to utilise money without getting involved in usury. The nature of its principles and regulations help to foster mutual understanding and cooperation among capital owners and entrepreneurs through encouraging legitimate investments.

It is characterised by the fact that all the capital comes from one party called Rabb-ul-mal (capital owner) and the labour, technical know how, expertise or management comes from the other party called mudarib (investor or agent). It is important to note that all financial loss is borne by the Rabb-ul-mal alone, unless it is proved that it was resulted due to negligence or wilful act of the mudarib. In a way, it is the possibility of loss, the rationale that Rabb-ul-mal is exposing his capital to business risk that makes him eligible for a share in profit. There are good avenues for investing money on this count in some areas helping qualified and experienced doctors and engineers in establishing their clinics and workshops.

Mudaraba has been legitimised in the Holy Quran, Sunnah and Ijma'a (consensus. The Creator Allah says "And when the prayer is finished, disperse freely on earth and seek of the bounty of Allah..." (62:10). In other words, Muslims are commanded to equally devote themselves to worldly pursuits and earn money through halal means.

As regards the Sunnah, the prophet Muhammad (SAW) went to Syria trading with the money of Khadija Bint Khuwaylid (RA) as a Mudarib before the revelation and his marriage to her. People were concluding Mudaraba contracts before the message was revealed to the prophet (SAW). He did not disapprove it nor did he ask them to stop Mudaraba dealings, which means that it is a lawful act in the Sunnah.

Imam Shafi'i is quoted to have said that Umar Ibn al-Khattab (RA) gave an orphan's money to a man to have it invested through Mudaraba (al-Bayhaqi and Ibn Abi Sheebah). Othman Ibn Affan, Ali Abdallah Ibn Mas'ud, Abdullah Ibn Umar and Ummul Mu'mineen Aisha (RAH) allowed orphans' money to be invested through Mudaraba.

In the Ijma'a, the prophets companions (RAH) agreed that Mudaraba is legitimate. The whole Muslim community practiced it throughout the ages and no one ever contested its legitimacy.

Mudaraba is made Islamically legal for obvious reasons. The Holy Quran says: "...so that it may not be (a benefit) going round and round among such of you as may (already) be rich..." (59:7). If a man who has money which he would like to invest, but lacks the required experience, and there is another person who has the investment experience, and there is another person who has the investment experience needed but lacks the capital required, then, through Mudaraba both can find an opportunity to make a successful business. The financier is given the change to increase his money and make use of the technical potentials of the active partner. As a result, more opportunity of work will be available, which will help improve the size of national product and income. Ibn Hazam says: "Mudaraba was known in Jahiliyyah times. Quraysh was a tribe f traders and depended sole on commerce for its living. As there were men, too old to travel, women, children and orphans, incapable of operating their money, Mudaraba was as an ideal solution through which gain could be made."

For any Mudaraba contract, an offer and acceptance must take place between the capital owner and the entrepreneur indicating the intention of both to conclude the Mudaraba contract. Each of the contracting party must be acquainted with what the other party has said or done. The parties of the Mudaraba, Rabb-ul-mal and Mudarib, should be legally competent and qualified to enter into contract. The capital provider authorities the Mudarib to operate his money on Mudaraba basis, while the Mudarib is the agent incharge of the management. An unqualified or legally incompetent person, for example, the insane or child, cannot be capital provider or Mudarib since he is devoid of legal power over himself and his property.

Muslim jurists have agreed that capital must be fully known for making a Mudaraba contract. The type of currency as well as the amount offered as the capital for Mudaraba should also be known. It is not enough for the Rabb-ul-mal to say: "I give you some part of my wealth" without specifying the amount. The fuqaha unanimously agreed this is invalid. They also agreed that Mudaraba will have to be contracted with the circulated currency like dinar and dirham in the past and now like Saudi Riyal, U.S. dollar, Nigerian Naira etc. The capital must be handed over in the form of real money and not virtual money like debt when concluding the Mudaraba contract. According to some fuqaha, Mudaraba with money held in trust with another person is permissible. For the deposit held in trust is capital owners property and he can invest it in Mudaraba as ready money.

Mudaraba necessitates that the Mudarib is free to act with the given capital to make the desired profit. The capital should be actually handed over to the Mudarib and the provider should neither make stipulations nor interfere with the actual running of the Mudarib's business. The Muslim jurists confirm that the way he chooses. Having stipulations in the contract and restricting Mudarib's freedom of action will nullify the Mudaraba contract. Most of the fuqaha are also of the opinion that the Mudarib alone is to do the Mudaraba work. Imam Ahmad Ibn Hambal and others have a different view. They say that the Mudaraba contract will continue to be valid even if the capital provider stipulates that he is to work with the Mudarib.

The Muslim jurists agreed that the profit ratio of both the Rabb-ul-mal and the Mudarib must be stated in Mudaraba contract, or else it will be invalid. Each party's share in the profit must necessarily be specified. Otherwise ignorance nullifies the contract altogether. It is similarly not permissible as a rule to fix an amount of money for one of the contracting parties, as the profit generated by the activity undertaken by the Mudarib may not exceed that pre-specified amount Mudaraba, being a partnership, profit as well as loss are to be shared by the two parties.

Some fuqaha allow fixing a duration for Mudaraba contract while others did not. The Hanafi school allow fixing a duration for Mudaraba contract. Al-Kasani says "if money is taken for Mudaraba for one year, we believe it is a permissible situation." Ibn Qudama also legitimises it when the capital provider tells the

Mudarib "I give you this money to use in Mudaraba for one year. If the year lapses, you should neither buy nor sell". Maliki and Shafi'i schools on the other hand do not allow fixing duration for Mudabara contract.

The Mudaraba contract express for one of the following reasons:

1. If either of the contracting parties wants so;
2. Circumstantial reasons viz:
   a) Death of one of the contracting parties
   b) Loss of legal competence of one of the parties
   c) Bankruptcy of either party
   d) Loss of Mudarasa capital

The Muslim jurists agreed that the capital owner is entitle to abrogate the Mudaraba and recover his capital so long as the Mudarib has not started any investment yet. This is controversial in case investment has already started. Hanafi, Hambali and Shafi'i schools say that even if the Mudarib has started the work, the capital provider may abrogate the contract and recover his capital. Maliki school advocates otherwise.

2.3.2.2 Murabaha

Murabaha, derived from the arabic word "Ribh" means profit or gain. It is a sale in excess of the first price whereby the buyer and seller agree upon an already defined profit. It is a trust sale involving a sale transaction based on revealing the price of the commodity as paid by the seller. Murabaha is concluded only after adding a specified percentage or definite sum to the revealed

price.

The legitimacy of Murabaha has never been controversial due to the fact that commodity price is pre-fixed just like in any other traditional sale. The general rule is that money expended directly on the goods or on services indispensable to their sale (e.g. brokerage fees) may be included. The personal expenses of the merchant and other expenses not directly involved with the goods are not to be figured into the sale cost on which the Murabaha transaction is based. The seller must avoid any misleading statement and be scrupulous in how he arrives at the sum serving as the basis of the Murabaha. If he includes various expenses in this sum, he may not, directly or indirectly, lead the buyer to behave that the Murabaha is based on the purchase price. Instead he should use some expression indicating that this is what it cost and not that this is what he paid for it.

