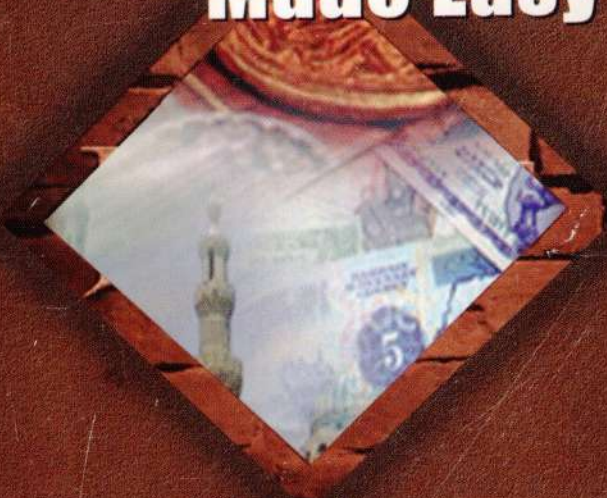




Banking Issues Made Easy



In the light of Fatwas of
four prominent Mujtahideen

An Introduction on the Islamic Banking
A Report on the Banking Disaster of 2009

By:
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Publisher:

Islamic Afkar Foundation Pakistan



1st Edition 2010

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Distributor:

Mehfooz Book Agency

Martin Road, Karachi.





A clear message from the Holy Book:

"Those who exact usury will not stand but like one deranged by devil's touch. That is because they say, trade is just like usury. While Allah has allowed trade and forbidden usury. Whoever , on recieving advice from his Lord, relinquishes (usury), shall keep (the gains of) what is past, and his matter will rest with Allah. As for those resume, they shall be the inmates of the fire and they shall remain in it."

(The Holy Quran 2: 275)



A: Introduction

Islamic banking is a topic that has received ample attention in the last decade. Ayatullah Shaheed Baqir-us-Sadr of Najaf, Iraq, in his book, "Al-Bank Al-Larabawi – Fil – Islam," has presented the concept of 'interest free' banking which was developed by Ayatullah Ishaq Fayyaz of Najaf. Later, detailed investigation on Islamic banking in Iran took place. Afterwards some prominent work was done in Pakistan by Molana Taqi Usmani and in some Arab countries as well..

Although more than 100 Islamic banks are working throughout the world, but it needs more research and wider changes to groom real Islamic banking. Islamic banking does not mean that 'usury' is Halal in Shariah nor do such banks deserve to be called Islamic Banks, who are leasing cars worth Rs. 0.4 million in 0.65 million whereas the same car is available for Rs. 0.6 million in conventional Banking! In fact, an Islamic Bank is such a bank which gives a loan worth Rs. 0.4 million for Rs. 0.4 million and does not receive any kind of mark – up or usury under the name of service charges.

Only this kind of loan is known as 'Qarz-e-Hasana' (good loan). The existing banks, which have opened various Islamic Branches, can also open a branch known as 'Qarz-e-Hasana' where small and medium loans without usury can be offered. Islamic Banks have not offered usury free loans nor are they benefiting the poor. While Islamic banking is a new idea and still needs time to replace conventional banking. Hence, developing a totally negative attitude regarding conventional banks will not be appropriate. Banks buy houses, give money to employees, take care of your money, use profit in business and investment and gain through it and thus the economy flourishes.

Banks transfer our money from one city to another and from one country to another country. Banks provide LC (Letter of credit) to businessmen; give credit cards; receive utility bills; pay school fees, give employment to people and do enormous work regarding the transaction and growth of money.

However, along with all these functions one wrong aspect is that of its taking usury. Though, due to this interest money all the profit existing in

banks is not haram as it is noted by the Jurist that the entire money available in banks is not 'Haram', only usury is 'Haram'. Just because of 10% usury the entire money and profit present in banks cannot be 'Haram'. Thus, in order to save ourselves from future economic disaster and from being bankrupt we have to mend our ways in banking. Similarly we can not reject conventional banks simply by saying that they belong to the Jews.

