



Islamic Economics Translation Series
No. 2

PROFIT VERSUS BANK INTEREST IN ECONOMIC ANALYSIS AND ISLAMIC LAW

**ISLAMIC RESEARCH AND TRAINING INSTITUTE, (IDB)
JEDDAH, SAUDI ARABIA**



ISLAMIC DEVELOPMENT BANK
ISLAMIC RESEARCH AND TRAINING INSTITUTE

**PROFIT VERSUS BANK INTEREST
IN ECONOMIC ANALYSIS
AND ISLAMIC LAW**

Prof. Dr. Abdel Hamid El-Ghazali

*Islamic Economics Translation Series
No. 2*

Islamic Economics Translation Series No. 2

©ISLAMIC RESEARCH AND TRAINING INSTITUTE
ISLAMIC DEVELOPMENT BANK

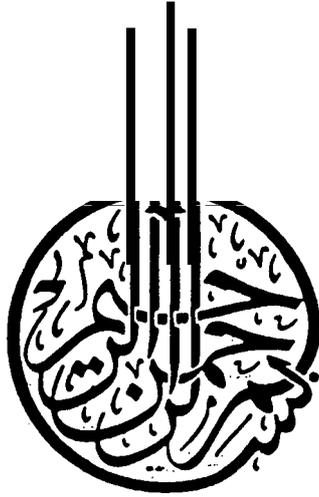
The views expressed in this book are not necessarily those of the Islamic Research and Training Institute nor of the Islamic Development Bank.

References and citations are allowed but must be properly acknowledged.

First Edition
1414H, (1994)

Published by :

**ISLAMIC RESEARCH AND TRAINING INSTITUTE
ISLAMIC DEVELOPMENT BANK
TEL: 6361400
FAX: 6378927 / 6366871
TELEX: 601407 - 601137 ISDB SJ
CABLE: BANKISLAMI JEDDAH
P.O.BOX 9201
JEDDAH 21413
KINGDOM OF SAUDI ARABIA**



In the name of God, the Beneficent, the Merciful

CONTENTS

	Page
Foreword	7
Introduction	9
Part I : Interest versus Profit as a Mechanism for the Management of Contemporary Economic Activity	13
1.1 The Concept of <i>Riba</i>	13
1.2 The Nature of Modern Banking	14
1.3 The Feasibility of the Interest Rate Mechanism	15
1.4 The Efficacy of the Profit Mechanism	22
Conclusion	29
Part II : Shari'ah Position on Bank Interest: Consensus Fatwas	33
2.1 <i>Fatwas</i> by the Egyptian Office of the Mufti - (1900-1989 A.D.)	33
2.2 <i>Fatwas</i> by the Council of Islamic Studies, Al Azhar, Cairo	47
2.3 <i>Fatwas</i> by the Council of Islamic Fiqh Academy - Organization of the Islamic Conference (O.I.C.)	48
2.4 <i>Fatwas</i> by the Council of Islamic Fiqh - Muslim World League	49
2.5 <i>Fatwas</i> by the General Presidency's Department of IFTA, Saudi Arabia	52
Notes and References	57

FOREWORD

The Islamic Research and Training Institute (IRTI) of the Islamic Development Bank, has embarked on an ambitious translation program that aims, among other things, to translate not only studies conducted by IRTI itself but also outstanding studies that have been carried out elsewhere. University post-graduate theses, studies from international research centers, publications of renowned authors and public lectures of internationally recognized specialists, are carefully selected and included in this program. The objective of this translation program is to widen the readership base. Three main languages have been considered to start with, viz., Arabic, English and French. Further languages may be considered in the future Insha' Allah. By doing so, IRTI hopes to contribute to the spread of knowledge among all Muslims so that they, albeit the difference of their tongues, may learn, apply and benefit.

The translation in hand is selected from an Arabic series of studies conducted by the Islamic Economics Center of the International Islamic Bank for Investment and Development, Cairo. The research, originally in Arabic, is written by a well-known professor of economics, Professor Dr. Abdel Hamid El Ghazali, who is now Director of the Islamic Research and Training Institute, IRTI, of the Islamic Development Bank. Besides his interest in planning and economic development, Prof. Dr. El Ghazali has long developed a particular interest in Islamic economics on which he has written several books and articles. He is a staunch supporter of the Islamic economic call and a genuine believer that Muslims can build their economies on a full fledged Islamic economic system.

As the title indicates, this study provides an analytical comparison between interest and profit as a mechanism for the management of contemporary economic activity, looking at them from two different, though integral, angles: the economy and the *Shari'ah*. To increase the benefit to the reader, the author, Professor Dr. El Ghazali has included in this study a collection of religious opinions (*Fatwas*) on bank interest.

It may be mentioned here that consent of both the author, Prof Dr. Abdel Hamid El Ghazali, and the publisher, the International Islamic Bank for Investment and Development, Cairo, Egypt, has been obtained for

undertaking the translation of this work. As per rules governing the translation, this study has also been cleared by the IRTI Academic Committee.

The Research Division of the Islamic Research and Training Institute is most pleased to present this work which is the second in its Islamic economic translation series. The target reader population combines both, the specialist and the non-specialist, as well as the Muslim and the non-Muslim, hoping that all will benefit from it. IRTI also hopes that this translation, through widening the readership, will further contribute to promoting awareness of Islamic economics, help towards its application in our modern life, and pave the way to the welfare and prosperity of the whole of mankind.

May Allah the Almighty . guide. us all to the right path.

Research' Division, IRTI

INTRODUCTION

This study in the I.E.C. series "Toward An Islamic Economic Awareness" deals with one of the basic topics of contemporary economics, i.e. bank interest versus profit as a mechanism for the management of economic activity.

This subject has been a current theme for discussion, writing and argument for sometime now, especially at present, due to what has been raised by some leading figures in the media and the press here in Egypt and elsewhere. The many profound theological and legal writings on this subject, published in newspapers and magazines, or that appeared in special issues and books or delivered at symposia and conferences, are sufficient to deal decisively with opposition opinions that legitimize bank interest and deny its usurious nature, or permit a part thereof, particularly in relation to investment certificates.

Therefore, a *fiqhi* (juridical) examination of these opposition opinions is not anticipated in this study. Instead, reference is made to the scores of research studies, articles and statements that have appeared over the past years, particularly in 1409, 1410 A.H./1989, 1990 A.D., a list of which is provided at the end of this paper. We have, therefore, taken a somewhat different approach to this subject, purely basing it on economic grounds in the first instance, concentrating on giving an analysis of interest as a mechanism for the management of contemporary economics from the viewpoint of modern economic thought on the one hand, and its application to existing living conditions on the other. The aim is to evaluate the feasibility of continued dependence on the interest-rate mechanism as an effective tool for economic decision and performance, and to compare it, in terms of effectiveness in achieving desired goals and objectives, with the role of profit as a mechanism for managing and guiding economic activity.

The results of this comparison between profit and interest confirm the effectiveness and feasibility of depending on the former as a mechanism for the management of economic activity, which is, in theory as well as in practice, in agreement with the specifications and fundamentals of Islamic economics.

The basic approach of this study is complemented. by a presentation of the established *Shari'ah* rule on interest, covering a period that does not go back to only the resolution of The Council of Islamic Studies (of Al Azhar) passed in 1385 A.H/1965 A.D., but even further back to cover all the *Fatwas* passed by the Muftis in the Egyptian Office of Ifta' from the beginning of the 20th century until the middle of 1989. This study also presents the most important *Fatwas* passed in relation to this subject by official 'Ifta' offices, conferences and jurisprudence councils in Saudi Arabia, the United Arab Emirates, Jordan, Kuwait, Qatar, Sudan, and other

Muslim countries.

These jurisprudence efforts are not isolated *Fatwas* based on the judgment of individual scholars. Rather, they are collective *Fatwas* based on the consensus of the majority of prominent Ulema (scholars), well known for their deep knowledge and commitment, and who possess the requisites for giving legal opinions. Due to the limitations of space, we have chosen only a certain number of *Fatwas* that cover the span of time from the start

of . the century until the present time.

In so doing, we have presented the *Shari'ah* rule as established by the consensus of *ulema* (Islamic scholars) and upheld by the *Ummah* (nation) during this century which has witnessed the spread of the banking system in Muslim countries. Thus, the two perspectives of bank interest - the economic position and that of the *Shari'ah* position -.are presented in this study, which, I beseech God, may add something new to the discussions held on this subject.

In God the Almighty' we confide-to guide us to the righteous path.

Abdel Hamid El Ghazali

Part I

**INTEREST VERSUS PROFIT AS A
MECHANISM FOR THE MANAGEMENT
OF CONTEMPORARY ECONOMIC ACTIVITY**

- 1.1 The Concept of *Riba***
- 1.2 The Nature of Modern Banking**
- 1.3 The Feasibility of the Interest Rate Mechanism**
- 1.4 The Efficacy of the Profit Mechanism**
- Conclusion**

Part I

INTEREST VERSUS PROFIT AS A MECHANISM FOR THE MANAGEMENT OF CONTEMPORARY ECONOMIC ACTIVITY

For the past few years, particularly after the emergence of "Islamic" monetary, financial, and economic institutions, there has been a controversy as to whether bank interest is a legitimate, permissible (*Halal*) return or a forbidden *Riba* and as to its feasibility as a mechanism for the management of contemporary economic activity.

For an objective discussion of this important issue, we must first clearly define the following elements:

- The concept of *Riba*,
- The nature of modern banking,
- The feasibility of the interest rate mechanism,
- The efficacy of the profit mechanism.

1.1 The Concept of *Riba* :

Riba⁽¹⁾ as a term is the increment obtained over the principal in return for nothing in commutative contracts. *Riba* mentioned in the Holy Qur'an is the pre-Islamic *Riba*, the clear *Riba* which is the *Riba* of a debtor loan. It is the increment given in return for time, whether the increment is specified as a condition at the conclusion of contract or designated at the time of repayment for extending the due date⁽²⁾. In this context, *Riba* is forbidden in all Divine Revelations⁽³⁾ as it represents the most abominable form of illegally expropriating personal and public capital. As such, it is considered a grave sin in Islam. Any excess over the original debt, no matter how little it may be, is considered an evil gain⁽⁴⁾. On that, Allah, the Exalted says: "If you repent, you may retain your principal, wronging none (with an increase) without being wronged (by suffering a loss)"⁽⁵⁾.

Riba in this sense is forbidden, irrespective of the nature of the loan (whether for consumption or production⁽⁶⁾); or of the nature of the parties to the loan contract (individuals, individuals-companies, governmental, or international organizations⁽⁷⁾); or the circumstances of one party, or all

parties, to the contract (rich or poor); and, finally, of the change of the value of the currency (decrease or increase)(9)

Riba , in this sense, is really the "AIDS" of contemporary economic activity, as it deprives economic life of its immunity and robs it of its ability to fight economic diseases. Consequently, a feeling of exploitation prevails, productivity decreases, the efficient use of resources deteriorates, economic potential is wasted, and, ultimately, economic disorders are aggravated.

1.2 The Nature of Modern Banking :

The work of modern banks, commercial or specialized, is to handle credits, debts, or loans. Credits and debts are the two aspects of a loan. Credit pertains to the loan-giver in relation to the loan, and debt pertains to the loan-receiver in relation to the loan(10)

The relationship between the bank and those dealing with it is controlled by the loan contract. The way that the bank deals with its clients is revealed in the details of its financial position as presented in its balance sheet. The balance sheet is divided into two parts: resources of funds, or liabilities, and uses of funds, or assets.