Due care has to be taken in determining the mark-up or rate of profit in transacting such sale. The jurists agreed that the legitimacy of transacting a Murabaha sale on the basis of any sum that is not misleading or fraudulent does not preclude the possibility of fixing the sale price far higher than the original cost. While due profit is lawful, profiteering is discouraged in Islam. What is needed, then, is to define, as objectively as possible, the limits of the participants freedom of action in such transaction as purchase, sale, profit rate, credit etc. It is important for the Rabb-ul-mal to demonstrate that in such transaction there is risk involved, amount of time spent, in

addition to providing finance for the proper execution of this investment plan, justifies the rate of profit.

The Muslim jurists explained consequences in case the seller does not tell the buyer the actual cost of the commodity. In such an event, it is up to the buyer whether to accept correction of the contract or have it canceled altogether. This is called Murabaha choice.

Murabaha gives an investor the opportunity to invest and multiply his income instead of keeping ideal cash. It enables the client to get the commodity through installments or other similar arrangements. This process is necessarily initiated by the consumer.

2.3.2.3 Musharaka

It is a form of partnership where two persons contribute to the required amount of capital according to a contract for jointly carrying out a business and for sharing profit and loss specified proportions. In case of an industrial concern, for instance, both parties contribute to the financing of the operation including capital assets, technical and managerial expertise workshop etc, in varying degrees and agree to divide the profits realised based on the ratios agreed in advance in proportion to the amounts of capital invested. According to Imam Ghazali "profit and loss will be distributed in proportion to capital investments. If the parties settle any other proportion, it will not be valid and agreement will be declared void. There is a difference of opinion in case they agree upon a greater share for the party contributing

the greater amount of business effort." (Al-Ghazali, vol.1, p.187). Loss is borne by both parties strictly in proportion to their respective contributions also. The return of such operation is not determined in advance but depends upon the final result.

Normally the co-partner looking after the management of partnership gets an agreed percentage of the realised profit as his remuneration to motivate him to work honestly and sincerely. He should be asked to produced regular reports about the programme and progress of all the investments. The profits and losses are mostly calculated at the end of the financial year. If however, the losses arises due to the negligence or wilful act of the managing partner, he stands to bear the whole loss.

Musharaka helps in effective utilisation of scarce resources and it is use to finance priority and preferred sectors of an economy. The management capacity and foresightedness of the partners is the main road to success in a Musharaka agreement.

2.3.3 Islam and Joint Stock Company

One of the central issues here is whether a Joint Stock system can operate under Islam, even in a modified form. The Quran contains specific exhortations to seek greater prosperity, and there seems nothing offensive in the general idea of coming together to provide the capital resource for a very large enterprise. But the idea or position of holding companies and subsidiaries under Islam requires some discussion. The assertion that a corporation has an identity that is separable from its members is not readily accepted by Muslims. Even in those

circumstances where some limitation of liability might be permissible. It is unthinkable that a group structure should be used to justify the non-payment of debts, or any other evasion of duty, by the human owners of a group which could otherwise make them good.

If Islam strictly prohibits the operation of any style of Joint Stock Company, this would seem to reduce the scope for economic development in the Islamic state to what could be financed and managed by a group of partners, perhaps with the aid of profit sharing finance from an Islamic bank. The most capital intensive activities could only be owned by the most prosperous citizens, or by the state itself.

Another implication of a total prohibitation of the Joint Stock system in Islam would be the inability for an investor to withdraw his or her capital from an investment without a major upheaval in the enterprise itself. In partnerships or proprietary companies, one can only dispose of ones interest with the consent of the remaining partners or directors.

Two issues must be addressed in order to answer the question whether or not a corporate enterprise can operate under the shariah. first, is it Islamic to accept the consequences of limited liability doctrine? Second, whether separate, legal personality feature of corporate enterprises is acceptable to Islam.

Muhammad Umar Chapra (1985, p.255) quoting two of the earliest known authors to address the modern corporations - Al-Khalif and

Al-Khayyat - affirms that "the fuqaha have now in general approved the corporate form on the basis of the fiqh principles of qiyas (analogy) and Istihsan or Musalih-al-mursalah (public interest)." He goes on to praise the features of the corporate enterprise such as limited liability, transferability of ownership and separate legal entity as conveniences and advantages which "should be perfectly acceptable in an Islamic economy." To him: "The modern corporation constitutes essentially a combination of Mudaraba and sharikah al-Inan. All share holders are partners, not necessarily equal, by virtue of their having contributed in varying amounts to the capital of the corporation. In this sense, share holders wear the hat of the Sahib-ul-mal (1985, p.256).

Though it is difficult to assume chapra's claim of consensus on the acceptability of the corporate form of business without hesitation; inverse deduction, it is arguable with confidence that they do not appear to infract any of the principles of the shariah. His formula the Mudaraba plus Sharika equals corporation is yet to effectively capture two essential characteristics of the corporation. These are non-implication of personal property and irrevocability of corporate existence. Neither the management nor the share holders bear any loss arising from corporate activities short of negligence and fraudulent practices. Under the same conditions in a Mudaraba agreement the loss is automatically borne by both parties.

Hashim (1987, p.20) take up these questions from a legal point of view. He tacitly approves the consistency of the features of

the modern corporation with the Shariah while relating it to Waqf. His three main points are quoted as follows: "In the first instances, a waqf is an artificial person having existence only in law. A waqf and a corporation can own property, can sue and be sued, can enter into contracts and can affirm its legal seat to legal documents. The second common feature of a waqf and a corporation is the permanence of legal existence, perpetuity and irrevocability are dominant characteristics (through a waqf is more permanent). Finally, the principle of separation of ownership from management as it is applied to corporations also holds for waqf. In this regard, therefore, a waqf resembles a corporation rather than a trust. As a consequence the decision making authority of a mutawalli is restricted. He can delegate authority to the managers appointed by him to assist him in day to day management of the waqf property, but ultimate responsibility is his." What Hashmi has offered in the above comparative analysis is that operationally, the modern corporation is similar to waqf. And, again, by inverse reasoning, since these operational features were acceptable in Shariah for waqf, they should be acceptable, at law, for the modern corporation too. Hashmi's analysis however, did not consider the process and purpose of formation in which waqf is generally the confinement of property (wealth) being dedicated for the sake of Allah and using. Its proceeds for charity (Amin, 1987,p.15); the corporation is an artificial entity for the purpose of business.

Hassan (1990, p.28) sees nothing unIslamic in the incorporation process parse. As an association of individuals for the purpose of common goal, he assets that Islamic principles are not vitiated. He elaborates: "under the shariah common ownership is permissible at inception, permanently, as shariah considers it legal to deal in it through legal means such as trading or donating..." (Ariff, et, al 199, p.28). Furthermore, on closer examination, one discovers that the process of association, culminating into incorporation, in principle, is like the Islamically accepted concept of sharika al-inan in which partners pools resources together without being responsible for the day to day running of the business formed there with. This is why Hassan's position is largely agreeable.

On the purpose for which a business is incorporated as long as this is legitimate, the Quranic injunction legitimising trade (2:275; 4:29) do not seem to exclude corporations. In other words "all risk-sharing relationships, provided they remain within the framework of halal activity and the return thereon is not unreasonably high, and is not derived from hoarding, riba, speculation, misrepresentation or monopoly, will fall in the broad category of trading." (Iqbal, 1990, p.51) and are permissible. Consequently, neither the pooling of resources for the purpose of incorporation nor the pursuance of halal business stands in the way of the corporation's legitimacy.

