

## Finding the Cure for the Cancer of Usury

*We live in a society which is not governed in accordance with the shari'a<sup>1</sup> and whose laws are often not in harmony with the sunna<sup>2</sup> – what course of action is acceptable in those situations where it is at present virtually impossible to follow the sunna and act within the shari'a?*

It all happened so quickly, few people noticed. When I was a teenager in love, there were not many banks. People were paid in cash. Debit and credit cards did not exist. Money seemed to keep its value more or less from year to year. If they needed to borrow money, people borrowed from each other. What made all this change? – *Usury*.

### The Prohibition of Usury :

The prohibition of usury – including charging or taking interest – by Allah and His Messenger, may Allah bless him and grant him peace, is clear :

Those who practice riba<sup>3</sup> will not rise from the grave  
except as someone driven mad by Shaytan's touch.  
That is because they say, 'Trade is the same as riba.'  
But Allah has permitted trade and He has forbidden riba.  
Whoever is given a warning by his Lord and then desists,  
can keep what he received in the past  
and his affair is Allah's concern.  
But all who return to it will be the Companions of the Fire,  
remaining in it timelessly, for ever.  
Allah obliterates riba but makes sadaqa<sup>4</sup> grow in value!  
Allah does not love any persistently ungrateful wrongdoer.  
Those who have iman<sup>5</sup> and do right actions  
and establish salat<sup>6</sup> and pay zakat,<sup>7</sup>  
will have their reward with their Lord.  
They will feel no fear and will know no sorrow.  
You who have iman! have taqwa<sup>8</sup> of Allah  
and forgo any remaining riba  
if you are muminun.<sup>9</sup>  
If you do not, know that it means war from Allah  
and His Messenger.  
But if you make tawba<sup>10</sup> you may have your capital,  
without wronging and without being wronged.

(*Qur'an* : 2. 274-278)

You who have iman! do not feed on riba,  
multiplied and then remultiplied.  
Have taqwa of Allah  
so that hopefully you will be successful.  
Have fear of the Fire  
which has been prepared for the kafirun.<sup>11</sup>  
Obey Allah and the Messenger  
so that hopefully you will gain mercy.

(*Qur'an* : 3. 130-132)

What you give with usurious intent,  
aiming to get back a greater amount from people's wealth,  
does not become greater with Allah.  
But anything you give as zakat, seeking the Face of Allah –  
all who do that will get back twice as much.  
(*Qur'an* : 30. 38)

Yahya related to me from Malik from Nafi' that he heard 'Abdullah ibn 'Umar say, "If someone lends something, let the only condition be that it is repaid." (*Al-Muwatta of Imam Malik* : 31.44.94).

Malik related to me that he had heard that 'Abdullah ibn Mas'ud used to say, "If someone makes a loan, they should not stipulate better than it. Even if it is a handful of grass, it is usury." (*Al-Muwatta of Imam Malik* : 31.44.95).

Abdullah ibn Mas'ud related that the Messenger of Allah, may Allah bless him and grant him peace, cursed the one who accepted usury, the one who paid it, the witness to it, and the one who recorded it. (*Sunan of Imam Abu Dawud*: 16.1249.3327).

Abu Hurayrah related that the Messenger of Allah, may Allah bless him and grant him peace, said, "A time is certainly coming to mankind when only the receiver of usury will remain, and if he does not receive it, some of its vapour will reach him." Ibn 'Isa said, "Some of its dust will reach him." (*Sunan of Imam Abu Dawud*: 16.1248.3325).

### **Paper and Plastic :**

It would appear that this time has certainly come, since it is now virtually impossible to live or conduct business without having a bank account which is linked to a banking system which is based on usury. Since the 1st January 1987, employees in the UK no longer have the right to be paid in cash which means that most people now have to have a bank account through which their pay must pass.

Furthermore, since paper money is an (unredeemable) I.O.U., even dealing with today's paper money is in fact usurious, since it is not permitted by shari'a to use an I.O.U. as a medium of exchange :

Yahya related to me from Malik that he had heard that receipts were given to people in the time of Marwan ibn al-Hakam for the produce of the market at al-Jar. People bought and sold the receipts among themselves before they took delivery of the goods. Zayd ibn Thabit and one of the Companions of the Messenger of Allah, may Allah bless him and grant him peace, went to Marwan ibn al-Hakam and said, "Marwan! Do you make usury halal?"<sup>12</sup> He said, " I seek refuge with Allah! What is that?" He said, "These receipts which people buy and sell before they take delivery of the goods." Marwan therefore sent a guard to follow them and to take them from people's hands and return them to their owners. (*Al-Muwatta of Imam Malik* : 31.19.44).