Resources are basically controlled by the loan contract. The major part of these resources comes mainly from depositors. As such, depositors are loan-givers and the bank is a loan-receiver in return for interest which the bank pays (a debit interest from its part), except for current deposits for which the owners are not usually given any interest. In relation to all deposits, the bank is, a guarantor, i.e., the bank guarantees the original deposit and offers interest on deposits that are not current(").

As to the uses, the bank loans the money it has accumulated to merchants, investors and others. Their status as loan-receivers is that of a guarantor, i.e., guaranteeing the original loan and paying interest (a credit interest from the bank's part). The "difference between the total interest that the bank pays to its depositors and the total interest which the bank receives from those making use of its financial resources represents the bank's net return".

Therefore, in the bank's balance sheet there are fixed debts on both sides which must be paid after a definite period of time, along with a conditional increment defined at the start, for payment on due date, or on a new due date after maturity for extending the period of time. Thus, the return for the use of the debt is justifiable for the debtor as he is the

guarantor, but is not justifiable to the creditor, according to the Islamic principle which stipulates that "*Al Kharaj bi Addamaan*"⁽¹³⁾, i.e., the return is not justified unless there is some risk involved, and, in this case, the loan-giver, in contrast to the loan-receiver, bears no risk.

In this basis, Islam, emphasizing real social solidarity, recognizes only *Qard Hasan*. Any loan repaid with any benefit is *Riba*⁽¹⁴⁾. If people wish to develop and invest their money, then they must do so through true Islamic investment, by placing their money in risk-taking projects and bearing the consequence, be it profit or loss. Money does not by itself generate money; it increases or accumulates, justifiably, through actual investment in economic activity, in accordance with different Islamic modes of investment based on partnership and sales contracts⁽¹⁵⁾. Thus, money grows through a partnership system, not through a debt system in return for interest. This, in essence, is how Islamic banks function⁽¹⁶⁾.

1.3 The Feasibility of the Interest Rate Mechanism :

Some economists consider the interest rate as the strategic price in the contemporary economic system. For them, it is the nervous system of modern banking; the main tool for the management of the monetary system; the effective savings factor; and the criterion that helps to ensure investment allocation in the most efficient projects. They believe that the use of this mechanism will save developing countries from further foreign indebtedness and, consequently, from dependence. Eventually, they believe, it will guarantee the most efficient use of resources through better distribution; and as a result, economic development will be achieved; pillars of economic power will be perfected; and society will progress. Some economists even consider the use of the interest rate mechanism in contemporary economic system to be a manifest destiny and an irreversible fate⁽¹⁷⁾.

They further believe that if any existing system attempts to free itself from the interest rate mechanism, a great misfortune will befall the owners of wealth, most especially creditors. They believe that this would result in the collapse of the banking system, the paralysis of the monetary system and decreasing savings by increasing hoardings, and the flight of capital to the rest of the world, exposing a nonconforming economy to escalating foreign debt in order to finance investment with interest loans. This, they believe, is inevitable and unavoidable⁽¹⁸⁾.

Any attempt to escape from this fate will, accordingly, be doomed to failure because the elimination of interest will make capital as free as air.

This will cause a confusion in terms of capital investment because they believe that capital will, not necessarily be invested in projects with the highest productivity but rather in projects commanding the most authority and influence. Their prognosis is the onset of economic chaos in which the poor will become poorer and their dependency greater.

For Western economists, the contemporary economic system with its methodology and modern institutions is inextricably bound to the interest rate mechanism. The elimination of this mechanism will lead to collapse and destruction⁽¹⁹⁾.

Money and banks are among the variables of modern global economics, and the Islamic economic system should not be 'prevented from adapting to the innovations of the present age simply because there are no precedents (i.e. Banks) from earlier Islamic epoch. At the same time, the adaptation of these innovations to the needs of Islamic society does not presume the abandonment of one of the immutable principles of the Islamic economic system on the pretext that contemporary economics cannot function without the interest rate mechanism⁽²⁰⁾.

Consequently, I do not believe that contemporary Islamic society whose predecessors did not know these novelties must, in order to rise to the present age, accept them in their totality as "one package" thus abrogating one of the pillars of the Islamic system. Rather, I believe that the logical and fair approach is in, firstly, questioning the necessity and efficiency of the interest rate mechanism in contemporary economic systems, including developing ones, and, secondly, in deciding whether the Islamic system can adopt these innovations without employing the interest rate mechanism. This is the approach I will adopt in the following exposition.

This is definitely not the appropriate place to enumerate the well-known profound disagreements among economists regarding the definition and theoretical conceptualization of the interest rate, let alone its role in, and influence on, economic activity⁽²¹⁾.

We will not go so far as to say, as some have said, that the role of the interest rate in the economy is something like a dreamer's hallucination or a pink elephant, and that it is nonexistent' as an element of cost in a planned economy⁽²²⁾. There are those who allege that identifying the interest rate is like searching for a black cat in a dark room at midnight, except that in this case, any search-would be in vain for the cat is not there at all.

At the same time we will not-go ' to the other extreme and say, as some have said, that the interest rate is the foundation of all forms of

production and that all the returns of the elements of production are in one way or another a form of interest, as the price of, or rent for, the use of money, regardless of the fact that the interest rate is not an intrinsic element of production. The interest rate is extraneous to the production process because it is imposed and controlled by monetary authorities. Moreover, we will not contend, as some have contended, that all forms of income can be evaluated as interest on the value of property and manpower⁽²³⁾.

In the face of these two opposing perspectives - one emphasizing the reality of interest and the other denying its very existence - and entangled in a jungle of conflicting perspectives as to the *raison d'être* of the interest rate, we should admit its existence but as an unhealthy reality, most apparent in capitalist economies; shyly concealed in socialist economic ideology; and very weak in developing economies.

In consequence, stagflation (stagnation/inflation), manifest and hidden, has spread throughout every level of these economies. This virulent economic disease is a by-product of inept allocation and utilization of resources, as well as monetary, financial and economic instability, which has led to a growing paralysis in production activity. This is a terrible injustice to the large majority of those involved in the economy. It is, moreover, a terrific threat to the practice of capitalist accumulation and a manifest obstruction to growth and development.

Far from the "Pareto optimality" and the model of "perfect competition" based on perfect certainty⁽²⁴⁾, a number of economists believe that the interest rate mechanism is not, in practice, an effective tool for the allocation of resources, particularly for the amounts that can be loaned for the purpose of investment. Indeed, the opposite is the case.

For example, J. Enzler, W. Conrad and L. Johnson have concluded on the basis of field research that capital in contemporary economies has been seriously misallocated in various economic sectors and various types of investment, primarily because of interest rates⁽²⁵⁾. Interest is an inferior tool. It misdirects the allocation of resources, prejudiced as it is to large-scale projects, on the unproven assumption that they are automatically credit worthy. As a result, interest stimulates monopolistic tendencies.

Larger loans at lower interest rates are extended to large scale projects on the basis of their supposed reliability, while medium- and small-scale projects which may, in fact, be more reliable, productive and efficient are penalized. These smaller projects are loaned less money than they need

at interest rates higher than they are capable of repaying. As a result, investment projects which may have greater feasibility and a higher projected return on investment are not carried out because of their failure to secure financing which is often extended to larger projects with more power and influence behind them but which are less productive and in relatively less need of external financing. -

Moreover, surveys by J.E. Meade and P.W. Andrews have confirmed that businessmen believe that the interest rate mechanism is not an important factor in determining the level of investment. In other words, the demand for investment is considered "inelastic" in relation to the rate of interest. There are two reasons for this. First of all, the rate of interest represents only a small proportion of the expenses of new investment projects. Secondly, many projects depend on self-financing, which limits the effect of interest as an implicit cost carried by invested capital.⁽ⁿ⁾

As to the supply of money for investment (i.e., savings) many economists support Keynes in affirming that savings are usually "inelastic" to changes in the rate of interest⁽²⁷⁾. Statistics show that there is no great positive connection between interest and savings. P. Samuelson reinforces this argument when he says that some people save less, not more, when interest rates increase, while many people save nearly the same amount, regardless of the level of interest rates, while still other people tend to decrease their consumption when they expect higher rates. He goes on to say that economic principles alone cannot provide a definite prognosis. All indications suggest that the level of interest and the influence of consumption and savings tend to cancel the effect of one on the other⁽²⁸⁾.

Even if, as many economists believe, we presume a strong positive connection between interest and savings (i.e., a strong positive time preference by consumers) the insistence of savers on fixed guaranteed interest is considered illogical, particularly in economies where interest rates are arbitrarily determined and these economies are exposed to escalating rates of inflation. This would imply an irrational acquiescence to the continued decline, not to say the total collapse of the savers standard of living as a result of the progressive-deterioration of the value of money, because of inflation. The "real" rate of interest (i.e. the nominal rate minus the inflation rate) sooner or later becomes progressively negative, causing the real value of these savings to decline continuously year after year.

The situation is not any better when rates of interest change. Injustice occurs as a direct result of distributing the return between savers (loan-givers) and investors (loan-receivers) through the financial intermediation of

banks, as a result of a rise or fall in the rate of interest. This eventually leads to a slowdown in the rate of capital formation.

In a study on the American experience carried out by H. Leibling, it was found that a rise in interest rates was a serious hindrance to investment. During the period studied (1970-1978), the total interest paid out amounted to one-third of the total return on capital, which led to an erosion of the profitability of companies. As a result, the proportion of risk bearing capital in total financing (shares and loans) declined and capital formation declined as well. This forced the American economy into a downward "cycle" of reduced productivity, leading to a diminished capacity to compensate for the higher cost of borrowed capital, causing, in turn, a further decline in both profitability and the average level of capital formation⁽²⁹⁾.

The opposite is also true regarding the effect of decreased interest rates on capital formation, in that it is those (the savers) who invest their money in loans that suffer. Low interest rates encourage borrowing for consumption and result in lowering of the quality of investments. This leads, in turn, to a lowering of average gross savings, and, as a GATT report has confirmed, to the misuse of capital and the continuous decline in the level of capital formation⁽³⁰⁾

As a corrective measure for inflationary or deflationary structural disorders, most economists agree that the effectiveness of the interest rate mechanism is limited, particularly in the case of deflation. Monetary and credit policy is the essential function of the Central Bank, which controls money supply (i.e. the amount of money in society) in order to control credit in accordance with the needs of the "desired" level of economic activity. This is effected by facilitating and encouraging borrowing, especially short-term borrowing in times of deflation, and by limiting and discouraging credit facilities in times of inflation through manipulation of interest rates. This manipulation is accomplished directly through changes in the "Bank Rate" adopted by the Central Bank as a rate of lending to banks, or indirectly, through other known quantitative and qualitative monetary tools⁽³¹⁾.

The limited effect of this policy on the extent and form of credit, and thus on the level of economic activity, can in the case of inflation be traced to the fact that the rate of return on credit, in the form of profitable investments to the borrower, is relatively higher than the rate of interest. The interest rate mechanism is, therefore, insufficient as a cost element to limit the expansion of credit⁽³²⁾.

In the case of deflation, this limitation is more obvious. Not all dealers, banks, enterprises, and individuals have sufficient incentive to borrow, i.e. the possibility of realizing a gain over and above the cost of credit. As a result, in the case of severe stagnation, it is not enough that the Central Bank offers easy credit even "free" credit to encourage investors to borrow. This case is clearly illustrated by an English proverb which says: "You can bring the horse to the water, or bring the water to the horse, but you cannot make it drink"⁽³³⁾

The situation in developing countries is, in fact, very different. In spite of the existence of monetary and banking systems in these countries, we find that many of the basic conditions for the already limited efficiency and effectiveness of monetary and credit policy are either completely absent, or present only in a primitive form.