Putting the issues boarding on the corporate enterprises together. It is necessary, against the backdrop of the foregoing

analysis, to restate the main conclusion viz:

a) that the traditional Ijtihad and classical fiqh literature did not directly address the modern corporate enterprise;

b) that the features of the modern corporation which are comparable to those of several Islamically allowed forms of business and institutions (such as Mudaraba, sharika and waqf) do not appear to violate any Islamic principle or injunction.

Consequently, the process of incorporation and the objectives of association remain to be examined for the purposes of determining the legality of the corporation in Islam.

2.4 SOURCES OF FINANCE

2.4.1 Financing in the early period of Islam

The main economic activity of the tribe of Quraish was trade and finances for its caravans were by person who did not accompany the caravans. Homond (1982, p.135) quotes Al-Razi (circa 606H) as saying that in financing the battle of Uhud, the Quraish used funds accumulated by means of riba. Furthermore, the commentators of the Holy Quran (2:275-280) in commenting on the Quran make reference to the deep-rooted practice of riba in pre-Islamic, Arabic, especially among members of Jewish communities and the tribes of Quraish and Thaqif. They usually mention Al-Abbas, the uncle of the prophet (SAW), and several major families of Thaqif as prominent financiers in the Meccan economic life of that period. Moreover, many Jews were working as money lenders in Madina and they used to charge interest. The most dominant mode of financing during the Jahiliyya period, therefore, was riba-based borrowing and Mudaraba may

perhaps ranked second in terms of practical importance.

2.4.2 The need for Financing

According to the fuqaha, the need for financing arises because of the natural differences in resource endowments. All schools of fiqh have given the justification for the need for financing. The Muslim scholars have, for instance, argue that Mudarabah is needed because not everyone who owns money has trading skills and not everyone who is skillful in trading possesses money.

Therefore, according to the fuqaha, differences in resource with business skills may be the most important reason behind the need for financing.

2.4.3 Current Development in Islamic Principles of Financing

The fundamental issue in contemporary discussions on Islamic financing is the abolition of interest (Riba) and interest are treated synonymously in modern Islamic literature and this the two terms are used interchangeably throughout this research.

The views of contemporary Muslim scholars on the principles of financing are related to their studies of rationalising the prohibition of interest and evolving efficient alternative to the riba-based system. Riba is, technically, a contractual increment received by a lender from a borrower over and above the principal. The Muslim jurists have strongly challenged charging of interest on grounds of ethnics and efficiency. Maududi (1950, p.214) says "...which rational principle, which logic, which cannon of justice and which sound economic principle can justify that those who spend their time, energy, capacity and resources, and those efforts and

skills make a business thrive, are not guaranteed a profit at any fixed rate, where as those who merely lend out their funds are fully secured against all risk of loss and are guaranteed a profit at a fixed rate? There is an almost complete consensus among Muslim jurists that the answer to these and similar questions is negative.

The ability of any society to fulfil the needs of goods and services of its own members determines its strength and vitality. Resources, not only financial, but also skills and management are required for the production and distribution of these goods and services. Allah, out of His wisdom, did not endowed everyone with an optimum combination of these resources. since Islam has ruled out coercion, it is indispensable to bring about a pooling of resources from wherever they are available for fulfilling the needs of society within a just and profitable manner.

2.4.4 Equity Financing

Business financing in an Islamic economy are mostly equity-oriented where the financier shares in the profit or loss of the business financing would not only distribute equitably the return on total investment between the financier and the entrepreneur, but also transfer a fair share of the risks of investment to the financier instead of putting the whole burden on the enterprenuer.

Equity financing in Islam may be for definites or indefinites period. The definite period, may this have to be short, medium or long as it is in the case of borrowed capital (loans, advances, bonds and debentures). Since borrowed capital would also be on the

basis of profit and loss sharing and could not be interest-based, it would be in the nature of temporary equity financing and would mature on the expiry of the specified period. Such financing would hence not carry the same connotation as it does in the capitalist economies. It would, like equity capital but unlike qurud nasanah, not enjoy anything on assets of the firm. It would be difficult to find medium or long-term financing in an Islamic system without sharing the ownership and control of the business. Expansion of the business would hence be closely related to the distribution of ownership and control. Similarly it would not be possible for anyone to earn an income on saving without being willing to share in the risks of business.

According to Ibn Hazm, all those Makkans who could not afford the mental and physical strain and hardship of trading had to rely on some kind of financing in order to earn their livehood. This means that Ibn Hazm looked at financing not only as a means of cooperation necessitated by the absence of compatibility in endowment distribution but also as a source of income (an occupation of its own).

2.4.5 Bai Salam

The word "Salam" literally, means, "an advance", and in a salam sale, the price is immediately advanced for the goods to be delivered at a future fixed time.

Bai'al Salam was made lawful by the prophet Muhammad (SAW) in order to make economic relations easy and responsive to the variety of financing needs people have, although it is said to be in

violation of the general rule of prohibiting the sale of things which are not in ones possession at the time of contract. It was practiced in the agricultural sector of Madina at the time of the prophet (SAW).

This modality is used in the field of agricultural financing and it has significant implications for agriculture as it can be used to substitute the present system for advance financing of agricultural commodities or pre-export finance. Its main conditions as agreed upon by the majority of Muslim jurists are:

a) The agreed price for the produce to be delivered should be paid immediately at the time of contract, cash and in full (i.e. total risk is borne by the financier and not as in some rural credit systems where the price paid is low and payments are staggered throughout the season, thus ensuring the financier of a large margin of profit to hedge against failure of delivery. Without this condition the jurists agreed that the Salam contract is null and void.

b) Delivery of the goods must be postponed for a definite fixed time (i.e. the sale contract should not be used to acquire the goods immediately, or it will only be a trick to discount the price).

c) The goods to be delivered against the Salam contract should be of a type that is commonly available at the time fixed for delivery i.e. the contract should not specify delivery of goods from a certain plot or location. This is to ensure the financier against unnecessary risk and to enable the farmer to

deliver produce which he may obtain from another source if need be. However, the contract must specify clearly the kind, description and quality of goods to be delivered.

The above mentioned conditions of a "Salam" sale have a number of direct and indirect implications for the sale and purchase of shares. While the permissibility of a "Salam sale entitles Islamic investment companies and banks to issue shares, bonds, investment certificates, the pros pectus of the company must provide detailed information as regards expected quantity of the product and its target, expected rate of profit or ratio of profit, rights and obligations of the shareholders as clearly as possible, mode of payment of dividend, and so on.

It follows then that debt contracts must be concluded in writing spelling out all the terms and conditions as clearly as possible to avoid future conflicts. As the Quran said: "'O ye who believe: When ye contract a debt for a fixed term, record it in writing let a scribe record it in writing between you in (terms of) equity..." (Q2:282).