Using plastic electronic money is a substitute for using paper money and therefore the same judgement applies. Furthermore, virtually all money deposited with banks is used by the banks to provide loans on interest and to earn interest for the bank while not being used by the bank account holder. Therefore even if an individual bank account holder does not accept interest on any credit balance, the bank will still be using the money in that credit balance to create money out of nothing by way of interest, either by lending it or by depositing it in an interest bearing account, whether it is overnight or for a longer period.

An example of this is provided by Saudi Arabia. During the oil boom in the 1970s when billions of petro-dollars were flowing copiously into its national bank accounts, the government righteously declined to accept interest on its large credit balances. It then discovered that the banks were still creating money out of these deposits by way of interest and giving it to Israel to buy arms to kill Palestinian and Lebanese Muslims and Christians. So the Saudi Arabian government then decided to accept the part of the interest to which it was 'entitled' and to give it away to Muslims as 'sadaqa'. In effect this replaced the zakat – which in any event should have been paid on the oil in the first place.

Of course if the government of Saudi Arabia had insisted on payment for oil in gold and silver, and had paid zakat on that gold and silver, in gold and silver, and had distributed that zakat to the poor Muslim countries, then those same Muslim countries would not now be shackled by the vast national debts which are owed to the banks which utilise the deposits of the wealthy Muslim countries to provide the loans which result in the vast national debts of the poor Muslim countries – irrespective of whether or not the wealthy Muslim countries accept part of the interest accruing on their bank deposits or not.

The same analysis applies equally to individual accounts when viewed as a whole. If all individual credit balances in a country are totalled up, this gives some idea of the 'working capital' available to the banking system. If all individual debts in a country are totalled up, they may well exceed the national debt, which is usually colossal.

An added dimension to all of this is the fact that the apparent 'value' of paper and plastic electronic currencies is entirely illusory, for what value does a series of numbers printed on bits of paper or stored in databases actually have? Since paper and plastic electronic currencies have no inherent intrinsic value, their perceived value is especially vulnerable to manipulation and also constantly subject to devaluation.

As a result interest is often charged in order to maintain the purchasing power of money rather than to make money – to maintain value rather than to increase value. For example in civil law, claims for money damages often include a claim for interest because due to delay the money claimed will have lost value and therefore this lost value has to be restored by resorting to an interest calculation.

Whatever the reason for charging interest, the consequences are inevitably the same. Money loses its value and everyone is made to pay. An integral part of this process which guarantees the continual erosion of the value of money is the speculation which takes place around the clock around the world in buying and selling large amounts of currencies on the world money markets combined with the gambling in shares that goes on in the world's stock exchanges.

## Stocks and Shares :

Dealing in most stocks and shares on today's stock markets inevitably involves haram<sup>13</sup> transactions. All the major paper and plastic electronic currencies which facilitate these deals are themselves bought and sold as commodities in themselves rather than being treated as mediums of exchange. Their perceived value is therefore at the mercy of rumour and speculation. They can be sold before they are bought and bought before they are sold. This is in contrast with the sunna of dealing in gold and silver – which is gold for gold, silver for silver, weight for weight, hand to hand.

Some shares are in reality I.O.U.s which can be bought and sold for less than their final value prior to their redemption date falling due. Some forms of bonds increase in value by way of compound interest. Some dividends are calculated by way of interest. All of these are haram. Even where the purchase of commodities is concerned, most of the dealings are in futures – which is haram because of the uncertainty and exploitation involved (for example, buying in advance a crop which has not yet been planted for a 'guaranteed' but well below expected market price of the crop once it has been grown and harvested); or else commodities are re-sold after being bought but before the original buyer has taken possession of the commodity, which again is haram.

Even where venture capital is involved, that is investing in projects whose profits are then shared out in the form of dividends, either the project itself may involve haram elements – or else even in halal projects, capital is invested in short-term interest-bearing accounts before being spent on the project.

Underpinning and facilitating all activities on the world money and stock markets is a haram banking system using haram paper and plastic electronic currencies which are constantly being inflated – thereby causing inflation – by means of compound interest. Never before in the history of man has there been such a high degree of sophistication in haram transactions – much of which is beyond understanding and not really interesting – and most of which cannot possibly last for very long. It is in the very nature of things that this haram bubble will burst, especially since Allah and His Messenger have declared war on it.

Although serious attempts have been made to persuade Muslim investors otherwise, 'ethical' investments are not synonymous with halal investments, especially when promoted by banking entities offering 'reasonable' interest. It is therefore prudent not to invest in stocks and shares, but rather to seek alternative halal means of investment – which insh'Allah will become the norm once again in the Muslim world in the post-banking-system age.

Although the present banking system is presented as the natural evolutionary result of all that has gone before, its reality is more in the nature of an experiment less than a century old which continues to go horribly wrong – the experiment being, after thousands of years proven experience, to abandon gold and silver as mediums of exchange in preference for digital tokens.