Rather, we have to apply ways and means to mould their operations in accordance with the Islamic rulings. One step towards this agenda is that our banks should open a branch known as 'Qarz-e-Hasana' and if this is not possible then our religious businessmen should open an institution or casket where people can obtain loans without interest and stop giving excuses that without interest they cannot run the economy! Because the economy cannot run with interest either! So why should we take interest as well as suffer from loss! The casket of 'Qarz-e-Hasana' should adopt all the rules of Conventional Banking except receiving interest or usury!

In this article, we will try to clear the reasons for economic inflation. One of the problem of modern economy is inflation. While if you stick to Islamic Banking and a borrower shall have to pay back only the principal amount then there will be no more inflation as the price of money will remain constant. This inflation is so dangerous that in America the rate of unemployment has reached up to 8.5% in 2009 while in 2010 it was exceeding 9% where as the number of the unemployed has reached up to 6,69,000 (almost 7 million). In Australia it is 5.2%. America has undergone a loss of one trillion dollar. IMF and World Bank are being destroyed and to save them the budget is being decreased.

May Allah show us that day soon when we will be running an Islamic bank and will be safe from the harmful clutches of these two banks that are the hunters of Muslim countries.

If America is serious in saving its own states and the world from economic inflation then it should change its so-called war policy against 'terrorism'. However this is also a bitter fact that if Pakistan does not come out of this

war and if traitors present in various agencies and ministries and people like Mir Jafar are not punished, then Pakistan will move towards complete disaster.

In the existing booklet we have tried to copy the 'Fatwahs' of four 'Mujtahideens' and have tried to present it in a compact and beneficial way. Contrasts in fatwas may be visible but it is due to the extent of progress that has been in understanding banking operations. May Allah accept this little piece of work. Ameen!

Principles of Shariah extracted from:-

Tauzeeul-Masaail-Maraje 2nd volume, Jameatul Mudarreseen, Qom; Minhaj-us-Saliheen; Report on Bank Disaster 2009

Syed Mohammad Qurratul-Ain-Abidi

9th April'2009, Karachi.

B: ECONOMIC DISASTER, CRISIS IN BANKS AND ITS REASONS:

Before discussing about banking issues we will have to take a look at the existing economic system and understand the basic rules of Islam. We will then take a look at banking issues. The Holy Quran has declared: '*Allah will erase usury and increase charity*' (2: 286) a strange aspect is this, that those living in a profitable system foresee that charity decreases their resources while interest increases it. Allah has said that He will eradicate interest and promote charity just like He has increased the breed of goats and sheep so much so that in spite of immense slaughtering, their breed and quantity is increasing. On the other hand, no one eats snakes but in spite of that they are becoming extinct because the female snake eats its offspring itself and those that are left are harmful for mankind. Thus interest and the system of interest is also no less than a snake! The entire world's economy and especially America's economic crisis should be viewed with this perspective. Presently, the whole world is standing at the verge of economic disaster rather than going towards advancement and happiness, and this might result in drought most commonly.

The basic reasons for this will also be:

- 1- System of Interest;
- 2- Capitalism;
- 3- Imperialism

In the words of the Holy Book this is termed as spreading turmoil and gaining superiority.

Twenty years ago from today when this fact was stated in this valuable Book that usury is a disaster; downfall and destruction not advancement; then the developing bankers were not ready to accept it, looking at the temporary flourishing economy. Experts in banking, bankers and intellectuals were not even ready to hear these kinds of facts. However when the news of destruction is becoming common all around the world, banks are bankrupted, companies are falling down and unemployment is increasing at an alarming rate then the truth stated from this pious Book becomes brightly prominent that 'Allah will eradicate interest and increase charity'.

There is still time for the society to realize that by denying this fact of Allah they cannot develop in any way. Therefore it is important to present a short overview of America's and the world's future disaster and later the reasons will be addressed.