2.4.6 Bai Muajjal

Bai-Muajjal may be defined as sale under which the price of the item involved is payable on a deferred basis in lump sum or in installments. This system could be of considerable use in financing current input requirements of industry and agriculture as well as financing of domestic and import trade. This system commends itself for its relative simplicity as well as possibility of some profit for the financier without the risk of having to

share in the possible losses, except in the case of bankruptcy or default on the part of the buyer. However, although, this mode of financing is understood to be permissible under the shariah, it would not be advisable to use it widely or indiscriminately in view of the danger attached to it of opening a back-door for dealing on the basis of interest. Safeguards would, therefore, need to be devised so as to restrict its use only to inescapable cases. In addition, the range of mark-up on purchase prices would also need to be regulated strictly so as to avoid arbitrariness and the possibility of interest reappearing in a different garb.

Furthermore, the principle of deferred payment is also implicit in the following verse of the Quran: "If the debtor is in a difficulty, grant him time till it is easy for him to repay..." (Q2:280).

Although the above verse calls for the postponement of the payment of loan when the debtor is in a "difficulty" the underlying principle of deferred payment is recognised. This could be of considerable use in introducing some built-in flexibility provisions in the executing of debt contracts pertaining to firms or enterprises having genuine difficulties in reaching the break-even point in the initial phase of their operations.

2.4.7 Ijara (Leasing)

This is not dissimilar to the western concept of leasing. Assets acquired are leased to the client for a rental. Islamic banks use it to finance capital stock to industry. The arrangement may stipulate a gradual buy out of the assets by the client within

a specified period.

2.4.8 Qard Hassan (benevolent loan)

It is permissible, however, to borrow money from a lender without the lender participating in any profit or loss. This loan certificates can be floated, if it is absolutely necessary for the enterprise by the Islamic finance houses. In this connection, it is important to advance from distinct principles governing loans: First, loans without interest can be taken only when absolutely needed. Taking a loan without any valid reason is discouraged by the prophet (SAW) who is reported to have sought refuge from being in debt as well as from sin. Aisha (RA) said: "O Allah; I seek refuge in thee from sin and from being in debt" some one asked him, "How often do you seek refuge from being in debt, O messenger of Allah"? He said: "When a man is in debt he speaks and tells lies and he promises and breaks the promise" (Bukhari).

Secondly, the very act of lending and borrowing should be clearly written down, and should not be to the disadvantage of the debtor. The debt contract principle owes its origin to the Quran as it was noted already.

Thirdly, Islam has also made provision for granting loans against proper security. Thus, the mortgaging of property as security for the payment of a debt is allowed, and the mortgagee is allowed to derive benefit from it within the framework of the shariah. Abu Hurairah (RA) reported the messenger of Allah (SAW) to have said: "The mortgaged animal may be used for riding when it is mortgaged on account of what is spent on it, and the milk of a

milk animal may be drunk when it is mortgaged, and the expenditure shall be borne by him who rides (the animal) and drinks (the milk)" (Bukhari).

This hadith shows that when a person has to spend money on the thing mortgaged, he is entitled to derive benefit from it.

Fourthly, is the principle of repayment. While the Creditor has been directed to guard against any injustice to the debtor, the debtor has also been directly to make every sincere effort to repay the loan. It is related to the authority of Abu Hurairah that the prophet (SAW) said: "Whoever contracts a debt intending to repay it, Allah will pay it on his behalf, and whoever contracts a debt intending to waste it, Allah will bring him ruin" (Bukhari). As a matter of fact, Islam does not justify deferring payment without any valid reason. Abu Hurairah reported: The messenger of Allah (SAW) said: "Delaying the payment of debt by a well-to-do person is injustice" (Bukhari).

Some Islamic finance houses used this formula to finance exports mainly of livestock. Investment in livestock was thought to be a very risky and also a very intricate operation which can hardly be monitored. Al-Baraka international Bank Ltd (AIBL) is now using the interest free loan to finance a Joint Company in the U.K. The bank gets its profit from the realised profit.

2.4.9 Orphans Funds

Islam has encourages the development of orphan's funds through any legal means. The income earning motive underlying financing has made the Sahaba of the prophet to extend orphan's funds as

finance. Al-Qasim ibn Muhammad (who together with his orphan nephews were under the supervision of Aisha (RA) says: "We had funds in the custody of Aisha (RA) and she used to give them on Mudaraba basis." Al-Mabsut, vol. 22, p. 18. Umar, the second Khalifah, also used to give funds of orphans on a Mudaraba basis (ibid).

2.4.10 Zakat

It is unanimously agreed that Zakat is one of the five pillars of Islam, that in the legal sense it means "a right on wealth" or "the specified part of wealth designated by Allah to be given to certain beneficiaries" (Al-Jaziri). The Holy Quran has clearly enumerated how the Zakat funds are to be disbursed thus: "Alms are for the poor and the needy, and those employed to administer the funds; for those whose hearts have been (recently) reconciled (to truth); for those in bondage and in debt; and in the cause of Allah; and for the way fairer: (this is it) ordained by Allah, and Allah is full of knowledge and wisdom." (Q.9:60).

But a deeper understanding of the objectives of Zakat, in the light of modern economic analysis, makes it utilisation possible in such a manner as to produce a cumulative effect on poverty and as an instrument of active fiscal policy designed to promote the welfare function of public expenditure. These funds or a part thereof may be earmarked for productive investment intended for the benefit of eligible recipients in forms or industries. Thus these funds would serve two purposes at the same time. On the one hand, they would minimise the non investment or consumption expenditure

arising out of substantial and regular transfer payments of zakat in an economy. On the other hand, investment-oriented disbursement of theses funds would have a cumulative effect on poverty. In other word a certain amount of zakat funds, invested according to the overall production priorities of an economy, in general, through it multiplier effect on employment and income. Thus there is a need for careful investment planning of zakat funds so that the productivity of the poor specifically of the small farmers, businessman and producers, labourers and workers can be increased.

A number of the above mentioned modalities can be used concurrently to finance one single operation.

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CHAPTER THREE

3.0 RESEARCH METHODOLOGY

3.1 The Research Design

Having outlined the are concern of the study, the basic question, critical in any research, then arises: How do we set about collecting the relevant information needed for the study? This is a methodological question which ought to be addressed and decided upon before embarking on the research.

In defining the domain of methodology, it is argued that the essence of research methodology lies in seeking to identify and gather "true and useful information" about the particular phenomenon under study. This defined, methodology then refers to the theoretical perspectives or models that inform and guide the researcher in his choice of the research problem, his conceptualisation of it, his choice of particular methods and techniques of investigation, as well as his analysis of the data collected.

3.2 The Choice of Methodology

There are two kinds of approaches to this study both of which have different theoretical basis.

The first approach is that in which the researcher knows what the critical questions and issues are before he actually makes any contact with the subjects of his study and the object of such approach is to collect data that will fit his preconceived ideas, theories and questions. This approach is generally known as the

traditional sociological survey method.

The second approach open to this study is that in which the researcher does not know what the questions are before hand, but discovers them on the field while doing the research. This approach is generally known as ethnography or participant observation or unstructured methods as it is variously referred to see, for example, Mc Call and Simmons, 1969; Spradley, 1980 etc. At present, we want to highlight the basic difference between the two approaches.