It is significant that the start of this experiment coincided with the removal of the khalif<sup>14</sup> – just as the end of this experiment will probably coincide with the restoration of the khalif, one of whose functions is to ensure the minting of unadulterated gold dinars<sup>15</sup> and silver dirhams<sup>16</sup> – which have always been the currency of the Muslims – and the collection and distribution of the zakat and jizya<sup>17</sup> taxes in gold dinars and silver dirhams.

### **The Return of the Khalifate :**

The return of the khalifate and the return of the gold dinar and the silver dirham are among the chief imperatives of the Muslims today – and yet to all intents and purposes we now live in a society in which the practice of usury is almost as pervasive and correspondingly as inescapable as radiation. Even if all the Muslims withdrew all their money and closed all their bank accounts today, the banking system would collapse and the paper money in our hands would be worthless and incapable of being exchanged for gold and silver.

Muslims are commanded by Allah and His Messenger, may Allah bless him and grant him peace, to transform ignorance into wisdom – not to commit suicide. The challenge is to establish a halal alternative to the haram option.

### **Gold Dinars and Silver Dirhams :**

The only alternative to this apparently impossible situation for Muslims wishing to live completely within the hudud<sup>18</sup> of Allah is for them to return to the use of the gold dinar and the silver dirham in accordance with the sunna. How can this be done? How do we reach the point where the coin of the realm is once more gold and silver, freely available and freely used?

At present this is possible in a fairly sophisticated manner by using the e-dinar facility ([www.e-dinar.com](http://www.e-dinar.com)), whereby it is possible to open an e-dinar account, convert paper and plastic electronic currencies into e-dinars, and conduct transactions anywhere in the world in e-dinars. Since every e-dinar is backed by a physical gold dinar, e-dinars can be exchanged for physical gold dinars at any time – or changed back into paper and plastic electronic currencies where circumstances necessitate this.

There is not, however, as yet a readily available supply of minted dinars and dirhams worldwide for those who wish to convert their cyber-dinars into dinars in the hand so that they can, for example, pay their zakat in cash, hand to hand. This is only likely to begin to happen once the first Muslim country has introduced gold dinars and silver dirhams into circulation as legal tender in parallel with its paper and plastic currency.

Once this has happened, insh'Allah, and as the use of dinars and dirhams becomes more widespread, one would then expect paper money to take on a secondary role and to be retained to serve as fulus,<sup>19</sup> that is, small change with no inherent value, used in order to facilitate transactions which involve fractions of gold dinars or silver dirhams.

Since gold and silver have inherent intrinsic value, the gold dinars and silver dirhams of one country could be used as a means of exchange anywhere else in the world – which might prompt other Muslim countries to follow suit, rather in the same way that euros are legal tender in all countries which have recognised the euro as a valid currency – the main difference being that unlike gold dinars and silver dirhams, euros have no inherent intrinsic value.

Since zakat on money savings should actually be paid in either gold or silver, the necessity of having gold and silver coins freely available and freely used is of paramount importance to Muslims since these are necessary pre-requisites in order to enable the obligations of zakat to be fulfilled. Using the e-dinar facility also makes this easier to do. [See *Zakat – Raising a Fallen Pillar* by Abdalhaqq Bewley (Black Stone Press, Norwich, 2001) for a more detailed analysis of paper and plastic electronic currencies and the payment of zakat in gold dinars and silver dirhams.]



The creation of the e-dinar facility in parallel with the dominant financial system's paper and plastic electronic currencies indicates a realistic commitment to transform society by replacing what is haram with what is halal in the realm of commercial transactions, as well as providing an ancillary means to re-establish the collection and distribution of the zakat in accordance with the sunna.

The fact that e-dinars can be exchanged back into paper and plastic electronic currencies (at the moment unfortunately only back into US dollars) also reflects a practical acceptance of the fact that for the time being it is impossible to simply abandon overnight the current dominant banking system and the use of its unsatisfactory haram paper and plastic electronic currencies.

It is unlikely, for example, that all national and local authorities and suppliers of goods and services to any given business enterprise are going to open up e-dinar accounts overnight in order to be able to receive payments from the business in e-dinars. It is equally unlikely that landlords, employees, clients and customers will opt respectively for payment of rent, salaries, services and purchases in e-dinars – although some might if given the choice.

Accordingly in the short term there is no choice but to use current financial systems and facilities – even though they are haram – in order to survive, but with the intention of transforming them as soon as is possible. So, short of unconditional surrender, and until the gold dinar and the silver dirham are in plentiful supply and in common use, how do Muslims cope with globally institutionalised riba?

### **Paper Money, Bank Accounts and Debit Cards :**

For the time being we are stuck with paper money, bank accounts and debit cards. They have become so common that some people cannot even recognise any alternative, let alone desire it. Sometimes these 'modern' currencies do facilitate transactions, even though there is always a price to pay, to the bank. Given the way financial systems are structured at present, we have no choice but to use them to some degree in order to function and survive in 'modern' society.