THE PERCENTAGE OF ECONOMIC DESTRUCTION:-

According to the latest numbers and digits almost all American banks have suffered from economic destruction but the most effected bank was Merill Lynch Bank which was bankrupted and at last after being sold for 50 billion US Dollars, was merged into the Bank of America. There are no examples found of such a big bank heading towards such massive destruction. The loss suffered by the other banks is as follows:

01. City Group Bank: 40.7 million US Dollars;
02. Merill Lynch Bank: 90.2 Billion US Dollars;
03. HSBC Bank: 15.6 Billion US Dollars.

These are the same banks in which our politicians, capitalists and landlords keep their money with confidence after gaining the hard-earned money of the masses; when these banks are suffering from loss the most. American economic experts avoid telling the real reason of this crisis, and they try to give this logic that this crisis is due to excess amount of mortgage. The system of interest is already heading towards destruction but this is a gradual deed, where as the present crisis has come over suddenly and immediately. In fact if we take a correct overview of the events then we will come to know that this immediate destruction is due to the so-called war against terrorism. Murder of innocent people; deserted cities and villages; ruined crops and agriculture and destruction of economy are what America has gained through this war. The result is prominent that the whole world is unsafe; they are mistaken if they are thinking that the problem of peace will be confined to the Muslim countries only. If they would have been honest in this war then why were they unable to arrest the most famous dangerous terrorists? In fact, through this war suicide bombing has been promoted and the gift of the murder of many innocent lives has been given to humanity. In spite of all this America calls itself the 'Reformist' of the whole world whereas the truth is that it has spread conflicts all around the world including Iraq, Afghanistan and Pakistan.

Allah's holy Book has guided us in this aspect as well: '***And when they are told not to spread conflicts on earth then they say that we are the ones who are the reformists***' (2:11).

This verse clearly points out American policies. America thinks it is the reformist of the earth, the world and the west, whereas the fact is that it is responsible for all the terrorist activities and war including economic destruction and if the people on earth do not reject its policies then they should get ready and wait for mass destruction.

May Allah (SWT) save us from the consequences of the ongoing system where people are denied their basic rights and are so much subjected to injustice that they are forced to commit robbery and crimes.

C: PROBLEMS OF SHARIAH RELATED TO BANKING

Normally banks perform a lot of tasks but two major tasks are taken from a bank: Money is either kept in a bank, or taken from a bank. In the eyes of Jurists there is no difference between *'Current' and 'Savings' account*. Imam Khomeini (RA) and Ayatullah Khamenai do not differentiate between banks whether they are public or private, whether they belong to Muslims or non-Muslims, whereas Ayatullah Khui (RA) and Ayatullah Seestaani differentiate between banks. Therefore in order to highlight their problems we need to divide banks into three kinds:

C.1 Banks of Non-Muslims (Foreign Banks)

C.2 Private Banks of Muslims (Bank Al-Habib, Habib Bank, MCB)

C.3 Public and Semi-Public Banks (National Bank)

C.1- Foreign Banks

Foreign banks are the banks belonging to Non-Muslims whose resources do not have any sanctity in Shariah Depositing.

C.1-a) Depositing

Depositing money in a foreign bank for the purpose of increasing it, is haram, but there is a way to save oneself from this haram which is, that one can request the particular bank in which money is kept, not to give interest, in the sense that if the bank does not give interest, one will not demand for it then one is legible to take profit and can keep money in a foreign bank.

(Tawziul Masa'il Marajay' Vol:2 P:879)

Imam Khomeini (RA):

It should be noted that according to Imam Khomeini's perspective there is no difference between foreign and internal and public or private banks.

Ayatullah Khamenai (RA):

It doesn't make any difference whether one makes an agreement with the bank for not receiving any interest or goes along with the rules of the bank. Depositing money in a bank without receiving any kind of interest is allowed in the Shariah whereas receiving interest for that money is not allowed. e.g.

if one receives interest of Rs. 100 for depositing Rs. 1000, then taking back Rs. 1000 is legal in the eyes of Shariah and Rs. 100 will remain illegal or Haram.

(Same Referance P:935)

Ayatullah Seestaani:

Ayatullah Seestaani declares that receiving usury from Non-Muslims is legal in the law of Shariah. According to this law depositing money in a foreign bank in the form of fixed deposit and then receiving interest on it is legal.