The ethnographer does not go to the field with preconceived ideas even though he does begin his research with what Malinowski (1922) described as "foreshadowed problems." Nonetheless, Milinowski has argued against equating, "good training in theory and acquaintance with its latest result, " being loaded with preconceived ideas." (pp 8 - 9) A further difference between ethnographers and survey researchers, which we have already pointed to, is in the way they ask questions. While the survey research asks formally standardised questions ethnographer does not decide before hand the questions he wants to ask, although he may inter the interview with a list of issues to be covered. The ethnographer's questions are probing rather than leading, relatively open-ended rather than closed. Hammersly and Atkinson (1983, p.115) have argued that leading question can be extremely useful in testing hypothesis and trying to penetrate fronts.

In fact the so called "battle lines" between the two approaches, as has been made clear by Zelditch, Jr. (1969, p.6),

correspond with a relative concern for "hardness" versus "depth and reality" of data with quantitative data being thought of as "hard" and qualitative as "real and deep". This approach arises a number of critical questions: What kinds of methods are relevant and for what kinds of information? How can the appropriateness of different methods for different purposes be determined? and a host of similar questions.

The critical issue in all these is therefore, the choice of appropriate methodology. Both methods have their strength and weaknesses relative to the nature of the research problem, the context in which it is undertaken and the nature of the information needed. Given the nature of the research problem, the peculiar circumstances of the unique society of Nigeria and the scarcity of relevant literature on the subject already commented on, we cannot but agree with Rigby (1985) that: "other techniques of data collection, however sophisticated and "scientific" they may sound, merely complement this; without it they may bear no relation to the reality of the community concerned, and would thus have no reality for knowledge of interest in the social sciences". (p.36).

A scholarly method of inquiry has been employed by the researcher on carrying out this research. This is the documentary research. The documentary research, according to Hillway (1964), "consists in putting together in a logical way the evidence derived from documents and records, and from that evidence forming conclusions which either establish facts hitherto unknown or offer sound generalisations with respect to past or present events, human

motives, characteristics and thoughts."

3.3 Data Collection

There are several techniques of collecting data. This research has relied solely on secondary source of data.

The Holy Quran is the main source of inspiration to the Muslims. Allah ta'ala said "Verily, this Quran shows the way to all that is most upright, and gives the believers who do good deeds the glad tidings that theirs will be a great reward." (Q. 17:9). The Quran guides to that which is conformable to ethical rectitude and beneficial to man's individual and social life. The wise and instructed soul has patience and does not put its own desires above the wisdom of Allah. He receives with contentment the favours of Allah, and prays to be rightly guided in his desires and petitions.

The Prophet Muhammad (SAW) was sent to exemplify the message contained in the Holy Quran. He was guided by Allah to the extent that his whole life was just like the Quran walking on earth.

Some relevant library sources were examined by the research. Journals, Magazines and Newspapers were used to gather relevant data on the problem under study. The researcher made use of some productions from Islamic Development Bank (IDB), Islamic Research and Training Institute. Likewise archival documents, bulletins, handouts, and annual reports issued by the IDB were perused.

The library method is used here because it has been envisaged to be much cheaper and quicker than the questionnaire method considering the tight time constraint on the study and economic hardship currently being experienced in the country.

3.4 Treatment of Data

The data gathered through the techniques of the Holy Quran, Sunnah of the Holy Prophet (SAW), and perusal of documents from the IDB, Albarka International Bank Limited London and a number of other relevant institutions were then organised and summarised, analysed and interpreted and conclusions drawn from the results.

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CHAPTER FOUR

DATA ANALYSIS AND INTERPRETATION

Settlement of Accounts:

All the schools of jurisprudence have agreed that in running a business, loss will be made good by profits till the business comes to a close and accounts are cleared finally. At the time of settlement of account, all original capital proper will first be set a part; any surplus after that will be deemed profit, any shortage will be deemed loss.

According to Ibn Taimiyyah (1263-1328 A.D.) "Profit is the creation of labour and capital jointly. so that owners of both factors of production are entitled to a portion of the resultant profit". Lost refers to that part of the capital which is destroyed. Therefore it will be distributed in proportion to the capital invested and will be borne by the owners of that capital. This implies that no supplier of capital can escape his liability for the loss on his proportion of the total capital and that any party who has not invested any capital will not be liable to any lost of capital.

Islam has always called for the emancipation of workers from both collective and individual exploitation of capitalists. The main principle of business motivation in Islam are classified into three by Siddiqi (1971).

(a) Full compliance with the Islamic ideals of justice;

(b) The urge to serve the society which makes the entrepreneur

take the welfare of others into consideration while making his entrepreneurial decisions; and

(c) Profit maximisation within the limits set by the operation mentioned above.

Siddiqi goes on to explain the rationale of profit maximisation in Islam by giving the following statements:

(a) "Producers would not be maximising their profits if and when, they feel that by lowering their profits margins they can further the good of the society by satisfying unsatisfied need."

(b) "No producer, in any circumstances, shall increase his profits at the cost of explicit injury to the consumer or to his competitors.

(c) "Producers will generally be contented with satisfactory profit." (Siddiqi, 1972, p.136).

Looking through the literature in Islamic economic thought, there seems to be no unanimity on the number and meaning of the factors of production among the Islamic economists. This can be attributed to the fact that factors of production as they are known today are not explicitly mentioned either in Al-Quran or Hadith. So, some writers in Islamic economics exclude entrepreneurship while others exclude capital. For example Maudoodi giving justification in the Islamic law relating to profit sharing agreed with the traditional factors of production as land, labour, capital and organisations. Abu Sa'ud, trimmed the factors to three: Consisting of elements of nature, good work and capital. This

categorisation seemed also to have been accepted by Al-Sadr and Mannan.

Whatever should be the number of factors of production what is more important is the fact that, the conventional assumption in which the sole motive of the producers is profit maximisation will not find a place in the Islamic frame work. Islamic business as ethics will not allow the producers to maximise profit at the expense of the overall social good. The producers should generally be satisfied by obtaining satisfactory profits. Satisfactory profits here means, a profit level which satisfies the entrepreneurs urge to earn money, maintain and develop his enterprise for the good of customers and the society in general. (Siddiqi, 1972, p.107).

The Concept of Profit According to Ibn Taimiyyah

In the writings of Sheikh al-Islam Ibn Taimiyyah (1263 - 1328 AD), profit analysis in most cases comes after the analysis of price, profit being part of it. In his attempt to explain the price first, Ibn Taimiyyah comes up with an important concept of the profit of equivalent, which he described as the normal profit that is generally earned in a given trade without harming others. "A person who invests in goods to earn income and to trade with them at a later date is permitted to do so but he is not allowed to charged from a needy (muhtaj) a higher profit than the customary one and he ought not to increase the price for him due to his needs (darurah)." This may also imply that price cannot be raised unnecessarily for the rich either.

Regarding the relationship between producers and consumers, Ibn Taimiyyah believes in the free-enterprise economy. His argument on free-enterprise is framed in the following statement "The people are in charge of their own wealth, no one dares to take it, or any portion of it away without their consent except in particular and necessary situation." It is through these concepts of the price of the equivalent and profit of the equivalent, that Ibn Taimiyyah warned against a situation where a trader charges from one person a profit higher than what he charges from the other. This is what is being referred to as price discrimination in the modern economic setting and it distorts price to be a false mechanism of resource allocation in the economy.