As a result, it is clear that this policy is even much less efficient in these countries. Economists agree that the problem, here, is not a monetary problem; it is, rather, a structural one. What these countries need to end their chronic stagnation is not more monetary spending. They need a structural change in the production process through development. The problem here is not a problem of "demand" as much as it is a matter of "supply". It is necessary to raise the level of the utilization of existing productive resources. In this context, it is possible that rational monetary, financial and commercial policies, not the interest rate mechanism, will play a beneficial role in this process⁽³⁴⁾

In the opinion of many economists the negative influence of the rate of interest on the process of capital formation and its ineffectiveness in the treatment of inflationary and deflationary disorders are considered the most important causes of instability in contemporary economies. In the early 1980s, M. Friedman asked what caused the unprecedented irrational performance of the American economy. He concluded that the main cause was the equally irrational behavior of interest rates⁽³⁵⁾

Fluctuations in the rate of interest affect directly the investment market, creating an atmosphere of uncertainty which makes it difficult to make long-term investment decisions with confidence and reliability, or to make sound planning for future business.

H. Simons attributes the great world depression' in the 1930s to the change in commercial confidence, arising from an unstable credit system. He believes that the danger of economic disorder can, to a great extent, be avoided if loans, particularly short-term loans, are eliminated, and if all

investments are self-financed, or financed by partnership (through equity participation)⁽³⁶⁾

In this same context, H. Minsky emphasizes the fact that self-financing of projects and rational investment of undistributed profits gives rise to a strong financial system, while external financing through borrowing exposes the system to instability⁽³⁷⁾

When interest rates rose during the 1970s, the ratio of gross national capital expenditure to gross national product in Western countries declined. Average international growth also declined. Weak investment performance was the main factor contributing to the slow growth during this period. This was the result of an erosion of the profitability of projects, caused by the rise of interest rates.

Many economists are of the opinion that this indicates that "profit" and not "interest" is the basic dynamic force which drives production and growth in capitalist and other economies, notwithstanding differences in definition, concept and theory.

Studies carried out within the American banking system corroborate this conclusion by demonstrating the existence of a strong positive link between levels of investment and profits. These studies reveal that undistributed profits create a means by which an enterprise can finance itself. In the United States between 1977 and 1980, retained profits and provisions for depreciation in joint stock companies generated a net internal income equal to five times distributed profits⁽³⁸⁾. Of the gross capital expenditure in non-financial companies in 1980, (amounting to about 299 billion dollars), internal financing accounted for 87% of the total, with an additional 4% made up by capital increment while loans accounted for only 9%⁽³⁹⁾

In view of this, one can safely say that "profit" is the basic force that directs investors' decisions, not only as a criterion of and incentive for investment, but as an important source of financing as well. A study carried out by J. Miller on 127 enterprises clearly confirmed this. He found that about 77% of these enterprises used the "rate of return" concept when taking investment decisions⁽⁴⁰⁾

Finally, R. Turvey has confirmed that the rate of interest does not control the economy, that the interest rate mechanism is, in fact, unfit for investment decisions and that it should be replaced by the rate of the price of real assets or by the general level of prices of shares. From this understanding, a general theory may be proposed in which the price of real assets and not paper assets is central to the economy and in which

profit and not interest is its real and effective mechanism⁽⁴¹⁾. This brings us to a discussion of the efficacy of the profit mechanism.

1.4 The Efficacy of the Profit Mechanism

There are four factors of production: land, labor, capital and entrepreneurship. Each one of these factors generates an income corresponding to the actual part it plays in economic activity. Income generated from land is rent; Income generated from labor is wages. Income generated from capital is interest And income generated from entrepreneurship is profit. The fourfold division of the factors of production and their corresponding incomes, particularly capital and interest, are basic to economic theory and fundamental to the theory of capital. In the literature of Western economics there is a consensus as to this categorization of factors and returns, despite the familiar saying that whenever two economists come together there are bound to be at least three opinions.

The analysis of the theory of capital rests upon an unrealistic oversimplification, which assumes the existence of certainty or perfect foresight. In this strange certainty-based setting, strange things are put forward, as for example contending that the equilibrium rate of interest always equals exactly the marginal productivity of capital, or as P. Samuelson and D. Patinkin say, the rate of interest is equivalent to the rate of profit anticipated to be certainly realized.

The result of this unrealistic analysis is the denial of any possibility of a "zero interest rate" existing in equilibrium. in a real world conditioned by an acute scarcity of capital⁽⁴⁴⁾. This is because there is only one meaning of this, that is the assumption that the availability of capital is limitless, i.e., a case of "capital saturation" ⁽⁴⁵⁾ which conceives of capital as free as air:

Being not so, there is no way but. to put forward a gloomy alternative; which is the possibility of a zero equilibrium, as Samuelson assumed in the case of a very severe depression⁽⁴⁶⁾, or an ensuing economic chaos in using scarce capital, without interest, which, in the opinion of some economists, would lead, for sure, to an economic catastrophe.(44)

This analysis lumps together two contradictory and totally different issues: "elimination of interest," when an alternative (i.e. profit) is available and a "zero equilibrium rate of interest." The incompatibility of these two criteria is manifest: There is a clear difference between: the two.. Islamic economics has not eliminated the rate of interest on the theoretical and

practical levels to induce this "zero equilibrium" as this would in fact lead to real waste of acutely scarce resource, i.e., capital. Instead, Islamic economics promotes "profit" as a criterion which controls the use of capital more rationally from a theoretical point of view, more equitably from a social point of view and, most important of all, more efficiently from an economic point of view.

If we rid ourselves of the negative aspects and effects of Western economic thought, scientifically investigate its fundamentals. and contemplate its foundations, we will immediately realize that eliminating the use of interest does not, at all, mean eliminating a return on capital and extending it to those who need it free of charge.

According to Western economic sophistry, investible capital without interest, i.e., "free" capital, would create "unlimited" demand. The result will be an absence of a supply and demand mechanism (through interest), hence no capital equilibrium can be achieved. The end result will be wastage of capital as a consequence of this irrational utilization which leads inevitably to economic ruin.

The real participation of capital in the production process, Islamic or otherwise, definitely yields a return. From an Islamic perspective, this return is not a pre-determined rate of interest but a common and proportional share in the actual or estimated realization of profits. Simply because it exists, no one should be dogmatic on this concept of the fourfold division of return on the ground that such ideas of conventional economics cannot be challenged.

By same token, it is difficult to imagine that anyone could possibly be dogmatic about the terminology of the various types of return. The connotation of the term rather than the term itself is what matters. Moreover, there can be no valid objection for return on risk-bearing capital to be termed: "Profit," as this term is used directly to indicate the return on the risk-bearing labor (i.e. entrepreneurship) - the conventional risk-bearing factor in economics.

Language is arbitrary and conventional, and there is no harm in using terms, provided that they are well and clearly defined and that they convey the meaning aimed at. Consequently, it is appropriate to use the term "profit," as it has been used by Islamic jurists more than twelve centuries before it was ever adopted by Western economists. According to the Islamic concept of economic activity and profits, the provider of capital and the entrepreneur bear together the risks of investment. As per a priori

agreement and after the recovery of capital, profit is shared between the two parties. In this context, there is no scope for a detailed discussion, here, of the tools and practices of Islamic investment and finance.

According to Islamic economic principle, this share in profits is the cost of capital. In consequence, profit becomes the criterion which controls the allocation of financial resources. It is a mechanism which balances the demand for and the supply of these resources. When the anticipated profit rate from a new investment exceeds the achieved prevailing rate of the actual profit in the economic activity where investment is to be undertaken, under uncertainty conditions, and on the basis of developmental priorities of the society and the goal of achieving sufficiency, the supply of investible funds for the project increases and the project is actually implemented. The opposite is also absolutely correct.

Therefore, the actual profit generated is considered in Islamic economics as a decisive factor in determining the success of a new project, and its ability to attract investible capital. Capital in an Islamic economy *is quite* naturally invested where profit *is greater, rather than where interest* is higher. So profit and not interest is the true indicator of the real scarcity in the supply of capital and guarantees the efficient and productive utilization of available financial resources in all economic activities.

For this reason, there is greater efficiency in the utilization of capital in an Islamic system. More care is taken in evaluating projects. Those with low feasibility are dropped. This is not the case when projects are financed by interest loans. The creditor cares only about the yield of interest, and does not share in the risks connected to the financing of the project. The risks are all borne by the producer-borrower (the entrepreneur). The creditor is not in fact interested in comprehensive appraisal of the project unlike what the risk-bearing capital provider should do. Thus, the rate of profit represents a mechanism of allocation of resources which is more effective and efficient than the rate of interest.

It is clear that if modern banks take the rate of profit as a basis for financing, as is done with respect to various modes and instruments of Islamic investment⁽⁵¹⁾, then they would have to be more precise, careful, and objective in appraising projects.⁽⁵¹⁾ In this case, they would most likely no longer tend to favor large projects over medium and small projects, as is the case at present. All projects would be treated on the same footing and appraised according to merit.

The decision to participate in new projects is controlled by the profit rate alone. As this rate rises, the chance that the project, regardless of its size, will receive financing, or participation in financing, increases. The opposite is also true. As a result, the rate of profit is not only more efficient in the allocation of resources, but it also more effectively limits the development of monopolistic tendencies.

According to this criterion, the Islamic system can practically achieve justice for both the saver (fund provider) and the investor (entrepreneur), as neither of them gets beforehand any guaranteed or fixed return. They both share the risks and the results (profit or loss), in accordance with the agreement reached by them on the basis of capital market forces.⁵³ Hence, this healthy and productive relationship will not incur any injustice to the saver, as is the case when interest rate declines and profits rise, or to the investor, when the opposite takes place, (interest rises and profits decline), or when losses are incurred. Justice prevails between the two parties and this will reflect favorably on savings and investment.

In the absence of perfect foresight assumption there is a natural human impulse to conserve wealth through savings as a safeguard against unforeseen events and as a means to raise living standards, in future. Muslims, individually or collectively, are subject to this rule, with no exception - in general.

By and large, there is a positive connection between income and savings. When income increases as a result of increased profits, savings increase. Under the Islamic system, the tendency to save increases because of inherent values that encourage general moderation in spending, particularly in consumptive spending. *Zakah* institution plays a pivotal role in strengthening this tendency, as the individual, in order to preserve the level of his wealth, attempts to increase his savings by, at least, the value of *Zakah*.⁵⁴

The Islamic system opens the door to the utilization of savings within the society-in real and profitable investment, in accordance with the profit and loss sharing system, as opposed to the interest-based loan system.⁵⁵ This is accomplished through the application of Islamic *Shari'ah* and the ethical values of Islam beginning with the religious proscription of hoardings and the effective prevention of it by means of *Zakah* which causes unused, idle wealth to erode over time. *Riba* is strictly forbidden, along with aleatory practices, which prevent accumulating wealth by illegally seizing the wealth of others. Monopolies are also prohibited, through practical means, as are all forms of malfeasance and mismanagement in production activities.

There is also in Islam an emphasis upon the value of honest productive work which is raised to the stature of *Jihad* (Holy struggle in the cause of Allah) and indeed becomes an aspect of worship in the broadest sense. This ensures the efficient utilization of the financial resources of the society and effectively enhances the process of economic development.