A question and its answer from Ayatullah Khamenai:

Q. Is it allowed to deposit money in a Non-Muslim bank and gain profit from it? Is it allowed to use the money gained from interest on the basis of its owner being a Non-Muslim or on being a Jew or a Christian and on the basis whether one has made an agreement to gain profit from the bank or not?

(T.M. Vol:2 P:936 Issue No. 1917)

A. It is allowed to gain profit under all these conditions even though if one has made the agreement of gaining profit from that bank.

Depositing money in a foreign bank in the form of 'fixed deposit' and gaining profit from it:

Ayatullah Khomeini: It is not allowed to gain profit under any circumstances.

Ayatullah Khuii: If agreement is not made then it is allowed to gain profit.

Ayatullah Seestani: It is allowed.

Ayatullah Khamenai: It is not allowed but as it is the cause of increasing glamour and material benefits it is objectionable in this regard.

(Issue No. 1926)

C.1.b). Borrowing Money from Foreign Banks:

Ayatullah Khomeini (RA):

It is illegal to borrow money with usury.

Ayatullah Khuui (RA):

It is allowed to borrow money from foreign banks but it should not be entitled with the name of loan, and it is not necessary to take the permission of any religious scholar for spending it. *(Same Reference P:848)*

Ayatullah Khamenai:

It is incorrect and illegal in Shariah to take loan with usury unless one becomes so desperate to perform an illegal task which becomes legal under such circumstances: e.g. in certain situations it becomes legal for man to eat the meat of dead creatures. *(P:935)*

Ayatullah Seestaani:

It is allowed, to take loan from foreign banks with the condition that it will be paid back with mark-up or no interest. Although, it is illegal yet the only way to save oneself from this illegal act is not to give it the title of 'loan' even though it is known that the bank will take the money back with interest. *(P:840)*

Borrowing from foreign banks:

Ayatullah Khomeini: It is not allowed.

Ayatullah Khuui: It is allowed if it is not entitled as 'loan'.

Ayatullah Seestani: It is allowed if it is not with the perspective of a loan.

Ayatullah Khamenai: It is incorrect and illegal.

C.2. Private Bank of Muslims:**i) Depositing****Ayatullah Khomeini (RA):**

If money is kept in the bank with this condition that the bank will not use the money and keeps it as a belonging that has to be returned i.e. it doesn't give any kind of profit to the account holder then it is allowed; however, depositing money in a bank is assumed as a loan and profit is also given therefore it is not allowed. *(P:812)*

Ayatullah Khu'i (RA):

Depositing money in the bank as a fixed deposit in which interest is received is illegal in Shariah. In order to save oneself from this process one can make this agreement with the bank that the bank either buys one's product from the market at a higher price or sells it to one at a cheaper rate compared to the market. e.g. if one makes an agreement with the bank to keep Rs. 400,000 for a year and after a year if the bank sells a car to him for Rs. 400,000 instead of Rs. 500,000 then it is allowed. So the bank will keep his belonging as a commodity and not as money. (P:846)

Ayatullah Seestaani:

Ayatullah Seestaani says that depositing in a bank i.e. giving loan to a bank is allowed, if one does not make this agreement with the bank that it will give profit on it even though he knows that the bank will give profit. However, this does not mean that he will not be responsible for the interest in fact what is meant is that he should not connect profit with depositing the money. (P:879)

Under such circumstances if money is deposited in a bank without any kind of agreement that the bank will not give profit on it then such an investment is allowed but interest is illegal. Even if the bank gives profit he will not be the rightful owner of it, in fact he should be contented that his masters are satisfied with his act of taking interest and that is how it goes.:

Maintaining an account in a Muslim private bank or depositing money as fixed deposit and gaining profit through it.

Ayatullah Khamenai:

Q. The bank gives profit every month on a certain condition to those who have kept money in a bank as '*Fixed deposit*' with this attention that the amount of the profit will be fixed beforehand such that the profit can be used in business and the person to whom the profit belongs will not suffer any kind of loss. Is it allowed to deposit money and gain profit or is it not allowed on the basis of interest?