Ibn Khaldun on the Concept of profit

Abdurrahman Ibn Khaldun (1332 - 1406 AD) provided a clear indication more than five hundred years ago that the level of profit in a given economy is significant in sustaining and explaining the economy's productive potentials. Ibn Khaldun tried to envisage a conducive business environment free from any kind of recrimination among the various economic agents. He always emphasised the importance of free market mechanism in establishing a desired level of economic activity. According to him "The most important factor making for business prosperity is to enlighten as much as possible the burden of taxation on businessmen in order to encourage enterprise by giving assurance of greater profit."

Business is one of the social obligations of the individuals in a given society. Man's ability to work, and strive for

excellence in his work to obtain his sustenance and other legitimate worldly desires in what brings about the emergence of profit. An individual has to engage in one kind of activities or the other, always keeping in mind that his business operations must be aimed at achieving the broad objective of an Islamic social order.

On the issue of the source of profit, Ibn Khaldun's explanation can be better described as a labour theory of value. This is because though he does not deny the productive attribute of capital in any production process, yet he always emphasises the role of labour in any business enterprise. Ibn Khaldun states that " profit is the value realised from human labour. When there is more labour, the value realised from it increases among the people. Thus, their profit of necessity increases." This statement leads to the inevitable conclusion, that labour plays an important role in a production process and thus is equally entitled (if not more) along with other factors of production for any reward resulting from the production process since "it is clear, then, that all or most incomes and profits represent the value of human labour." (Muqaddimah vol. 2; p.272).

The need for the economic agents in the economy to pursue their economic undertakings with the interest of the society at heart is one of the principles of business motives called upon by Ibn Khaldun. Man has been given all the potential and the necessary material backing by his Creator, so as to exert himself to become productive for his own benefit and for the benefit of the

society as a whole.

To summarise the views of the two outstanding Islamic scholars of the past, and judging by Taimiyyah's pronouncements it is safe to conclude that he regarded profit as the creation of labour and capital jointly, thereby allowing both factors of production a share in the resultant profits. Since according to Ibn Taimiyyah profit is "generated by the joint efforts of both capital and labour, in his view, it is to be divided according to commonly accepted fashion between the two partners - the one who invested his labour and the other who invested his money. Commonly accepted fashion here, implies a manner that is in conformity to the Islamic principle of justice so that each factor's income is justified. Ibn Taimiyyah goes on to explain the source of profit and its accrual in the following statement, "Because the profit is increment caused by the labour of this one and the capital of that one, its distributions will be in the same ways as any increment created by two factors."

According to Ibn Khaldun, part of income that is obtained by a person through his own labour is called profit. And human labour is necessary for any profit and capital accumulation. Both Ibn Taimiyyah and Ibn Khaldun believe in the free enterprise economy. They tried to envisage a conducive business environment free from any kind of recrimination among the various economic agents. So they both stressed the importance of free market in establishing a desired level of economic activity.

ALBARKA INTERNATIONAL BANK LIMITED (AIBL) AND ISLAMIC FINANCE SERVICES

Albarka International Bank Limited (AIBL) is registered in the UK and is an authorised institution under the Banking Act 1987. The institution has the following main objectives:

1. Investing AIBL's capital an depositors funds in a correct Islamic manner to achieve the best possible level of Halal profit compatible with acceptable risk.
2. Providing individual and corporate clients with banking services conforming to the shariah.
3. Developing trading relations particularly among Islamic countries.

AIBL uses a number of methods of business to finance and participate in investment operation.

1. Murabaha which means an agreement between two parties whereby one sells goods to the other for an agreed price which includes the cost of the goods to the first party, plus his profit.
2. Musharaka (participation). It is an agreement between the bank and one or more parties whereby each provides a portion of the investment requirement, and profits are shared between them on a previously agreed basis which takes into consideration the efforts and skills provided by each party.
3. Mudaraba which is similar to Musharaka but all the funds are provided by the Bank.

4. Ijara (leasing). Assets acquired by AIBL are leased to the client for a rental. The arrangement may stipulate a gradual buy out of the assets by the client within a specified period.
5. Direct investment involves AIBL taking a partial share in the equity of ongoing or newly established businesses.

Albarka international finances residential, office or commercial properties on a long term basis in participation with clients. The repayment period depends on the status of the client, those with resident status can go up to 20 years. The bank would insist on 15% participation in the initial purchase price by the client, who would buy back the bank's share on an annual basis at par value over the 20 years period or less if he so wished at no penalty whatsoever. during the repayment period the client would pay a rental fee for the bank as a consideration for the use of the bank's beneficial ownership in the property. This rental is reviewed yearly to reflect the cost of funding comparable activities (i.e. property) in the UK market.

The document detailing this agreement is called the Islamic Trust Funding Agreement. Financing would of course mean the client having to satisfy the bank of his ability to meet his financial obligations.

The bank also provides short term property development finance (1-2 years) on a murabaha or musharaka basis. In the first instance 70% of the property's price is extended and 50% of the refurbishing cost. Reimbursement (principal and profit) come from the sale proceeds. In case of a musharaka, the bank also ask the

client to contribute an average of 30% and share a pre-determined percentage of the actually realised profit. These type of investments are only done with partners experienced in the property business.

PERMISSIBLE MODE OF FINANCING IN PAKISTAN

The National Investment Trust Karachi, the investment corporation of Pakistan and so on are financing investments by granting loans without interest.

Loans not carrying any interest which they may recover a service charge not exceeding the proportionate cost of operation, excluding the cost of funds and provision for bad and doubtful debts. The maximum service charge permissible to each institution will be determined by the state Bank of Pakistan from time to time.

Trade-related financing is equally provided:

1. Purchase of goods by finance houses and their sale to clients at appropriate mark-up or deferred payment basis. In case of default, there should be no mark-up on mark-up.
2. Purchase of moveable or immoveable property by the finance houses from their clients with buy-back or otherwise.
3. Hire purchase agreement.
4. Financing for development of property on the basis of a development charge.
5. Leasing.

The maximum and the minimum rates of return to be derived by the finance houses from these modes of financing will be as may be determined by the State Bank of Pakistan from time to time.

THE ROLE OF ISLAMIC DEVELOPMENT BANK IN PROJECT FINANCING

Establishment of the Bank: The declaration of intent for the establishment of the Islamic Development Bank (IDB) was issued by the 1st Finance Ministers' Conference of member countries of the Organisation of the Islamic Conference (OIC), which was held on 24th Dhul Qa'da 1393 AH (18/12/1973).

The 2nd Finance Ministers' Conference of member countries of the OIC held at Jeddah on 22nd Rajab 1394 AH (10/8/74) approved and adopted the Articles of Agreement of IDB. The Agreement became effective on 12th Rabi-al-Thani 1395 AH (23/4/1975).

The inaugural meeting of the Board of Governors of the IDB was held at Riyadh on 17th RAjab 1395 AH (26/7/1975). The Bank formally commenced its activities on 15th Shawwal 1395 AH (20/10/1975).

Purpose of the Bank: The purpose of the IDB is to foster economic development and social progress of member countries and Muslim communities in accordance with the principles of the Shariah. To attain this goal, the IDB is entrusted with various powers and functions including:

1. Investment in economic and social infrastructure projects in member countries;
2. Provision of funds to the private and public sectors' productive projects in member countries;
3. Participation in equity capital of productive projects and enterprises in member countries;

4. Assistance in the promotion of foreign trade, especially in capital goods, among member countries;

5. Assistance to Muslim communities in non-member countries.

In view of its commitment to the Shariah, the modes of financing adopted by the Bank are diversified and flexible and its financing activities are claimed to be capable of meeting different circumstances and development needs of member countries. This diversification distinguishes the IDB from other international financial and development institutions.