In the light of the strong positive relationship between the rate of profit and investment, and because profits are an important source in financing investments, particularly those that remain undistributed, the Islamic system provides several investment modes of finance, including various forms of *Musharakah* and *Mudharabah* contracts (partnership) and sales contracts (e.g. *Murabahah* and *Salam* contracts).⁵⁶

According to *Shari'ah*,. it is permissible to create new investment tools (contracts) for which there have been no antecedents in Islamic *fiqh*, provided they conform to Islamic tenets. This is called in *fiqh* "the unnamed contracts." Lease financing, lease sales, Islamic stock financing or investment certificates issued in various denominations, durations and extents of risk, according to the investors' requirements, are some of such contracts in the Islamic economic system.

in the basis of these' new investment modes and tools. resulting from financing through profit and loss sharing in lieu of interest-based loans, the institutional side (central banks, commercial and investment banks, financing and investment companies, Islamic solidarity and insurance companies, the cooperative movement, and the stock market) plays a role in the mobilization of savings for investment⁽⁵⁸⁾, thus ensuring increased growth in the rate of capital accumulation and the eventual realization of the objectives of the Muslim society.

,Despite the fact that monetary and banking mechanisms in Islamic economics differ from those in other economic systems⁽⁵⁹⁾, the central bank remains the pillar of the banking system as the bank which issues money, the bank of banks and the financier of last resort, the bank of the state and the financial advisor to the government, and the bank that controls the supply of money.⁽⁶⁰⁾

Under the Islamic system, the central bank can employ the tools of a monetary policy that conforms with a system of financing based on profit and loss sharing.. Basically, in this regard, its work is to control the money supply in a way which addresses the real needs of economic activity and the development process, i.e., to realize the greatest amount of exchanged services with .a relatively constant value of money.⁽⁶¹⁾

The most important duty of the central bank is to monitor the rate of change in prices and the growth rate of production in order to ascertain that there is a real justification, in the form of increased production, for issuing more banknotes.⁽⁶²⁾ In other words, the central bank should make sure as far as possible that monetary expansion does not lead to inflation which reduces the real value of funds. In addition, the central bank in an Islamic system has the authority to control rationally and inspect meticulously other banks' activities. It is empowered to issue instructions to banks and other financial institutions regarding the purposes for which financing may be made, its limits, the liquid funds to be kept, and the ratio and kind of guarantee to be obtained⁽⁶³⁾

In the case of financing of government expenditure, this should be from real sources. Under the Islamic system, there is no place for financing government expenditure through deficit, by issuing money or by borrowing from banks.⁽⁶⁴⁾ Government must, instead, maintain its expenditure through a rational fiscal policy in cooperation with its central bank and the institution of *Zakah*. This can be accomplished by increasing revenues from government economic projects and services, and by replacing taxes and excise with Islamic financial levies⁽⁶⁵⁾ imposed upon the held wealth of the rich and, finally, through *Qard Hasan*.⁽⁶⁶⁾

In consequence, there is almost no need for internal or external borrowing with interest. In the event a need for external financing does arise, it can first be satisfied on a participation basis by surplus-capital Islamic states and thereafter by other states and regional and international financial institutions.⁽⁶⁷⁾

In consequence, there is almost no need for internal or external borrowing with interest. In the event a need for external financing does arise, it can first be satisfied on a participation basis by surplus-capital Islamic states and thereafter by other states and regional and international financial institutions.⁶⁷

Thus, the basic positive elements, inherent in the Islamic system, that make a serious and comprehensive development process possible are the following: accumulated savings, appropriate investment, openness to suitable technological progress, various investment modes, an integrated organizational and institutional structure; rational monetary and financial policies; and operational stability through an avoidance of reckless fluctuations of prices and interest rates. However, these elements by themselves, according to the philosophy of this system and its foundations, are not sufficient, as the most important constituent of this system is its inherent

morality or value aspect.⁽⁶⁸⁾

Regardless of the mythical "neutrality" of conventional economics prevalent in the world today, its dislocation from moral values and questions of ethics exposes its materialistic nature and its main concern with "things." History teaches us that all systems must necessarily be influenced in one way or another by moral values. In conventional Western economics, however, these values are considered to exist altogether outside the mechanism of the system. The Islamic system, on the contrary, is driven by moral values which are considered to be an intrinsic controlling variable within its mechanism.

Thus, here, we face "religious economics" or an "economic religion"; terms which are not a simple manipulation of rhetoric but rather an indication of the integrity of the religion of Islam as a comprehensive life system. Islamic economics interact in equilibrium and order with all aspects of Islam, controlled by the tenets of *Shari'ah*.⁽⁷⁰⁾ In consequence, Islamic economics depends, in both its theoretical analysis and practical application, upon the individual working within the framework of Islamic morality (71)

Under this system the individual is liberated from coercion, exploitation and all forms of injustice. He has, as a human being, the right of respect, dignity, freedom and justice. The development of the earth is an objective of Islam but this is impossible to achieve without freedom and justice, which come from the adherence to the Divine law. Without the true implementation of Islam, underdevelopment and hardships will prevail in Muslim societies.

Islamic states cannot, therefore, face the economic and cultural challenges presented by the modern world without the comprehensive application of Islam, which can be but briefly mentioned in the context of this discussion. The aim of the Islamic system is realized through the worship of Allah the Almighty which, in the broadest sense, involves the constant struggle to improve real human progress through learning, economic development and the realization of a decent and righteous life for everyone living under this system.

If this can be achieved, the objectives of *Shari'ah*, i.e., the protection of faith; life, intellect, property and progeny for present and future generations of Muslims, will be realized. The above discussion has touched briefly upon one aspect of the fourth objective, which is the protection of property or wealth, manifest in the efficacy of the mechanism of profit in the utilization of resources.

Conclusion :

In concluding the brief discussion of this important issue, I would like to point out that I have not dealt with the juristic aspect of the issue of bank interest, as it has been fully discussed by Islamic jurists, past and present, individually and collectively with more than 30 fatwas⁽⁷⁴⁾ passed thereon. I would like to record here, by way of emphasis not repetition, that bank interest, whether credit or debit, is Riba and utterly forbidden by the Book, the.. *Sunnah*, and the Consensus ' of jurists. I also wish to stress that the interest rate mechanism is a wicked and corrupt means of managing modern economic activity, whereas the rate of profit is the most practical and effective mechanism for the management of an Islamic economy.

It is pointless to be preoccupied with issues which have already long been resolved. Such a preoccupation is nothing but a distraction from more immediate and urgent problems. Instead of using the juridical legacy of Islam to bring our Muslim economies back to and within *Shari'ah*, we keep reverting to matters which have already been settled. Only when *Shari'ah* is applied to finance investment can we take steps to redress underdevelopment.

It almost seems as if this secondary issue has been artificially revived in an attempt to validate a prohibited practice by justifying an indulgence in the sin of Riba. The function of a modern bank is to trade in interest loans. Interest on loans is clearly a preconditioned increment and constitutes *Riba*, which is categorically prohibited in Islam. The interest rate mechanism is, thus, a corrupt method for managing. modern economic activity.

The Islamic system offers an easy, effective, and practical alternative. This alternative is the profit-loss sharing system instead of credit-debit relationship that is involved in *Riba*. With this form of financing investment, conventional banks can be transformed into Islamic banks, with profit acting as an effective and rational mechanism in the management of contemporary economic activity.

Let us always remember and follow Allah's saying:

" O believers, have fear of Allah and waive what is still due to you from Riba, if your faith be true; or war shall be declared against you by Allah and His Apostle. If you repent, you may retain your principal, wronging

none (with an increase) without being wronged (by suffering a loss).". "

And Allah's.. saying:

"This Oath of Mine is straight Follow it and do not follow other 'paths, 'for they will lead you away from Him" (77)

And Allah's saying:

"When My guidance IS revealed to you; he who follows it shall neither err nor be afflicted; but he who gives no heed to My warning shall live in distress. Allah speaks the truth and there is no power but with Allah ! Glory to Him and far is He above all.

***SHAR'AH POSITION ON BANK INTEREST:
CONSENSUS FATWAS***

- 2.1 *Fatwas* by the Egyptian Office of the Mufti - 1900 - 1989.A.D.
- 2.2 *Fatwas* by the Council of Islamic Studies, Al Azhar - Cairo, (Second Conference, Muharram, 1385 A.H./May, 1965).
- 2.3 *Fatwas* by the Council of Islamic Fiqh Academy - Organization of the Islamic Conference (O.I.C.).
- 2.4 *Fatwas* by the Council of Islamic *Fiqh* - Muslim World League.
- 2.5 *Fatwas* by the General Presidency's Department of *Ifta'* (opinion giving on *Shari'ah* matters) in Saudi Arabia.

**SHARI'AH POSITION ON BANK INTEREST:
CONSENSUS FATWAS**

2.1 Fatwas by the Egyptian Office of the Mufti - 1900- 1989.A.D.

1. Subject: Prohibition of bank interest.

Question:

Is the use of Bank money permissible (Halal) or prohibited (Haram) ? Is what is taken of it for trade considered Riba or not (i.e are business loans taken from a bank at a fixed rate of interest considered to be Riba)?

Fatwa:

To take business loans from a bank at a fixed rate of interest, as is the custom now, is Riba which is altogether forbidden. Allah, the Almighty knows best.

Source:

Fatwas by the Egyptian Office of the Mufti, Supreme Council for Islamic Affairs; opinion given by Sheikh Bakri Al Sadafi, Egyptian Mufti, 27 Muharram 1325 A.H./1907 A.D.

2. Subject: Prohibition of investing deposited money for a fixed interest.

Question:

A person asks about the Shari'ah ruling on depositing the legacy of his deceased son's two daughters in a bank for interest.

Fatwa:

Islamic law does not permit the investment of money in a bank at a fixed rate of interest because an investment such as this constitutes Riba which is prohibited by the Shari'ah.

Source:

Fatwa by Sheikh Abdel Majeed Saleem, Mufti of Egypt, 1348 A.H./ 1930 A. D.

3. Subject: Interest of bonds- is a prohibited *Riba*.

Question:

If one inherits from his father Cotton Loan Bonds on which the government pays interest, is the interest accrued considered a prohibited *Riba* ?

Fatwa:

This interest is a type of *Riba* prohibited by Allah the Almighty in His Holy Book.

Source:

Fatwa by Sheikh Abdel Majeed Saleem, Mufti of Egypt, 1362 A.H. / 1943 A.D.

4. Subject: Taking interest for money deposited in banks is prohibited; it may not be given as alms. .

Question:

Is it permitted to take interest for money deposited in banks and give it as alms to the poor ?

Fatwa:

Taking interest for ' money ' deposited in banks constitutes *Riba* and is prohibited. Giving this interest as alms is unacceptable to Allah, the Almighty. He who does so has committed a sin.

Source:

Fatwa by Sheikh Abdel Majeed Saleem, Mufti of Egypt, 1362 A.H. / 1943 A.D.

5. Subject: Practicing work that involves *Riba* is helping to do something prohibited.

Question:

A question was raised about a person who works as a clerk in the Agricultural Credit Bank. Is this allowed, given that he needs this work for his livelihood and that all banking work is based on interest? Is blame attached to him on this account?

Fatwa:

Undertaking work that is linked to *Riba*, clerical or otherwise, is helping to do something illegal. This is prohibited by *Shari'ah*.

Source:

Fatwa by Sheikh Abdel Majeed Saleem, Mufti of Egypt, 1363 A.H. / 1944 A.D.

6. **Subject: Investing money by depositing it in a bank in return for interest is not permitted. There are many Islamically sanctioned ways to invest money which are acceptable to Allah.**

Question:

A question was raised about depositing money, particularly that which belongs to orphans, in banks for interest.

Fatwa:

Investing money in banks is *Riba* forbidden by *Shari'ah*; investing orphans' money in banks is also *Riba*. There are many Islamically sanctioned ways acceptable to Allah to invest money, such as placing it with reputable investors to be used for legal, limited investment until such a time the money is needed for the purpose it was saved.