As regards being paid by customers or clients with money which has been created out of interest, in my opinion this should not be refused – although most people have probably already experienced for themselves the fact that 'good' money lasts and 'bad' money soon goes. Perhaps one way of cleaning up such a transaction is to insist that payment should be made out of capital rather than interest – or preferably in e-dinars. It is in reality often impossible to distinguish what money is 'clean' and what money is 'dirty'. For example, today's capital may have been created out of yesterday's interest payment – and in any event as we have already noted paper money is itself haram unless used as 'fulus'.

Sooner or later you will be paid by cheque or bank transfer, which means you need a bank account in order to have access to your money. With the bank account comes a debit card and the opportunity to have a credit card and take out a loan. The banking system is designed to make you feel you cannot do without it and this is what you have been programmed to believe. You are given a debit card to give you 'easy access' to your money. You are given an overdraft facility to give you easy access to money you do not have. If that is not enough, you can extend your credit – meaning your indebtedness – either by taking out a loan or by signing up for a credit card, or both.

Before you know what has happened, you cannot do without the bank because you owe it money and are under a contractual obligation to keep up your repayments – with the threat of court proceedings, bailiffs and consequential further indebtedness if you do not.

As regards a halal alternative, already in limited use is the e-dinar debit card, whereby money can be debited automatically from your e-dinar account (which has no overdraft facility) at any electronic check-out point which has been programmed to have this capability. This halal alternative could be developed just as swiftly as the original cash-point machine – of which, in the beginning, not so long ago, believe it or not, there was only one.

### **Credit Cards :**

Sooner or later a credit card will come in handy, for example, to buy petrol when you have no cash either on you or in your account, or to book a 'plane ticket and hotel room over the telephone, or to purchase goods or services via the internet. Credit cards make it easy to spend money which you do not actually have. So credit cards tend to facilitate additional indebtedness by means of over-spending – in reality they are debt cards, not credit cards – and therefore need to be used with care.

A credit card measures your credit status, which measures how much the banks are prepared to let you get into debt. The more indebted you are permitted to become, the 'higher' is your status. Many people start out with good intentions, avoiding as much as is possible the accrual of interest on the account by settling monthly bills in full, in time. If you are not careful, however, you begin to spend money which you simply do not have, usually in the name of freedom of choice, or 'necessity' – and so begins your life of debt, which in fact progressively limits freedom and ensures enslavement.

Most people go down this road, since as long as there is electricity, credit cards do facilitate swift transactions which otherwise might prove more lengthy, complicated, costly and even impossible – added to which, human nature being what it is, most people desire more than they need and more than they can afford.

If you establish a good repayment record, most banks will automatically increase your credit limit at regular computer programmed intervals as a reward for your ability and commitment to repay. When you have reached the limit of the normal maximum credit limit, most banks will let you take out a loan to pay off the credit card debit balance, thereby making it easy for you to run up another debit balance in addition to the money owed on the loan.

Of course if you go too far too fast then you will be written off along with your debt by being made bankrupt. As with cancer, some survive and some do not. It really does not matter to the banks if some of the money owed to them is never recouped. As long as the majority of people continue to use and rely on the banking system, its continued survival appears to be ensured.

Since so many customers and clients now have debit or credit cards, it seems to make sense to provide them with credit card payment facilities. At least you can be sure of receiving some payment – minus, of course, the bank's commission. The whole process makes the banks appear to be increasingly indispensable – until you begin to think that any shop or place in which you cannot use your plastic card is backward and uncivilised. Like God, the big banks claim to be on call 24 hours a day all the year round – but Allah is Greater.

Those clients and customers who are computer literate and able to grasp the concept should be encouraged to open an e-dinar account and pay by way of e-dinar electronic transfer via the internet – or by e-dinar debit card, once these are available, or preferably in real gold dinars and silver dirhams.

Whether a person or business has a credit or a debit balance, they will have to deal with interest, either because it is being credited to their credit account or because it is being charged on a debit balance, thereby increasing their indebtedness. Given that Allah has cursed paying and receiving interest, how best can Muslims deal with this ghastly situation?

### **Unavoidable Riba :**

The banking system encourages most people and businesses – and all national governments – to remain in a more or less permanent state of debt whereby account holders can just about afford to pay off the interest but never repay the debt. This is one of the banking system's chief sources of income – and its main control mechanism. The challenge is to escape this trap as swiftly and as cleanly as possible.

All national debts are now so high and growing so fast that the only means of servicing them is by increasing taxation on a regular basis – and the only means of escape is by writing them off either partially (called 'restructuring') or altogether (called 'reneging').

As regards individual and business debts, the only means of servicing them as they grow larger is by increasing income on a regular basis, which often can only be achieved by further borrowing – and the only means of escape is by writing them off either partially (called 'individual voluntary arrangements') or altogether (called 'bankruptcy').