A. If money is deposited in a bank in the name of 'loan' then interest on it is not allowed. However, if it is not entitled as loan, and in fact if the person intends to reinvest it which will be spend in the right way then it is allowed. It should be noted that fixing the amount of profit on the investment and the concerned person's not being involved in the loss will not affect this law at all. *(Issue No. 1939)*

Ayatullah Khomeini(RA): It is illegal (Haram) to gain profit.

Ayatullah Khuui(RA): It is allowed if it is done in the form of a legal transaction.

Ayatullah Khamenai: If one intends to invest it then it is allowed.

Ayatullah Seestaani: If connection is not created between profit and investment then it is allowed.

C.2 ii) Taking loans:

Ayatullah Khuui (RA):

Taking loans from banks and repaying it with interest is illegal (Haram), however, if it is done in the form of a legal transaction it is allowed, e.g. instead of taking a loan of Rs. 400,000 from the bank and giving Rs. 200,000 usury on it, one can buy a car for Rs. 600,000. This may be a legal transaction to avoid usury.

Ayatullah Seestaani:

Taking loan from banks with the condition of paying it back with interest either 12% or 5% is illegal (haram). If anyone takes loan from a bank in spite of it then the principal amount is correct but the mark-up is not right and paying interest on it is not allowed.

There are many ways to refrain from interest. One of the methods is that the bank can sell any product to the customer at a higher rate than the market (e.g. selling a car for Rs. 500,000 instead of Rs. 400,000) and taking it back at a cheaper rate, i.e. for Rs. 400,000). However, if the person who has taken loan delays to give it back then the bank will not receive any late fee or surcharge because it is interest and therefore it is not allowed.

Ayatullah Khamenai :

It is illegal to take loan with interest from banks in Shariah. In this regard making an agreement with the bank in which one will refrain from interest apparently is illegal (haram), and interest from it is also not allowed at all.

Taking loans from private banks with usury:

Ayatullah Khuui and Ayatullah Seestaani:

It is illegal (haram) but it can be avoided by doing it in the form of a legal transaction.

Ayatullah Khomeini (RA) and Ayatullah Khamenai: It is illegal (Haram).

C.3 Government and Semi-government banks:**i) Depositing:****Ayatullah Khuui (RA):**

Depositing money in a bank with the purpose of receiving interest is illegal (haram). One can refrain from this illegal act if one does not deposit money with the intention of gaining profit i.e. with the purpose that if the bank does not give interest he will not demand for it. However if the bank gives him interest then he is not the owner of it therefore with the permission of an Islamic ruler or jurist (Mujtahid) he can spend it. (P:848)

Ayatullah Seestaani:

Depositing money in a bank with the purpose of receiving profit on it is illegal (haram). Depositing money in such banks is equal to wasting it because (it belongs to the State and the owner of the State is unknown) the owner of such banks is not known and whatever money the bank will return will not belong to that person, in fact the owner of that money will be unknown. However, if money is deposited then one will be allowed to use it after paying khums only. (Same Reference P:880)

Depositing money in government banks and gaining profit on it:

Ayatullah Khuii (RA): One should not deposit money with the intention of gaining profit, it is allowed only with the permission of an Islamic ruler (Jurist).

Ayatullah Seestaani: If Khums is paid it is allowed.

Auyatullah Khamenai: It is allowed if money is deposited with the purpose of investment.

C.3 Government Banks:

ii) Taking loans:

Ayatullah Khuii (RA):

Borrowing from government banks with the condition that usury will be repaid with it is illegal (Haram). However if it is taken as its owner is unknown and spent with the permission of a jurist, then it is allowed, even though he knows that the bank will charge him usury also under all circumstances.

Ayatullah Seestaani:

Taking loans from government banks e.g National and Kisan Bank is illegal/haram with this condition i.e. if interest is paid with it, the reason for it is that those who manage the bank are not the rightful owners to use the resources in the bank.