Source:

Fatwa by Sheikh Abdel Majeed Saleem, Mufti of Egypt, 1364 A.H. / 1945 A.D.

7. **Subject: Development Bonds and Treasury Bonds of fixed returns are considered forbidden *Riba* instruments.**

Question:

The Department of Organization and Job Classification of Bank Misr, in its letter dated 7 February, 1979, registered under No. 59/79, stated that many Egyptian expatriates in Arab countries requested that the bank's management issue investment certificates to which they would subscribe on condition that the money would not be used for loans or in unspecified usurious work, to ensure it is Islamic from the source, with no doubt concerning the returns coming from the investment. At present the bank is

preparing a project that permits the investment of this money in operations, free from any usurious elements, such as the following:

- (a) The allocation of a part of what the bank owns of the shares of companies, which do not receive any fixed rate of profit. These companies are involved in trade and industry and are not engaged in the loans and credit business.
- (b) The purchase on the stock market of shares of solvent companies that are involved in commercial and industrial operations only.
- (c) Equity participation in new companies established by the bank, dealing in commerce and industry away from any financial operation.

Complementary to these projects which the bank intends to set up, the bank management considered asking the opinion of the Office of the Mufti as to the possibility of buying the following kinds of instruments to add them to others already purchased for the same purpose:

1. Treasury Bonds with a fixed rate of interest issued by the state and subscribed to by banks.
2. Development Bonds with a fixed rate of interest issued by the state and heavily subscribed to by banks.

It is understood that the state, possessing sovereignty, has the right to exact a toll in return for the utilities services financed by these bonds. Government revenue from such levies exceeds the rates given to the holders of these bonds or certificates and the government is not liable to incur a loss out of them. The purchase of these bonds or certificates may not, therefore, be considered *haram* (forbidden) or *Riba*.

Fatwa:

It is clearly the desire of these Egyptian investors to avoid any usurious financial transaction. In order to help fulfil this desire, the bank becomes an agent operating in private in return for certain conditions. The bank wishes to have a legal opinion concerning the utilization of these investors' money for the purchase

of Treasury Certificates and Development Bonds with a fixed rate of interest, which are issued by the state and subscribed to by banks. The Treasury Certificates and Development Bonds issued by the state with a fixed rate of interest are of the nature of loans for interest, and Islamic law prohibits loans with a fixed rate of interest, regardless of who the loan-giver or borrower may be. *Riba* which is forbidden by the Book, the Sunnah and the consensus of Muslim jurists. The aim of the investors for lawful gain which is acceptable to Allah demands that their money be invested accordingly; not in these development bonds, but in non-usurious projects as shown in the letter of the bank. As an agent for these people, it is necessary that the bank abides by their terms.

Source:

Islamic *Fatwas*, The Office of the Mufti, Volume 9, Fatwa No. 1248, Page 3311, February, 1979 A.D. The Supreme Council for Islamic Affairs, Al Awkaf Ministry, Cairo, Sheikh Jadul Haq Ali Jadul Haq, Mufti of the Arab Republic of Egypt.

8. Subject: Interest on Investment Certificates and on saving accounts is a prohibited *Riba*, not a reward or a promise of a prize.

Question:

Is the return of Investment Certificates permissible or prohibited according to *Shari'ah* ? Is the return a prohibited *Riba*, or is it a reward in return for offering money to the state to develop projects beneficial to the nation?

Fatwa:

Islam forbids *Riba* in its two forms of increment and delay of payment. This prohibition is unconditional in accordance with the Qur'an, the Sunnah and the Consensus of Muslim jurists. As Investment Certificates are loans for interest, and as it is stipulated by the *Shari'ah* in the Qur'an and Sunnah that predetermined interest is a prohibited incremental *Riba*, a Muslim has no right to benefit from it. The argument that such interest constitutes ,a reward is unacceptable for certificates having a predefined return at a fixed rate of interest. However, some jurists allow for prizes with no interest which may be considered as a promise to give a prize. Allah, the Almighty knows best.

Source:

Islamic *Fatwas*, Volume 9, No. 1252, Page 3335, December, 1979 A.D., Sheikh Jadul Haq All Jadul Haq, Mufti of the Arab Republic of Egypt.

9.. Subject: Prizes won by the owners of Investment Certificates of category C are considered to be a promise for a prize.

Question:

First: Are prizes obtained by Owners of Investment Certificates of category C permissible or not? **Second:** The questioner has a savings account in the Alexandria Bank in the name of his children. He has relinquished the interest on this account as it is a prohibited *Riba*. Nevertheless, *the bank makes a regular monthly draw for prizes ... What is the Shari'ah position regarding these prizes?*

Fatwa:

The prizes won by the owners of Investment Certificates of category C and of the savings accounts are considered to be a promise for a prize, which has been considered permissible by some jurists. However, interest which is predefined for some kinds of Investment Certificates and for amounts saved as per savings accounts at a fixed rate of interest is forbidden as it is incremental *Riba* proscribed by *Shari'ah*. *As a result, the questioner is allowed to accept the prize for the Investment Certificates of category C or for savings, but not interest.*

Source:

Islamic *Fatwas*, Volume 9, page 3337, January, 1980 A.D., Sheikh Jadul. Haq Ali, Jadul Haq,: Mufti of the Arab Republic of Egypt.

10. Subject: Depositing money in banks in return for interest is a prohibited *Riba*, whether or not the banks belong to the government.

Question:

Banks in Egypt give a yearly interest of 7.5%, 8.5%, or 13%. *Some Ulema (scholars) have given the opinion that such interest*

is permissible as the transaction is not with individuals but with banks that belong to the state. What is the ruling concerning this interest?

Fatwa:

Allah, the Exalted, said in Sura Al Baqara (The Cow), Verses 275 and 276: "Those who take usury shall rise up before Allah like men whom Satan has demented by his touch; for they claim that usury is like trading. But Allah has permitted trading and forbidden usury. He that receives an admonition from his Lord and mends his ways may keep what he has already earned; his fate is in the hands of Allah. But he that pays no heed shall be among the people of the Fire and shall remain in it forever. Allah has laid His curse on usury and blessed almsgiving with increase. He bears no love for the ungrateful sinner".

The Prophet, peace be upon him, said:

"Gold for gold; hand by hand, any extra is considered *Riba*".

From these passages, and others, it is clear that *Riba* is prohibited, whether it is *Riba* on delayed payment or as an increment. Depositing money in banks in return for interest has been described by law as a loan for interest. This interest is incremental *Riba* which is prohibited by *Shari'ah*. It is evil money from which a Muslim is not allowed to benefit. He must get rid of it by giving it as alms. Saying that this transaction is not among individuals but with banks that belong to the government makes no difference as, legally, these dealings are loans for interest. Nothing in the law distinguishes between *Riba* among individuals and *Riba* between individuals and the government. The earnings of Muslims must be legal, acceptable to Allah, and above suspicion. Allah, the Almighty knows best.

Source:

Islamic *Fatwas*, Volume 9, Page 3341, October, 1980 A.D., Sheikh Jadul Haq Ali Jadul Haq, Mufti of the Arab Republic of Egypt.

11. - Subject: Borrowing for interest from government institutions or from banks is prohibited because it is *Riba*.

Question:

The government has allocated 250 million pounds for housing and building loans at 3% interest, with a grace period of three years and repayment period of 30 years. A man asks whether it is possible for him to borrow some of this money to build a house on a lot he owns to benefit another Muslim who has no apartment, if he pays back this money under the conditions and guarantees stipulated by the state.

Fatwa:

The Almighty God says in the Sura of Al Omran, Verse 130:

"O believers, devour not usury, doubling its rate many times."

His Messenger, peace be upon him, as related by Abu Said, said: God's Messenger, peace be upon him, says:

"Gold for gold, silver for silver; wheat for wheat, barley for barley, dates for dates, salt for salt, measure for measure, hand by hand. He who increases it, or demands an increase, is a usurer, both he who takes and he who gives are on the same level." The above was related by Ahmad and Al Bukhari.

Muslims unanimously reject *Riba* in its two forms, delayed payment and incremental, it is legally forbidden as per the text of the Qur'an, Sunnah and Consensus of jurists. As borrowing from state-owned institutions, and receiving loans from banks, at a fixed rate of interest, such as 3%, is considered to be taking loans for interest, it is, therefore, forbidden. A fixed rate of interest is incremental *Riba* which is proscribed by *Shari'ah*.

Thus, borrowing for interest fixed at 3%, as referred to in the above question, is forbidden. As the questioner apparently wishes to borrow money at interest to build for the sake of renting or selling the property, rather than out of personal need, this would be an unnecessary involvement in *Riba*. The profit obtained from such a venture would constitute usury which is for-

bidden for Muslims who are commanded to seek lawful profits and to avoid all doubtful transactions in accordance with the saying of the Messenger of Allah: "Avoid anything that is suspicious and do that which is not." From what has been stated, the answer to the question is clear. Allah, the Almighty knows best.

Source:

Islamic *Fatwas*, Volume 10, No. 1301, Page 3561, Rabi' Thani, 1400 A.H. (February, 1980 A.D.), Sheikh Jadul Haq Ali Jadul Haq, Mufti of the Arab Republic of Egypt.

12. Subject: Benefiting from bank interest is prohibited by *Shari'ah*. It must be given away as charity.

Question:

A lady possessed a sum of money which she put in a bank for interest. She received the interest which is now in her possession. She wishes to know what to do with it, as she has discovered that it is considered to be *Riba*.

Fatwa:

Allah, the Almighty, says in His Holy Book:

"Those who take usury shall rise up before Allah like men whom Satan has demented by his touch; for they claim that usury is like trading. But Allah has permitted trading and forbidden usury. He that receives an admonition from his Lord and mends his ways may keep what he has already earned; his fate is in the hands of Allah. But he that pays no heed shall be among the people of the Fire and shall remain in it forever. Allah has laid His curse on usury and blessed almsgiving with increase. He bears no love for the ungrateful sinner". (Sura Al Baqara, Verses 275 and 276.)

It is related by Abu Said that Allah's Messenger, peace be upon him, said:

"Gold for Gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt,

measure for measure, hand by hand; he who increases it or demands an increase, is a usurer, both he who takes and he who gives are on the same level." (Reported by Ahmad and Al Bukhari).

From this, it appears that usury in its two forms (delayed payment or incremental) is legally forbidden according to the Qur'an, Sunnah and the consensus of all Muslims.

Therefore, it is not permissible for the lady, who put the question, to benefit from this interest, as it is incremental *Riba*, forbidden by *Shari'ah*. The way to get rid of such forbidden gain is to give it away as charity to the poor, or to dispose of it in any other philanthropical manner. All Muslims, men and women, must seek permissible gain and avoid everything that is suspected of being forbidden, in obedience to the saying of Allah's Messenger, Peace be upon him:

"Avoid anything that is suspicious and do that which is not.

Source:

Islamic *Fatwas*, Volume 10, No. 1303, page 3565, Ramadan, August 1980 A.D., Sheikh Jadul Haq Ali Jadul Haq, Mufti of the Arab Republic of Egypt.

13. Subject: Depositing money in return for a fixed rate of interest is prohibited by *Shari'ah*; investing money for actual profits arising out of investment operations is acceptable by *Shari'ah*.