Since these means of escape can cause existential paralysis and a sense of shame and worthlessness, most people and businesses in debt try to keep going, in the hope that a windfall will put things right. Life for many becomes a struggle for survival rather than a celebration of the wonderful gift it is.

In these circumstances – and especially for those who find that excessive and unjust taxation has inevitably forced them into debt through no fault of their own – one short-term measure to avoid collapse is to 'use the haram to pay the haram'.

In other words, in the present circumstances, allow interest to be paid on your bank accounts which are in credit – provided that any such interest is automatically transferred to a separate 'interest only' account and used either to pay bank charges and interest that cannot be avoided, or to build up a 'dead interest money' float which is used solely to avoid such bank charges and interest being generated in the first place (for example by easing cash flow bottlenecks, when expected payment is delayed thereby precipitating an overdraft) – but not for any other kind of expenditure.

This approach is only permissible in the short-term provided that genuine attempts are being made to purify your financial situation – including the payment of zakat in gold or silver on financial reserves over the nisab<sup>20</sup> which have not been used for a year – so that it is possible to reach a firmer foundation where :

- (i) interest no longer needs to be accepted in order to pay off interest; and
- (ii) in fact the bulk of your accounts are in the form of e-dinars and cannot therefore be used by the dominant banking system to create electronic money out of nothing by way of interest.



In other words, there has to be a firm commitment to move from the haram to the halal, as much and as soon as is possible, since remaining with the ‘use the haram to pay the haram’ strategy for any length of time only results in affirming and strengthening the haram dominant banking system in one way rather than another.

There is a school of thought that claims that you can ‘use the haram to pay for the halal’, provided that it has been donated to a charity before it is used – but this is a lie and there is no blessing in it. As we have seen with the example of the use of money generated by interest on Saudi Arabian oil money, it amounts to no more than a rather clever although obviously haram way of replacing the collection and distribution of zakat with something which has never been commanded by Allah and His Messenger, may Allah bless him and grant him peace.

It is perhaps arguable – utilising the ‘use the haram to pay the haram’ strategy – that money generated by interest could be used to free people enslaved by debts comprised solely of debit balances created out of interest, but that is about all – and even this is extremely unsatisfactory, because it involves both accepting interest and paying interest and should therefore be avoided at all costs – but if avoiding it means that you will as part of these ‘all costs’ still have to pay interest (including interest on interest) out of future income whenever an account goes into overdraft, thereby ensuring that it remains difficult to extricate yourself from your current situation unless you overcharge your clients and customers – which also is haram – then perhaps the ‘use the haram to pay the haram’ strategy is a short-term option which can be exercised as a means of escape from an otherwise impossible situation, however unsatisfactory this is.

In other words, where payment of interest is inescapable, it is better to choose the lesser of two evils in dealing with it, in the hope that at a later stage it will be possible to avoid paying interest altogether.

### **Avoidable Riba :**

Where payment of interest is a matter of choice – for example by taking out a loan or entering a hire purchase agreement – different criteria apply, since here there is an element of choice as to whether or not a particular transaction should be entered. In my experience, there is only loss and not gain in borrowing money on interest. The profit made in using the money loaned is eaten up by the interest which accrues, so there is little or no profit for the borrower – only for the bank, which demands repayment of the loan plus interest however successful or unsuccessful the borrower may be. If the interest accrues more swiftly than the profit, then the overall result for the borrower is loss, not profit.

It is better to explore and negotiate other options, such as identifying companies who are prepared to offer 0% finance or leasing. In my experience, a combination of prudent good management coupled with genuine attempts to avoid entering haram transactions, attract the help and generosity of Allah, since Allah never commands what is not possible and always honours those who hear and obey.

In other words, the ‘use the haram to pay the haram’ strategy should never be used either to create money to pay for current expenditure or to purchase goods or to finance future growth – or even to pay the interest on loans which have been entered into for such purposes.

It must be emphasised that the purpose of this strategy is using interest only in order either to pay interest that cannot otherwise be avoided, or to avoid paying interest. In my opinion, to use such interest for any other purpose is inviting trouble.

Whenever one is faced with a situation in which there is a mixture of halal and haram elements, it is always helpful to ask questions such as, “What are the relative proportions of the halal and the haram?” and, “Which is the lesser of two evils?” These are not always easy questions to answer – for example, when applied to mortgages.

### **Haram Mortgages and Halal House Purchase :**

Everyone needs a roof over their head. At present most people are given the choice of either renting their home or purchasing it by way of a mortgage. If you rent your home, you will never end up owning it. If you take out a mortgage, there is a possibility that you or at least your children will eventually own your own home, provided you can keep up all the payments.