Project Financing: Among the most important operations made by the Bank with member counties for some time now, is interest-free project financing. This includes loans, equity participation, profit sharing, leasing, instalment sale, and technical assistance.

Loan Financing: Provision of loans for projects of an infrastructural nature, such as roads, communications, dams etc., and projects of a socio-economic character, such as schools, hospitals etc., on interest-free basis according to the shariah. The bank charges only a lump sum service fee, to be paid in installments, to cover costs. Loans approved since 1396 AH amount to ID 685 million (US $781 million) for 135 projects.

Equity Participation: The Bank participates in the capital of agricultural and industrial projects. Projects such as textile mills, sugar mills, cable industry, timber processing, ceramic industry, etc., are financed under this scheme. The programme stands third in terms of the total volume of financing which suggests that identification of projects for the IDB's

participation is yet to go a long way. The number of approved equity operations has reached 59 amounting to Islamic Dinars 234 million (US $282 million).

Profit-Sharing: Financing of projects having quick return by means of participation in the form of profit-sharing. The Bank has so far approved 4 profit-sharing operations amounting to ID 21 million (US $ 27 million).

Leasing: The Bank has approved 50 operations in this field amounting to ID 459 million (US $510 million). The ownership of the leased items will revert to the lessee after a stipulated period of time. Projects financed under this programme include purchase of ships and trawlers, railway wagons, tractor assembly units and other heavy machineries and equipments that help in the transfer of technology.

Instalment Sale: This is a new mode of financing introduced by the Bank in 1405 AH to supplement lease financing. Unlike leasing, ownership of the asset provided is transferred to the purchaser immediately after delivery of the asset, while the purchase price is payable by installments. To-date, the Bank has approved an amount of ID 442 million (US $ 539 million) under this mode for 54 projects.

Technical Assistance: Provision of technical assistance to member counties for feasibility studies of potential projects for preliminary and detailed designs and consultancy services, as well as procurement of research and training equipment during the execution phase of a project. This is normally in the form of a

loan or a grant in exceptional cases (not exceeding ID 150,000) or a combination of both.

These assistance are aimed at identifying suitable projects for financing in the future. The number of technical assistance operations reached 149 for an amount of ID 62 million (US $ 74 million).

Short-term Financing: financing of short-term imports of member countries by purchasing commodities of a developmental nature by some member counties in various fields of development and reselling them to the beneficiary member countries with the facility of paying in installments. The number of import operations reached 497 amounting to ID 5.4 billion (US $ 6.3 billion).

The IDB introduced the Long Term Trade Financing Scheme (LTTFS) and the Islamic Bank portfolio (IBP) in 1408 AH. The purpose of the LTTFS is to promote export of non-traditional commodities originating from one participating country to other member countries of the OIC by providing funds for periods ranging from 18 to 60 months whereas a an investment pool (fund) under the management of the IDB, is to mobilise some liquidity available with the Islamic Banks, than channel them to finance trade operations, leasing and other modes of investment with special emphasis on the private sector.

The number of countries which have joined the LTTFS so far is 20 with a total contribution to the LTTFS resources of ID 151.5 million in addition to ID 150 million representing the contribution

of the Bank. Under the LTTFS a total of 42 export financing operations were approved in favour of six participating member countries with a total value of ID 66 million (US $ 87 million).

The Islamic Bank Portfolio was established in pursuance of the articles of Agreement establishing the IDB and in accordance with memorandum of understanding signed in Istanbul on 27 Rajab 1407 AH (27/3/1987) by a number of Islamic banks and financial institutions.

The founders of the portfolio are 22 Islamic banks with an initial capital of US $ 65.5 million. The initial issuance has been fully covered. However, the participating committee of the Islamic banks portfolio at their meeting held on 23.3 1407 AH (3/11/1988) adopted a resolution which provided for rising the capital of the portfolio to US $ 70 million. The portfolio started functioning in Rabi-ul-Awwal 1408 AH and up-to now it has approved financing of 21 operations worth US $ 91 million.

IDB Unit Investment Fund: As part of the Bank's efforts to mobilise resources, the IDB Unit Investment Fund was launched in December 1989 with an initial size of US $ 100 million. The fund involves the IDB transferring some of its mature investments to the fund in exchange for immediate payment, thus, allowing for financing further development activity in the Bank's member countries. In effect, the fund has served as a vehicle for the Bank to securitize its financing assets and this serve to replenish its financial resources while creating a security, or several securities as it is hoped for in the future, that could be traded

in secondary markets.

In conclusion, it can be said that the IDB has been established to fulfil the hopes and aspirations of the Muslim Ummah through a planned programme of economic assistance to member countries and to the Muslim community in non-member countries. The hope has been materialised to a large extent. Yet the IDB has a very long way to go and has many things to accomplish. Given proper planning and adequate fore-thought, it can very well expand its sphere of activities and this can enhance the socio-economic condition of the Muslims in particular and the world population in general.

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CHAPTER FIVE

5.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary: This chapter attempts to summarise the researcher's findings, conclusions derived and recommendations based on the data analysis and interpretation outlined in the preceding chapter. Prior to doing so, it will be pertinent to briefly refer to the earlier chapters 1, 2 and 3.

Chapter one attempts to detail out the conceptual frame work of the researcher, statement of the problem, scope and limitations of the study and definition of terms and expressions used in the compilation of this study. It is the introductory chapter.

Chapter two has attempted to review related literature within the researcher's reach. The chapter examines the literature under the contemporary investment concepts ad what the alternative view point has in store. Then follows literature based on write-ups of Islamic economists comprising books, publications, conference papers etc presented by learnt scholars on the subject. Published books, professional articles and salient features called out from newspapers, magazines and relevant journals, seminar papers and students' thesis and project write-ups were also examined in the chapter.

The last section of this chapter focuses on Joint Stock Company in an interest-free economy. The characteristics of the Joint Stock Companies were x-rayed by reknown scholars. It is effort being made towards formulating a realistic Islamic

investment system that integrates western investment structures without violating any of the laid down principles of the Shariah.

Chapter three spells out the research methods employed in gathering the relevant data for this project. This include the use of library materials and other secondary sources of information. The interpretation has remained principally descriptive in all.

Chapter four dealt with analysis and interpretation of the data gathered through the various means out-lined in chapter three. A number of studies were looked at and the injunctions of the Holy Quran and Hadith studied. Literature of various writers were studied also. There was no need to doubt the Quran and the Hadith, therefore effort were generally geared towards understanding and substantiating instructions of the Quran and Hadith.

The study dwelt on the objectives of investment in an interest-free economy and pointed out specifically to the type of services ideal finance companies offered like in Pakistan, Saudi Arabia and even in the west, the U.K. for instance. The practice in some parts of the world are taken as a model and suggestions for improvement as required by learned practitioners was portrayed. Services offered by the IDB were considered. The aims and aspirations of this institution vis-a-vis their successes were also analysed.