Question:

The *Shari'ah* ruling is sought as to the following:

- (a) Interest in general, given at fixed rates for amounts deposited with banks.
- (b) Depositing money in banks without taking any interest.
- (c) Information is requested on the Islamic Faisal Bank and the Social Nasser Bank. Is interest from the Nasser **Bank prohibited or permitted by *Shari'ah* ?**

Fatwa:

Islam has prohibited *Riba* in its two forms: incremental *Riba*, which is borrowing a definite amount of money from someone

at a fixed rate of interest, and delayed payment *Riba*, i.e. increasing the interest, or estimating it in relation to the period of time or delay in the payment of a loan. This prohibition is absolute, according to the Holy Qur'an, Sunnah, and consensus of all Muslim scholars. Allah, the Almighty, said:

"Those who take usury shall rise up before Allah like men whom Satan has demented by his touch; for they claim that usury is like trading. But Allah has permitted trading and forbidden usury. He that receives an admonition from his Lord and mends his ways may keep what he has already earned; his fate is in the hands of Allah. But he that pays no heed shall be among the people of the Fire and shall remain in it forever. Allah has laid His curse on usury and blessed almsgiving with increase. He bears no love for the ungrateful sinner." (Sura Al Baqara, Verses 275 and 276.)

Allah's Messenger, peace be upon him, said: "Gold for gold, hand by hand; any excess is usury."

According to these passages, as well as others, usury, (i.e. incremental or delayed payment) is forbidden. Fixed interest on amounts deposited in banks, or in the Post Department Saving Accounts is described by law as a loan for interest. It is, therefore, incremental *Riba* which is prohibited by Islam. However, depositing cash in banks without interest, in order to preserve it, is allowed, as currency, in itself, is interchangeable, and mixing it with usurious money does not make depositing money forbidden.

The investment system, applied in the Islamic Faisal Bank and in the Social Nasser Bank, is not based on the fixed interest rate system. These banks distribute the profits of their legal investment operations in unfixed amounts on the basis of the profits realized by the project. This is legal in Islam as it corresponds to that which is allowed by Muslim jurists regarding Mudharaba contracts, and profit/loss sharing partnerships. Muslims must invest their money in legal ways which are not involved with what is prohibited, as Allah, the Almighty, as recorded in the Hadith, will ask every person about his money - how he got it and how

he spent it. This ruling is given on the condition that these banks pay the *Zakah* due on their investments and transactions.

Source:

Islamic *Fatwas*, Volume 9, No. 1258, Page 3347, January, 1981 A.D., Sheikh Jadul Haq Ali Jadul Haq, Mufti of the Arab Republic of Egypt.

The following four fatwas, issued in 1989 by Sheikh Tantawi, the present Mufti, prohibit all forms of bankinterest.

14. On 15 January, 1989.

Question:

Mr. Abdellah Mostafa deposited an amount of money in a bank and asks whether the bank profits are legal or illegal. Is it permissible to pay *Zakah* from such profits ? Is it permissible to use *some* *∂* part of it for charitable deeds, such as contributing to the building of mosques and other buildings ?

Fatwa:

As long as the bank interest is fixed, it is incremental *Riba*, which is prohibited by *Shari'ah*. No *Zakah* is to be paid for it; *Zakah* is to be paid only for the capital if it satisfies the nisab requirement. Fixed interest is evil money which must not be used to pay *Zakah*. The depositor has the choice of leaving it to the bank, or receiving it in order to dispose of it by giving it as charity to the poor and the needy. It should not be used to contribute to building mosques as *these mosques are for worship and belong to Allah*. Allah is Good and accepts only what is good. Allah, the Almighty knows best.

15. On 20 February 1989.

Question:

Mr. Farouk Abdel Majeed ended his service as an employee and received an end - of - service compensation. He desires to invest the amount in a bank in the form of investment certificates for the benefit of his two sons who are still in primary school. He has two questions: (1) Is the interest for these certificates legal

or illegal? (2) Must he pay *Zakah* for the amount and the interest at the end of a year?

Fatwa:

Islamic jurists are in agreement that *Riba* is the acquisition of money in return for nothing. Allah, the Almighty has prohibited *Riba* in many verses of the Qur'an; the last one being:

"Those who take usury shall rise up before Allah like men whom Satan has demented by his touch; for they claim that usury is like trading. But Allah has permitted trading and forbidden usury. He that receives an admonition from his Lord and mends his ways may keep what he has already earned; his fate is in the hands of Allah. But he that pays no heed shall be among the people of the Fire and shall remain in it forever. Allah has laid His curse on usury and blessed almsgiving with increase. He bears no love for the ungrateful sinner." (Sura Al Baqara, Verses 275 ad 276.)

Riba is also prohibited according to the tradition related by Al Bukhari and Muslim and others, upon the authority of Said Al Khidri who said: Allah's Messenger, peace be upon him, said:

"Gold for gold; silver for silver; wheat for wheat; barley for barley; dates for dates; salt for salt; measure for measure, hand by hand... He who exceeds or demands an excess, is a usurer... The one who takes and the one who gives are on the same level."

From these texts, it is clear that usury in all its forms is prohibited by *Shari'ah*. Therefore, dealing in fixed interest Investment Certificates is incremental *Riba*. As for *Zakah*, it must be paid only if the amount of money involved necessitates payment of *Zakah*, i.e. it must be equal to 85 grams of gold at the prevailing price. Also, the owner must not be indebted, and this money must be a surplus, in excess of his living needs and the needs of those who depend on him. Furthermore, a full year must have passed. As to the interest, it is evil money for which *Zakah* is not payable; it must be given as charity, as Allah is Good and accepts only what is good. Allah, the Almighty knows best.

16. On 20 February, 1989.

Question:

Mr. S.F. is retired, and the company for which he worked paid him the amount of 42 thousand pounds... He deposited this amount in Bank Misr in the form of Investment Certificates as it is no longer safe to deposit money in Investment Companies. He found no project to invest this money in ...: especially as his health does not permit him to exert much effort. He read a report in the daily Akhbar Al Yawm in which a number of sheikhs and Ulema stated that bank deposits are employed in industrial and commercial projects and hence no *Riba* is involved. He saw an Islamic bank deal with his son-in-law on the same basis as other banks, while giving lower profits. He does not wish to receive any unlawful money. and, therefore, asks for juridical opinion concerning this question.

Fatwa:

Muslims are unanimous on the prohibition of *Riba* ... *Riba*, according to Muslim jurists, is the acquisition of money in return for nothing. Prohibition of *Riba* in this sense is unanimously agreed upon in all revealed messages... Depositing money in banks, or lending it, or borrowing it, in any form, in return for interest fixed in time and amount is considered a loan for interest, and all fixed interest loans are illegal. The interest going to the gentleman in question is incremental *Riba* legally prohibited by religious texts. We advise every Muslim to seek legal methods to invest his money and to avoid any suspicious dealing as, on the Day of Judgement, he is responsible for his money, where he got it from and how he spent it. Allah, the Almighty knows best.

17. On 12 March 1989.

Question:

Mr. Asim asked about Islam's position towards: investing money in the following: Banks which deal with fixed profits, such as Investment Certificates A, B and C issued by the National Bank of Egypt; Dollar Savings Certificates issued by Bank Misr giving the highest interest rate, varying on a world basis; and the Islamic branches of ordinary banks, such as Bank Misr, Islamic Opera-

tions Branch, and Islamic banks, such as the Islamic Faisal Bank and the International Islamic Bank.

Fatwa:

Investment Certificates with interest fixed in time and amount, such as Certificates A and B, are loans in return for interest. As such, this interest is incremental *Riba* prohibited by Islam according to the Book, *Sunnah*, And the consensus of Muslims. Category C investment certificates are a promise of a reward which some jurists find permissible. Investment without fixed interest, which may realize yearly profits or may incur yearly losses, is permissible by Islamic law, as it is well within the bounds of legal *Mudharaba* and profit. Investment on this basis is lawful. The same ruling applies to Dollar Savings Certificates. From these examples, one can judge the nature of dealing with Islamic branches of ordinary banks such as Bank Misr, Islamic Operations Branch, or Islamic Faisal Bank and the International Islamic Bank. Allah, the Almighty knows best.

2.2 Fatwas by the Council of Islamic Studies, Al Azhar - Cairo, (Second Conference, Muharram, 1385 A.H.! May, 1965).

Concerning bank operations, the conference passed the following decisions:

1. Interest on all kinds of loans is prohibited *Riba*. There is no difference between loans for consumption or what is described as a productive loan as the texts in the Book and *Sunnah* are definite in outlawing both kinds.
2. Large or small amounts of *Riba* are both unlawful as is well understood by Allah's saying: "O believers, devour not usury, doubling its rate many times. Have fear of Allah, and you shall prosper."
3. Lending for *Riba* is prohibited; it is not justified by any need or necessity. Usurious borrowing is also prohibited. This sin is forgiven only if committed by necessity. Every person is given the discretion to judge this necessity, according to his belief.
4. Bank operations (current accounts, payment of cheques, letters of credit, bills which are handled internally by merchants and banks) are legal banking operations. Any money

taken in return for these operations is not Riba.

5. Fixed term deposits, interest-based credits and all kinds of loans in return for interest are usurious operations ... They are forbidden.
6. Consideration of bank operations concerning external bills has been postponed for further study.
7. As the, banking system has a clear effect on modern economic activity... and as Islam is keen on preserving useful innovations,-while avoiding their burdens and sins, the Council of Islamic Studies will study an Islamic alternative for the present banking system. The Council calls upon Muslim *Ulema, investors, and those concerned with the economy* to submit their suggestions in this field.

2.3 Fatwas by the Council of Islamic Fiqh Academy - Organization of the Islamic Conference (O.I.C.,) -

In the name of Allah, the Compassionate, the Merciful. Praise be to Allah, Lord of the worlds, and blessings and peace be upon our Prophet, *the last of the prophets, and on his relatives and companions.*

Resolution concerning bank interest and dealing with Islamic banks.

The Council of Islamic Fiqh Academy, formed by the O.I.C., held its second conference in Jeddah from 10 to 16 Rabi' Thani, 1406 A.H./ **22** - 28 December, 1985 A.D.

Having reviewed various studies concerning modern banking methods, and after seriously investigating and discussing what was submitted in order to stress the negative impact these methods have on the stability of the world economic system, especially the stability of third world states, and after contemplating the damage this system has caused as a result of failing to apply *what is clearly stated in Allah's Book as to the absolute prohibition of usury, and in calling for repentance from this, and for its limitation to the retrieval of both large and small loans, and after contemplating what is mentioned as a threat of a total war by Allah and His Prophet on usurers, this conference has resolved that:*

First: All increments (or interest) in return for the postponement of paying a debt on its due date even though the borrower is unable to repay it on time, and all increments (or interest) on the loan from the date it was first made, are considered legally prohibited. .

Second: The alternative, which guarantees financial liquidity and helps economic activity in a form that is acceptable to Islam, is to transact according to Islamic law, particularly after what has been published by concerned organizations on the various aspects of operations which are actually implemented by Islamic banks.

Third: The Council has decided to call upon Islamic governments to encourage the existing Islamic banks, enabling their establishment in all Islamic countries to answer the needs of Muslims, so that a Muslim does not have to live in a state of contradiction between actual conditions and the tenets of his creed. Allah, the Almighty knows best.

2.4 Fatwas by the Council of Islamic Fiqh - Muslim World League.

Decision No. 6 by the Council of Islamic World League - concerning the proliferation of usurious banks and people dealing with them, and the legal opinion on taking usurious interest.

Praise be to Allah, and prayers and peace on our Prophet Mohammad, peace be upon him, the last of the prophets, and on his Family and Companions.