Since paper and plastic electronic money is always losing its value, house prices are always rising, the cost of mortgages is always increasing and the level of rents – which is usually linked to the level of mortgage payments – is always growing. There may be occasional dips, or the rate of increase may vary, but the general trend is always upwards.

Rising house prices and rents do not really mean that property has increased in value – rather it means that the purchasing power of paper and plastic money has decreased. Thus for most people, paying for the roof over their heads is becoming increasingly difficult, whichever option they choose.

If the Muslims return to the use of gold dinars and silver dirhams, then they will find that prices are once again stable. Thus, for example, the price of a sheep in the time of the Prophet, may Allah bless him and grant him peace, was a dinar. Today the price of a sheep is still a dinar (although in paper money terms, people now say that a sheep costs twice as much as it once did).

The essence of the mortgage transaction is to make a profit out of a house buyer's inability to pay the purchase price up front, by charging interest on the loan of most or all of the purchase price. By refusing to become involved in such a haram transaction, you may be saving yourself from having to bear an invisible yet nevertheless heavy ball and chain – as well as saving yourself from the consequences of knowingly being part of a haram transaction which could have been avoided – but after paying a lifetime's rent, you will own nothing, which does not seem very fair.

Furthermore, it is of course often a fact of life that someone who opts to rent a property is in fact paying the landlord's mortgage plus a little extra – which means that he or she is in reality paying a very expensive mortgage for a property which will not even ultimately vest in him or her, which seems even more unfair.

There have been some attempts to facilitate halal house purchase, by means of combined rental and purchase schemes, but many of these contain a hidden usurious element – especially those provided by the so-called ‘islamic’ banks firmly plugged into the main mother banking system – and usually turn out to be more costly than a conventional haram mortgage would have been.

For example, an 'islamic' bank may purchase the house you wish to rent-and-buy from it at the going market price, but then immediately increase the selling price to you by an amount described in your agreement as a 'service charge' – but in fact calculated in terms of the profit the bank would have made if the transaction had been a 'normal' haram mortgage. This is clearly riba in disguise – and far more than 'a handful of grass'.

There is a halfway house solution to the problem provided by Housing Associations who run part-rental/part-ownership schemes – which in practical terms means smaller monthly payments for having a roof over your head – but at present these schemes are only available to relatively few people and often require a haram mortgage to facilitate the transaction. In effect, such schemes are designed to assist those who can only afford what amounts to a partial mortgage to buy part of a house, because they do not have sufficient funds or income to go the whole hog.

There is a valid Islamic argument which invokes the doctrine of necessity – darura<sup>21</sup> – and states that if a halal necessity is not available, then you can resort to a haram alternative in order to preserve life. For example, if you are dying of thirst and only wine is available, then it becomes halal for you and you can drink it. Once you have reached water, the wine becomes haram for you once more. Similarly, as we have already seen, in those situations where it is not possible to use halal gold dinars and silver dirhams, it is permissible to use haram paper and plastic electronic currencies – because you have no other choice.

When applied to housing, the doctrine of darura is used to argue that if there is no other way to secure a roof over your head, then you can obtain a mortgage. If you succeed in paying it off in full, then at least the house is now yours and it becomes halal for you and whoever inherits it from you.

It is therefore necessary, along with the introduction of gold dinars and silver dirhams, to develop alternative halal house purchase possibilities. Up to now, these have been formulated and activated most successfully in Canada and South Africa. The potential, virtually anywhere in the world and especially in cities and large towns, is enormous – since the Canadian and South African models have demonstrated that halal house purchase is far cheaper and far quicker than haram house purchase.

Although halal house purchase in accordance with the Canadian or South African models is possible, in practice such a project will not succeed without the participation of several patient large investors supported by a stable infrastructure. Such a project needs a dedicated enterprise to make it happen – and only the muminun will take it on. It is not a service which small companies can provide, unless on a limited one-off basis, for example in preparing the contracts where there is one large investor, one house vendor and one house buyer.

Unfortunately the best placed institutions to provide such a service are the building societies and banks – but they are unlikely to change their haram systems unless significant competition from halal alternatives forces them to do so, and especially since all payments in a bona fide halal house purchase scheme must be in gold dinars or silver dirhams.

Thus at present would-be home buyers have few halal options, unless they belong to the fortunate few who have the full purchase price sitting ready in their accounts, or friends and relatives able and willing to lend the required amount to them free of interest.

In these adverse circumstances, the choice of whether or not to invoke the doctrine of darura and take out a mortgage is one which is to be made by each individual faced with that particular predicament. It is between that person and Allah. Nor is the choice that 'simple', for part of the usual mortgage set-up, for those who decide on it, is the linked obligation to take out some form of life and house insurance.

### **Insurance :**

The best insurance is having taqwa and reliance on Allah. Where insurance is required by law (for example car insurance), in my opinion it is necessary to take out such insurance in order to avoid the legal consequences which would otherwise ensue if you refused to do so. In this sense it can be viewed as a form of paying protection money, in this case to the state.