In order to save oneself from this doubt one should take money in the name of an unidentified owner and spend it with the permission of a jurist (mujtahid). Later if the bank demands interest with the actual money one can repay it.

Ayatullah Khamenai:

If the bank is demanding interest on loan then it is illegal (haram). What is illegal / haram cannot be legal/halal even with the permission of a jurist (mujtahid). However, if he is extremely desperate that eating the meat of an un-slaughtered animal is allowed then he can take loan with the intention that he will not pay usury.

Borrowing with usury from government banks:

Ayatullah Khuii and Ayatullah Seestaani:

It is illegal / haram in the name of loan but allowed if taken under the name of an unknown owner and spent after the permission of a jurist.

Ayatullah Khamenai and Imam Khomeini: It is illegal / haram

A question from Ayatuallah Khamenai and its answer:

Q. With this factor in mind that the banks in Islamic countries belong to cruel owners or are affiliated with them or belong to some institutions that are of non - Muslims; how can transaction be done according to the law of shariah?

A. It is allowed / halal in Shariah to do transaction from such banks with out any doubt. However, transaction with interest or receiving interest on loan is illegal / haram, whether the bank is of Muslims or co-operatives.

(Issue No. 1927)

D: Employment in Banks:

There are two types of transactions in banks:

(i) Legal / halal transaction; (ii) illegal / haram transaction. If the bank chooses someone to fix or receive interest; or the bank gives loans to open an alcohol factory and employ someone there then it is illegal / haram to be employed in such a bank.

All kinds of transactions which are allowed in shariah from banks is legal / halal; taking salaries and getting employment in banks is also allowed / legal / halal.(It means that if a person is getting his salary from the Bank against illegal work only, then it will be Haram otherwise it will be Halal).

(Issue No. 1947, 1948)

Ayatuallah Khamenai:

Employment in such banks where transaction is done on the basis of interest is not allowed. However, management accounting and crediting related to banks in which illegal transaction is not involved, is allowed.

E: Credit card:

The bank issues credit cards on the trust and assurance that one can acquire a certain amount from the bank which he has not deposited. If the money spent from credit cards is repaid within a certain amount of time then the bank does not demand interest and it is legal / halal. However if it is not repaid on time then the loan of the credit card will be received with interest/usury which is obviously illegal / haram as mentioned earlier.

F: Prize Bonds / Gift Schemes:

In order to encourage people the bank offers various kinds of schemes and distributes prizes in huge amounts. Prize bonds are also of the same nature.

Ayatullah Khomeini RA: It is allowed.

Ayatullah Khuii (RA) and Ayatuallah Sesstaani:

If the prize scheme is for encouragement without any condition then it is allowed with the permission of a jurist in case of a government bank. In case of a private bank the permission is not necessary. However, if the lucky draw is done with an agreement and condition then the prize will not be legal / halal. (P:887)

Ayatullah Khamenai:

It is allowed and it is not compulsory to take out khums on prizes and schemes.

G: Taking insurance policies:

Aytullah Khamenai: It is allowed.

(Issue No. 1951, 1952)

Ayatullah Seestani: The agreement or condition of the insurance people is clear and is followed accordingly then it is legal / allowed / halal. (Profit offered by the insurance policy will also be halal as it is under the terms and conditions of a legal transaction). (P:839)

Other Published works of the author:

Gulistan-e-Zehra(S.A)	Urdu
Seerat-e-Ali (A.S.) – (Translation)	Urdu
Hamary bara Imam (Translation)	Urdu
Islami Afkar o Shakhsiyaat	Urdu
Faqahat kay darwazay par (about taqlid)	Urdu
Tafsir-e-Ayaat	Urdu
Nehju' Balagha for Kids	Urdu
Darasaat-Fil-MaKasib (prohibitedbusinesses)	(Arabic)
Annafey ul Qaleei	(Arabic)
Music in the mirror of Ahlal-bait (A.S.)	(Persian)
Reforms in an Islamic Society	(Persian)
Imam Hasan (A.S.) and Caliphate	English
War and peace	English
<i>Banking issues made easy</i>	<i>English</i>