The Board of the Council of Islamic Fiqh, in its ninth session, held in the premises of the Muslim World League in Holy Makkah, from Saturday, 12 Rajab 1406 A.H. to Saturday 19 Rajab 1406 A.H. investigated "the proliferation of usurious banks, and people's dealings with them, in the absence of alternatives," a subject that was referred to the Board by H.E. Secretary General, the Vice President of the Board:

The Board listened to the views expressed by members about this grave situation in which unlawfulness is spreading. This form of unlawfulness is condemned by the Book, the *Sunnah* and the consensus of Muslims. All Muslims agree that usury is a great sin, one of the seven major sins. The Holy Qur'an threatens usurers with war from Allah and His Prophet. Allah said: "O believers, have fear of Allah and waive what is still due to you from usury, if your faith be true; or war shall be declared against you by Allah and His Apostle. If you repent, you may retain your principal, wronging none (with an increase) without being wronged (by suffering a loss)." Al Baqara (The Cow), Verses 278 and 279.

It has been verified that the Prophet, Allah's blessings and peace be upon him, condemned those who take, give, write about, and witness usury, and said : "They are all the same." This tradition is related by Muslim.

Ibn Abbas also related after Allah's Apostle, peace be upon him, that when adultery and usury appear in a village, then its people have brought upon themselves punishment by Allah, the Almighty. Ibn Massoud also related something similar. Modern economic research has confirmed that usury is a threat to the world's economy and politics, as well as its ethics and security. *It is the cause of many of the crises from which the world suffers. The only escape is to eliminate the malignant disease of usury from the world, which is exactly what Islam did fourteen hundred years-ago.*

Thanks to Allah, Muslims have begun to regain their self- confidence, and sense of identity -as 'a' result of a renewed understanding of their - religion. Thoughts-that represented a period of psychological defeat in the; face of western civilization and its capitalistic system have retreated, even, , - though at one time weaklings within the Muslim World: wanted to force clear and verified texts to justify what had been prohibited by Allah and *His Prophet. Now economic conferences and seminars held in more than one Islamic country, and outside -the Islamic World as well, are deciding unanimously that usurious interest is forbidden, and are demonstrating to .the public the possibility of establishing legal alternatives to banks and institutions that are based on usury. After that came the establishment of Islamic banks with no usury, or unlawful transactions. These banks started small but grew large within a short time. They were few in number, but increased and multiplied quickly so that, today, there are more than ninety such banks in the Islamic World.*

The establishment. of these Islamic banks belied the claim of secularists and victims of cultural imperialism who claimed that applying Islamic law in the field of economics is impossible, as there can be no economy without banks, and, no banks without interest.

Certain Islamic countries, such as Pakistan, had the fortune, through Allah's guidance to transform national banks into Islamic banks that neither give nor take usury. Foreign banks were also asked to change their system to conform to the policy of the state; otherwise, there would be no place for them. *That is a sound policy which deserves to be rewarded.* In consequence, the Board has decided the following:

First: All Muslims must cease to be involved with all that Allah has prohibited (giving or taking usury or assisting in any type of usurious transaction) in order to avoid Allah's punishment and the war of Allah and His Prophet on them.

Second: The Board approves the establishment of Islamic banks which are a lawful alternative to usurious banks. Islamic banks are those which insist on abiding by the Islamic *Shari'ah* (law) in all of their transactions, and demand a binding legal control from their management.

The Board calls upon Muslims everywhere to support these banks, to help them, and not to listen to prejudiced rumors about them which attempt to sow seeds of confusion. The Board believes that the establishment of these banks must spread to all Islamic countries and to wherever groups of Muslims are found outside the Islamic World in order to build up a strong network of Islamic banks to prepare for a fully Islamic economy.

Third: A Muslim who has the opportunity to deal with an Islamic bank is forbidden from any dealing with usurious banks, as he has no excuse to deal with them when an Islamic alternative is available. He must substitute the benign for the malignant; he must take only what is lawful, and discard what is unlawful.

Fourth: The Board calls upon those responsible in Islamic countries and those managing usurious banks to make a serious attempt to cleanse them from the impurity of *Riba*, in response to Allah's saying: "Waive what is still due to you from usury, if your faith be true." Sura Al-Baqara (The Cow), Verse 278.

By so doing, they will contribute to the liberation of their societies from the imperialistic effects on the law and the economy.

Fifth: Everything that comes from usurious interest is forbidden by law. No Muslim may benefit from it for any of his needs or for those of anyone whom he supports. Such interest must be spent for the general good of all Muslims, (such as for schools, hospitals, etc.) and doing so is not charity, but, rather, is cleansing oneself from unlawfulness and impurities.

Such interest must not, on any account, be left to usurious banks, because it will strengthen them and help to spread sins elsewhere as this money is usually spent on Christian and Jewish institu-

tons. In this way, Muslim money becomes a weapon to fight Muslims and to lead their children away from their creed. It should be known that investing any money with these usurious banks, whether interest is paid or not, is forbidden.

The Board, furthermore, calls upon Islamic banks to employ good Muslims and teach them the Islamic *Shari'ah* and its tenets and morals so that their conduct may be in conformity with these principles.

Allah is our Guide to the truth. Allah's blessings be upon the Prophet Mohammad and on his Family. and Companions; praise be to Allah, the Lord of the universe.

2.5 Fatwas by the General Presidency's Department of Ifta' (opinion giving on *Shari'ah* matters) in Saudi Arabia.

(1) Fatwa No. 2805, dated 5/2/1400 A.H.

Question:

A man knows someone who sells cars in the United States for installments with a fixed rate of interest on deferred payments which increases on the delay of payment. Is this transaction permissible or not ?

Answer:

If the one who sells the .car or other merchandise over a fixed period of time, for a price that is to be paid on a fixed future date, or dates, and does not increase the value of the deferred amount; then there is nothing wrong in that. The transaction is legal, as Allah says: " O believers, when you contract a debt for a fixed period, put it in writing." Sura Al-Baqara (The Cow), Verse 282. And it is known. that Allah's Messenger, may Allah's blessings and peace be upon him, did buy some things with the payment deferred to a future date. But if the deferred_ payment is increased by a fixed proportion as a result of the delay in paying the installments, this is forbidden, according to the consensus of all Muslims. This is pre-Islamic usury as mentioned in the Qur'an when one person, at the time the payment was due, said to one who -was indebted to him, that the debt must be paid or the amount would be increased. Allah is our Guide; may His blessings be on Mohammad and his Family and Companions.

(2) Fatwa No. 2828 dated 18/2/1400 A.H.

Question:

A man who has been working in a bank for ten years knows that working in banks is forbidden. He works as a night guard, having no connection with banking operations. Should he go on working, or should he leave ?

Answer:

A Muslim may not work as a guard for banks that deal with usury, as this is complicity in sin and wrong-doing. Allah has forbidden this in saying: "Help one another in what is good and pious, not in what is wicked and sinful." Sura Al-Maida (The Table), Verse 2. Most banks are involved with usury. He must look for a lawful way to earn his living.

May Allah's blessings and peace be upon our Prophet Mohamad and his Family and Companions.

(3) Fatwa No. 2782, dated 22/1/1400 A.H.

Question:

The following question was raised regarding the payment of *Zakah* on the purchase and sale of land: Sheikh Ahmad Mohammed Jamal wrote in Al Bilad on 12 Ramadan 1399 A.H. that *Zakah* on the sale of land is obligatory. A land salesman then protested by telephone that *Zakah* is not obligatory on land in that it is only to be paid for movable assets. I told him that the sale of land is a commercial transaction. He was not convinced and he hung up. I beg you to clarify this matter. May Allah bless you.

Answer:

Zakah is obligatory on the sale of land as it is a commercial transaction included in the list of transactions on which *Zakah* is compulsory. Allah says: "Take alms from their wealth, so that they may thereby be cleansed and purified," Sura Al-Tawba (Repentance), Verse 103. Abou Dawood related upon the authority of Samra Bin Jundub, may Allah be pleased with him, that Allah's Prophet, may Allah's blessings and peace be on him, ordered us to pay *Zakah* for what we offer for sale. Thus also

said the jurists and it is correct. May Allah's blessings and peace be upon our Prophet Mohammad.

(4) Fatwa No. 3620, dated 15/5/1401 A.H. .

Question:

Praise be to God who alone is to be praised. Prayers and peace be on His Messenger Mohammad and his Family and Companions. A question was submitted to the General Chairman of the Permanent Committee for Scientific Research and Opinion Giving by Mahmoud Husein Hammad (registered under No. 580 on 26/3/1401 A.H.), in which he states that he works in a bank in the Kingdom. He asks *whether or not* such work in banks dealing with usury is permitted. If it is not permitted, then should he resign ?

Answer:

Working in present day banks that deal with usury is not permissible. You may not continue to work in this bank. The Committee previously received a similar question to which it answered in Fatwa No. 1338 on 4/6/1396 A.H. stating: Nowadays most banking operations involve usury which has been forbidden by the *Book, Al Sunnah. and by general consensus. The Prophet, may Allah's blessings and peace be upon him, decreed that he who helps the usurer and his agent by working or by witnessing for him, etc: deserves to be punished together with the usurer and his agent, and will be denied Allah's mercy. In Sahib Muslim and other .Hadith collections, is related the saying by Jaber, may Allah be well- pleased with him, that Allah's Messenger, may Allah's blessings and peace be upon him, condemned the usurer, his agent and his witness, saying that they are all one and the same. Those who work in banks are aides to the owners of banks, as managers of their affairs, as clerks, in registration, as witnesses in transporting papers, paying out money, or collecting and receiving it, etc. All these services assist the usurers. Therefore, working in modern banks is not allowed: A Muslim must avoid this; he must earn his living by the many ways that are acceptable to Allah. He must fear Allah, and should not expose himself to Divine punishment. It is hoped that this will prove a sufficient warning. May Allah guide us, and may His blessings*

and peace be on His Servant and Messenger, and his Family and Companions.

**The Permanent Committee for
Scientific Research and Opinion Giving**

**President
Signed
Abdel Aziz Ben Abdalla Ben Baz**

**Vice President
Signed
Abdel Razzak Afifi**

NOTES AND REFERENCES

1. The linguistic meaning of usury is "the increase." Refer to Jarullah Abu Al-Qassim Al-Zamakhshari's book: "Assasu-al- Balagha (Basics of Rhetoric)", (Dar Sadir, Beirut, 1979) p.219 and Mohamed Bin Abu Bakr Al-Razi's "Mukhtar Al Sihah", (Darul Kitab Al-Arabi, Beirut, undated) p.231.
2. For the details of this, please refer to: Abu Ja'far Mohamed Bin Jareer Al-Tabari's "Jami'ul Bayan Fi Tafsir Al-Quran," (Darul Ma'rifah, Beirut, 1978), Vol. 3, Part 3; Page 72; Mohamed Bin Ahmed Bin Rushd Al-Qurtubi's "Bidayatul Mujtahid wa Nihayatul Muqtasid," (Mustafa Al-Halabi's Printing House, Cairo, undated) Part 2, Page 128; Shamsuddin Mohamed Ibn Abi Al-Abbas Al-Ramli's "Nihayatul Muhtaj ila Sharhil Minhaj" (Mustafa Al-Halabi's Printing House, Cairo, 1976), Part 3, Page 36; Kamaluddin Mohamed Ibn Abdel Wahid, known as Ibnul Hammam Al-Hanafi's "Sharh Fat-hul Qadeer Ala Al-Hidayah (Darul Fikr, Bierut, undated) Part 7, p. 4; (Shamsuddin Abi Abdellah Mohamed Abi Bakr, known as Ibnul Qayim Al- Jowziyah's "A'lamul Muwaqi'een 'an Rabil Alameen" (Al-Azhar Colleges' Library, Cairo, undated) Part 2, p.135 and; Abi Mohammed Ali Bin Hazm, Al-Mahali, (Commercial Office, Beirut, undated) Part 9, p. 502-503.
3. For this, please refer to Mohammed Abdellah Daraz's "Islamic Studies on the Social and International Relations," (Darul Qalam, Kuwait, 1974) Second Edition, pp. 151-155.(in Arabic)
4. Abu Bakr Bin Ali Al-Jassas, "Ahkamul Qur'an" (Darul Mus-haf, Cairo, undated) Second Edition, Part Two, p. 325.
5. Surat Al Baqara (The Cow), Verse 279.
6. Jalaluddin Abdurahman Bin Abi Bakr Al Suyouti, "Al-Jami'u Sagheer Fi Ahadeeth Al-Bashir Al-Nadheer," (Darul Fikr, Beirut, 1981) Part Two, Page 284 and Mohamed Abdella Daraz, who was referred to earlier. pp. 166-168.
7. Yussuf Qassim, "Commercial transactions in the Equilibrium of the Shari'ah" (Darul-Nahdah Al-Arabiyah Cairo, 1980) pp.136- 146.
8. Ibid., pp. 124-125.
9. Ibn Rushd, "Bidayatul Mujtahid...," referred to earlier, Part One, p. 263. For the presentation of an enjoyable and well- documented discourse on this point, see Abu Bakr Al-Siddiq Mutawali and Shawqi Shehata: "The Economics of Money within the framework of the Islamic Thought," (Maktabat Wahbah, Cairo, 1983), pp. 125/142.
10. Abdel Hamid El-Ghazali, Introduction to Macro-Economics: 1- Money and Banks (Daru-Nahdah Al-Arabiyah, Cairo, 1987), pp. 187-208.
11. Ibid., pp. 190-195, 202.
12. Ibid., pp. 190-195, 202.