As regards someone taking out a mortgage, having personal and house insurance are usually required by the lender (to ensure that the loan plus interest will be recovered whatever happens) before the money will be loaned – so having decided to take out a mortgage, you have no choice but to take out life and house insurance as well – creating an unholy trinity of three haram transactions when at first you thought it would only be one.

Where insurance is unavoidable, and in order to keep premiums to an absolute minimum by avoiding having to make any claims, it is necessary to continue to endeavour to achieve excellence in all you do while relying on Allah completely. As the Prophet Muhammad said, may Allah bless him and grant him peace, "Trust in Allah – but tether your camel." Whether 'protected' by insurance or not, we all still remain subject to Allah's decree and answerable to Allah for all our actions. [See *Book of the Decree (Al-Muwattaa of Imam Malik : 46.1-2)* for an accurate summary of these matters.]

Linked to the concept of insurance (which is driven by the fear of what may happen if something goes wrong) is that of pension schemes (which is driven by the fear of lack of provision in old age).

### **Pension Schemes :**

Most pension schemes generate funds by means of haram investments which 'grow' by means of the payment of interest. Although the Prophet Muhammad, may Allah bless him and grant him peace, never saved up for the next day and died possessing nothing after a lifetime of being well-provided for, Muslims are permitted to save money – and in so doing there is nothing to stop the development of alternative halal savings schemes.

A halal savings scheme could be set up as a shirka<sup>22</sup> partnership agreement whereby all who contributed to the scheme would have their contributions collectively invested in halal investments. They would then be entitled to agreed shares in any profits – or losses – generated by these investments. Provided the contributions were invested in reliable long-term investments, such as property to be rented out, there is no reason why such a scheme should not be more lucrative and therefore more attractive than a traditional haram pension scheme.

### **Investment Property :**

Traditionally, purchasing property and renting it out has always been regarded as a halal way of generating income. Most traditional Islamic awqaf<sup>23</sup> have been financed in this way, many of them lasting for several centuries.

It would therefore be a wise choice to invest any profits or savings in this manner, or to have a property investment business. As already stated, this could form the basis of a halal house purchase scheme or a halal savings or pension scheme or a combination of both – participation in which could be made open not only to managers, but also to employees and even to other investors, including clients and customers, on a shirka basis.

It would make sense to begin by investing in your home and office premises. This would mean that the rent paid by you would directly benefit the proposed partners in the scheme including you, your family and your employees. For any such scheme to be viable, the participation of the several patient large investors already mentioned would probably also be necessary.

Once office premises have been purchased, insh'Allah, further properties could be acquired. Again, applying the same principles, it would make sense to begin at home, either by acquiring further business office premises or by acquiring residential houses occupied by employers and their employees – which could then be rented out to them at a fair rent or purchased by them by means of the halal house purchase scheme. Further investment could take the form of purchasing a combination of commercial and residential properties for rent or future resale.

By operating such investments and purchases within the parameters of the shari'a, the results would, in my opinion, be far more refined and beneficial than those achieved, for example, by Mr Cadbury who through his investment strategy managed to provide affordable housing for his employees as well as chocolate for the general public.

#### **Other Forms of Halal Investment :**

There are of course other forms of halal Islamic investment including murabaha<sup>24</sup> and qirad.<sup>25</sup> Such forms of investment could be included in any savings scheme investment portfolio should the funds become available and favourable commercial opportunities arise.

By seeking what is halal, you will insh'Allah establish what is halal, thereby showing the way for others and earning Allah's favour, generosity and rewards. If you endeavour to avoid haram transactions and to encourage halal transactions, insh'Allah these transactions will have baraka<sup>26</sup> and help to establish what is halal and pleasing to Allah – with corresponding rewards in both worlds. There is always wisdom in following the sunna and acting within the shari'a – and there is always difficulty in doing otherwise, even though it may not seem so at the outset.

There is safety in avoiding transactions which are clearly haram. Even though it might seem that there is a loss of business opportunity, usually there will in reality be an avoidance of trouble. Where there is a mixture of halal and haram, it is up to each individual to decide whether or not to enter any particular transaction. Where the haram clearly outweighs the halal element, it is probably better to leave well alone. Where the halal clearly outweighs the haram element, it is probably better to do what good you can, in spite of what is unacceptable.

Ultimately the only way to deal with the banking system in a halal manner is by not dealing with it at all – and this is only possible by establishing a halal alternative, not by robbing or blowing up the bank!



The only halal cure for the cancer of usury is to use the gold dinar and the silver dirham – combined with the restoration of the sunna in the conduct of all trading and commercial transactions, including the abolition of all taxes not sanctioned by the Qur'an and the sunna of our beloved Prophet Muhammad, may Allah bless him and grant him peace.