5.1 Conclusion: Based on the investigations and subsequent findings highlighted in chapter four, the investigation concludes with the following verses of the Quran:

> "Those who devour usury will not stand except as stands one whom the Evil one by his touch hath driven to madness. That is because they say: Trade is like usury, but Allah Hath permitted trade and forbidden usury. Those who after receiving direction from their Lord, desist, 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). Allah will deprive usury of all blessing, but will give increase for deeds of charity: for He loveth not creatures ungrateful and wicked." (Q2:275 - 276).
>
> "O ye who believe! fear Allah, and give up what remains of your demand for usury, if ye are indeed believers." (Q2: 278).

It can be seen how Allah (SWT) condemned riba in all its ramifications. The basic assignment now is to spread and educate both Muslims and non-Muslims on the existence of an alternative, a solution to all crisis existing in the economic world. It may take time but it has to start somewhere and some how. It is a well known fact that many economic distresses are caused principally by interest rates why not then try another solution be it Muslim or not but one recommended by Allah (SWT).

The economic system of Islam is the oldest of all organised economic systems. However, with the decline of the Islamic governments and in the absence of its application and study for centuries it did not get the scope to grow and expand as an academic discipline to the level of the intellectual demands and tastes of the present day societies. On the other hand, social thinkers and economic practitioners alike are now seriously concerned for the failure and the inherent incapabilities of the now dominant economic systems to establish and maintain the needed

humane economies for the world societies. Thus, there is a strong desire for a more effective and desirable system.

Apart from being a divine blessing from Allah, Most High, to the world, Islamic economics has some obvious world appeal. Its condemnation for usury (riba), and its origin deeply embedded in the deepest normative values of a major religion, give Islamic economics a sense of reliability and of eternal consistency and also give it the immaculate dimensions of rectitude. This is much more appealing than corrupt economic systems whereby interest rates, exchange rates, credit systems and fiscal and monetary policies are manipulated in the name of "controlling" the society or "managing" the economy. One result of this sort of manipulation is the false inflation of value of money which has a predictable effect on prices and distribution of wealth and, therefore, of influence in the society. Even with the most penetrating lens, it will be impossible to see justice in that sort of system which extols the survival of the smartest and luckiest.

The provision of Zakat for Muslims and prohibition of riba is ordained by Allah (SWT). The institution of Zakat should be reconstituted and merged in the economy to replace the lost taste of purity in our wealth, the economy can certainly resume its real growth and poverty will be reduced, inflation will be minimal and funds will not be constrained in few hands. Money will be in circulation and there will be free trade both nationally and internationally. In this way, there will be real capacity to inject measurable investment funds for agricultural, industrial,

commercial and other developmental purposes. Deposits wise there will be sufficient deposits to service those in need at no interest and affordably the banks may operate on profit sharing ventures with the owner, bank and entrepreneur with benefits to all and without hurting anyone. There will be appreciable creation of jobs and healthy competition that will generate higher profits for entrepreneurs and banks.

The present problems confronting investment companies may drastically be minimised, thus:

a) Unhealthy competition will be minimised due to reduced risks.

b) Excessive profits may be reduced thereby channelling only proper funds as profits.

c) Preferential treatment based on who is who will be replaced by priority projects.

5.3 RECOMMENDATIONS

The following recommendations are made to provide a frame work of action for the realisation of economic and business objectives:

1. The philosophy of secularism should be rejected by Muslims as part of their socio-economic and political life. This is because the foundation of secularism is based upon the contention that the ingredients for human progress can be developed quite perfectly by intelligent and rational application of human reasoning unguided by divine authority. This type of wrong perception has led to the emergence of different types of unlawful socio-economic institutions in many Muslim societies. It should be emphasised that at no

instance can Muslim societies adopt a secular outlook in their activities and yet retain their Islamic characteristics. Ideal societies cannot really establish their socio-economic and political structures on secular models and expect to achieve the goals of Islamic welfare order.

2. Muslims should strive, at the community level, to establish all the necessary socio-economic institutions needed for living a decent and comfortable life in this world. In this connection, we need to explore all the bounties provided to mankind by Allah without setting any limits to the extent of our material growth provided that we do not compromise the Islamic code of conduct in our endeavours.

3. Muslims should, as a matter of priority, start a long-term training programme of the younger ones to awaken the requirements to take up future economic challenges; without adequate knowledge and training strategies little achievement can be made in this field.

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A P P E N D I X (I)

LIST OF ISLAMIC FINANCIAL INSTITUTIONS ESTABLISHED IN DIFFERENT COUNTRIES

	NAME AND COUNTRY	YEAR ESTABLISHED
1.	Kuwait Finance House, Safat, Kuwait	1975
2.	Jordan Islamic Bank for Finance and Investment, Amman, Jordan	1978
3.	Islamic Investment House, Amman, Jordan	1981
4.	Bahrain Islamic Investment Company, Manama, Bahrain	1981
5.	Dar-Al-Maal Al-Islami, Nassau, Bahamas	1980
6.	Islamic Investment Company Ltd, Nassau, Bahamas	1979
7.	Islamic Exchange and Investment Company, Doha, Qatar	1980
8.	Islamic Banking System International Holding, S.A. Luxembourg	1978
9.	Islamic Banking System, Tehran, Iran	1979
10.	National Investment Trust, Karachi, Pakistan	1979
11.	Pakistan House Building Finance Corporation Karachi, Pakistan	1979
12.	Investment Corporation of Pakistan, Karachi Pakistan	1979
13.	Islamic Modaraba Co., Karachi, Pakistan	1980
14.	Islamic Investment Co. Ltd, Switzerland	1979
15.	Dar Al-Maal Al-Islami, Geneva, Switzerland	1980
16.	Islamic Arab Insurance Company, Dubai, UAE	1980
17.	Islamic Investment Co. Ltd, Sharjah, UAE	1977
18.	Islamic Finance House, London, U.K.	1982

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A P P E N D I X (11)

SECTORAL DISTRIBUTION OF THE IDB'S FINANCING

Sector	Industrial & Mining		Transport & Communication		Agriculture		Utilities		Special Services		Others		Total
Year	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount
1395H	7.45	55.06	-	-	-	-	6.08	44.94	-	-	-	-	13.53
1397H	38.83	38.95	44.27	44.40	11.12	11.15	-	-	5.38	5.40	-	-	99.72
1398H	37.35	50.67	-	-	13.00	17.35	19.68	26.27	-	-	4.27	5.70	74.91
1399H	52.79	50.65	24.42	23.41	8.45	8.07	3.42	3.22	5.04	4.83	3.38	3.23	104.22
1400H	47.02	36.49	28.83	22.38	18.57	14.39	22.10	17.27	12.01	9.32	-	-	128.47
1401H	63.91	52.51	22.32	18.43	27.10	22.40	5.12	4.46	-	-	-	-	114.35
1402H	69.52	40.01	38.65	22.21	29.51	16.99	25.50	15.19	5.00	2.98	3.70	1.62	167.36
1403H	55.03	27.03	74.22	35.47	6.06	2.88	21.13	10.04	39.53	18.82	13.01	6.25	236.98
TOTAL	360.85	40.43	212.63	23.47	114.81	12.57	139.22	11.36	67.65	7.41	19.24	2.10	913.45

Source: Calculated from the Seventh and the Eighth Annual Reports of the IDB.