Ahmad Thomson

### Glossary:

- <sup>1</sup> *shari'a*: lit. road, the legal modality of a people based on the Revelation of their Prophet. The final *Shari'a* is that of Islam. Islam can be defined briefly as submission to the will of Allah, the way of life embodied by all of the Prophets, given its final form in the guidance brought by the Prophet Muhammad, may Allah bless him and grant him peace.
- <sup>2</sup> *sunna*: the customary practice of a person or group of people. It has come to refer almost exclusively to the practice of the Messenger of Allah and of the first generation of Muslims.
- <sup>3</sup> *riba*: usury, which is forbidden, whatever form it takes, since it involves obtaining something for nothing through exploitation.
- <sup>4</sup> *sadaqa*: voluntary charitable giving for the sake of Allah.
- <sup>5</sup> *iman*: belief, faith, acceptance in the heart of Allah and His Messenger. Iman consists of believing in Allah, His angels, His Books, His Messengers, the Last Day, the Garden and the Fire, and that everything, both good and bad, is by the decree of Allah.
- <sup>6</sup> *salat*: the prayer, particularly the five daily obligatory prayers which constitute one of the pillars of Islam.
- <sup>7</sup> *zakat*: one of the five pillars of Islam. It is an obligatory wealth tax paid on certain forms of wealth – gold and silver, staple crops, livestock, and trading goods – when they are over a certain amount.
- <sup>8</sup> *taqwa*: awe or fear of Allah, which inspires a person to be on guard against wrong action and eager for actions which please Him.
- <sup>9</sup> *muminun*: the plural of *mumin*, a believer, someone who possesses *iman*, who trusts in Allah (see note <sup>5</sup>).
- <sup>10</sup> *tawba*: returning to correct action after error, turning away from wrong action to Allah and asking His forgiveness, thus 'to make tawba'.
- <sup>11</sup> *kafirun*: the plural of *kafir* (see note <sup>27</sup>).
- <sup>12</sup> *halal*: lawful in the *shari'a*.
- <sup>13</sup> *haram*: unlawful in the *shari'a*.
- <sup>14</sup> *khalif*: (the Arabic is *khalifa*, plural *khulafa*); Caliph. Someone who stands in for someone else, in this case the leader of the Muslim community, although it is sometimes used for the deputy of someone in a higher position of authority.
- <sup>15</sup> *dinar*: (plural *dananir*) a gold coin 4.4 gm in weight.
- <sup>16</sup> *dirham*: (plural *darahim*) a silver coin 3.08 gm in weight.
- <sup>17</sup> *jizya*: a protection tax payable by non-Muslims as a tribute to a Muslim ruler, traditionally 4 dinars or 40 dirhams per year.
- <sup>18</sup> *huddud*: the plural of *hadd*, Allah's boundary limits for the lawful and unlawful. The *hadd* punishments are specific fixed penalties laid down by Allah for specified crimes.

- <sup>19</sup> *fulus*: the plural of *fals*, originally a small copper coin, used as small change, but with no intrinsic value. Any of today's 'modern' currencies could be used as fulus.
- <sup>20</sup> *nisab*: minimum. The minimum for the *hadd* of theft is three *dirhams* or a quarter of a *dinar*; and there are various minimums for *zakat* becoming payable: in money it is 200 *dirhams* or 20 *dinars*, in produce 5 *wasqs*, and in livestock 5 camels, 30 cattle, and 40 sheep or goats.
- <sup>21</sup> *darura*: necessity.
- <sup>22</sup> *shirka*: partnership.
- <sup>23</sup> *awqaf*: the plural of *waqf*, an inalienable endowment for a charitable purpose which cannot be given away or sold to anyone.
- <sup>24</sup> *murabaha*: partnership between an investor and a borrower in a profit-sharing resale of goods, in which the profit is pre-determined and fixed.
- <sup>25</sup> *qirad*: wealth put by an investor in the trust of an agent for use for commercial purposes, the agent receiving no wage, but taking a designated share of the profits after the capital has first been paid back to the investor.
- <sup>26</sup> *baraka*: blessing, any good which is bestowed by Allah, and especially that which increases, a subtle beneficent spiritual energy which can flow through things or people.
- <sup>27</sup> *kafir*: someone who rejects Allah and His Messenger and the *deen* of Islam; *deen* means life-transaction, religion in the broadest sense. The *deen* of Allah and the Muslim community is Islam but every society and cultural grouping have a *deen* which they follow.
- <sup>28</sup> *Jabiliya*: the time of ignorance before the coming of Islam, before the coming of the Prophet and the revelation of the Qur'an.
- <sup>29</sup> *akhira*: the Next World, what is on the other side of death.
- <sup>30</sup> *dunya*: this world, not as cosmic phenomenon, but as experienced.

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