13. As has been reported from the Messenger of Allah, Peace be upon him, on the authority of Ahmed as well as of Abu Da'oud, Al Tirmithi, Al-Nissai and Ibn Majah, all of them on the authority of 'Aisha, Allah be well-pleased with her. See Al-Suyouti's above reference in (No. 6), Part One, Page 636, Hadith No. 4130.
14. Ibn Hazm, Al-Mahali's cited reference, Part Eight, p. 88 and Al- Suyouti's cited reference, Part Two, p. 284, Hadith No. 6336. '
 For the details of the various Islamic investment modes, see Abu Mohamed Abdellah Bin Qudamah, Al-Mughni, (Al-Maktabah Al-Tijariyah Al-Kubra, Cairo, 1970); Ibn Qayim Al-Jowziyah's cited reference; Ibn Rushd's cited reference, Al-Ramli's cited reference, Ibn Hazm's cited reference; Ali Al-Khafif's "Companies in the Islamic Fiqh - comparative researches," Egyptian Universities Publishing House, Cairo, 1962); Abdel Aziz Al-Khayyat's "Companies in the' Islamic Shari'ah and Conventional Law," (Ministry of Awqaf and Islamic Affairs, Jordan, 1971) and Yussuf Qassim's cited reference.
- 16: - Abdel Hamid El-Ghazali's "Introduction to Macro-Economics" (cited earlier) pp. 371-398.
17. This is the opinion of the majority among the positive economists and capitalists which, Professor, Dr. Saeed Al- Naggar has persuasively summarized. See Dr. Saeed Al- Naggar's article: "Banking Interest Rate and the Silent Majority" Parts one and two, published in Cairo's Al-Ahram newspaper on Tuesday and Thursday (12 and 14:9.1989).
18. Saeed Al-Naggar, cited.
19. Saeed Al-Naggar, cited.
20. As the majority of the Western economists claim to be an example, see: Samuelson, P.A., Economics, 7th ed. (Mc Graw Hill, New York, 1967).
21. As an example of this, see: Hahn F. & Breching F. cds. The theory of Interest Rates, (Macmillan, N.Y. 1965) as well as Sami Khaleel's "The Political Monetary and Financial Theories," (Kazimah Publishing Company, Kuwait, 1982) Chapter 18.
22. See: Wilczynski J., Profits Risk, and Incentives under Socialist Economic Planning (Macmillan Press, London, 1973).
23. See: Samuelson, Op.cit, footnote 1, pp. 571-572.
24. Seer Ibid., pp. 586-590.
25. See: Enzler, J., Conra, W&Johnson, L., "Public Policy and Capital Formation," Federal Reserve Bulletin, (Oct, 1981), p. 759.
26. See: Meade J. & Andrews, P., "Summary of Replies to Questions on the Effect of Interest Rates," Oxford Economic Papers, 1938), pp. 14-31. Copied from: Abdel Fattah Qandeel and Salwa Suleiman: "National Income," (Daru-Nahdah Al- Arabiyah, Cairo, 1979), pp. 237•-238.'

27. Abdel Fattah Qandeel and Salwa Suleiman, *op.cit.*, p. 237.
28. Samuelson, *op.*, *cit.*, footnote 4, p. 574.
29. Leibling. H., U.S. Corporate Profitability and Capital Formation: Are Rates of Return Sufficient? (Pergamon Policy Studies, N.Y. 1980), pp. 70-78.
30. Mohamed Chapra, Towards a Just Monetary System: Translated by Sayid Sukar (International Institute of Islamic Thought, 1981), pp. 160-161, copied from the Report on International Trade (1982/83), chapter one.
31. Abdel Hamid El-Ghazali, *op.cit.*, pp. 280-305.
32. Abdel Hamid El-Ghazali, *op.cit.*, . 300.
33. Abdel Hamid El-Ghazali, *op.cit.*, pp. 301-304.
34. See following pages 26-28.
35. 35. Friedman, M., "The Yo-Yo U.S. Economy," *Newsweek*, (15 February, 1982) p. 4.
36. Simon, H., *Economic Policy for a Free Society*, (University of Chicago Press, Chicago, 1948), p. 320.
37. Minsky, H., *John Maynard Keynes*, (Columbia University Press, N.Y. 1975).
38. Mohamed Chapra, *op.cit.*, p. 156, copied from the Federal Reserve Bulletin, (June, 1981).
39. Mohamed Chapra, *op.cit.*, p. 156, copied from the Federal Reserve: Flow of Funds, (Feb. 1981), p.9.
40. Miller, J., "A Glimpse at Calculating and Using Return on Investment," *N.A.A. Bulletin*, June, 1960), pp. 71-75, copied by Abdel Fattah Qandeel and Salwa Suleiman, *op.cit.*, p. 252.
41. Turvey, R., Does the Rate of Interest Rule the Roost? In Hahn, F., eds., *The Theory of Interest Rates*, *op. cit.*, pp. 172 & 329.
42. Samuelson, P., *op. cit.*, pp. 373 - 574 & His: "A Capital and Interest Aspects of the Pricing Process," *The Quarterly Journal of Economics*, No. 2, (May, 1959), p. 409, mentioned in the comments by Zarqa, A., on S. Naqui's Paper: "Interest Rate and Intertemporal Allocative Efficiency in An Islamic Economy," in Ariff, M., ed., *Monetary and Fiscal Economics of Islam*, (Inter-national Centre for Research in Islamic Economics, Jeddah, 1982), p. 99.
43. Patinkin, D., "Interest, in Sills, D., ed., *International Encyclopedia of the Social sciences*, (Macmillan), Vol. 7, p. 472, quoted by Zarqa, A., in his: "An Islamic Perspective on the Economics of Discounting in Project Evaluation," in Ahmed, Z., & Others, eds., *Fiscal Policy and Resource Allocation in Islam*, (Institute of policy Studies, Islamabad, 1983), p. 212.
44. Samuelson, P., *Economics*, *op. cit.*, pp. 577-578 and Zarqa's Comments on Naqui's Paper, in Ariff, ed., *op. cit.*, p. 102.

45. Samuelson, *Ibid.*, p. 578.
46. Samuelson, *Ibid.*, p. 578.
47. Saeed Al-Naggar, *op.cit*
48. See the references made in Note No. 15 of this study as well as the program of Islamic Modes of Investment, Centre of Islamic Economics, Cairo, 1985.
49. For details of the modes and tools of Islamic investment see the references made in Note No. 15 of this study; Centre of Islamic Economics, *op.cit.*, and Al-Sawi, Mohamed: *The Problem of Investment in Islamic Banks and How Islam has solved it*, a Doctoral thesis (Faculty of Shari'ah and Law, Al-Azhar University, Cairo, 1985); Mashour, Amirah; *Motives and Modes of Investment in Islamic Economics*, A Doctorate thesis (Faculty of Economics and Political Science, Cairo University, 1986); and Abdel 'Al, Nadya; *Modes of Financing and Investment in Islamic Banks*, a Masters' thesis (Faculty of Economics and Political Science, Cairo University, 1988).
50. Zarqa, A. "An Islamic Perspective" in Ahmed, Z., & others, eds., *op. cit.*, pp. 226-227.
51. Refer to the Notes Nos. 15 and 49 of this study.
52. Program of Islamic Investment Modes, *op.cit.*, and Centre of Islamic Economics; Program of Feasibility Studies and. Evaluation of Projects from, an Islamic Perspective (Centre of Islamic Economics, Cairo, 1986) and Program of Guarantees in Islamic Transactions (Centre of Islamic Economics, Cairo, 1986).
53. Program of Islamic Investment Modes, (Centre of Islamic Economics), *op.cit*.
54. For details of the Zakah's role in Saving and Investment, see Mashhour, Ni'mat, *the Developmental and Distributive Role of the Zakah duty*, a Doctoral thesis (Faculty of Economics and Political Science, Cairo University, 1988).
55. El-Ghazali, Abdel Hamid, *Introduction to Macro-Economics*, *op.cit.*, pp. 371-392. Also by the same author, *Study of the Feasibility of the Islamic Banks; the Scientific and Practical Encyclopedia of Islamic Banks, Part Five, Second Shari'ah Volume* (Islamic Banks Federation, Cairo, 1982); and "On the Islamic Approach to Economic Development," (Darul Wafa, Al- Mansourah, 1989).
- 56 Refer to the Notes Nos. 15 and 49 of this study.
- 57 Centre of Islamic Economics, *Investment Modes and Employment of Funds, the Islamic Perspective*, Issue No. 1 (Research Department of the Centre of Islamic Economics, Cairo). For enjoyable details see also the references made in Note No. 56 above.
- 58 El-Ghazali, Abdel Hamid, *Introduction to Macro-Economics*, *op.cit*.
59. For details see Al-Jarihi, Mo'bad; *Towards an Islamic Monetary and Financial System: Structure and Application*, pp. 13-119 and Chapra, Mohamed; *Towards a Just Monetary System*, *op.cit.*, pp. 197-249.

60. El-Ghazali, Abdel Hamid, Introduction to Macro-Economics, op.cit., pp. 261-279.
61. For the details of this point, see Al-Jarihi, op.cit., pp. 105-108 as well as Chapra, op.cit., pp. 249-285.
62. Al-Jarihi, op.cit., pp. 42-53, 106-107.
63. Chapra, op.cit., pp. 203-205.
64. El-Ghazali, Introduction to Macro-Economics, op.cit., pp. 333- 334 as well as Al-Jarihi, cit., pp. 56-59.
65. Sultan, Salahuddin, Power of the authorities to impose financial wazifas, "Taxes," a comparative Fiqh Study (Hijr for Printing and Publishing, Al-Jiza, 1988), Chapters two and three, pp. 169-498.
66. Al-Jarihi, op.cit., p. 58.
67. El-Ghazali, Abdel Hamid, "Towards a Post-war Approach to Economic Development- The Afghani Case Study" a research paper (Centre of Islamic Economics, Cairo, 1989).
68. El-Ghazali, on the Islamic Approach to Economic Development, op. cit., pp. 9-10.
69. El-Ghazali, op.cit., p. 10.
70. El-Ghazali, op.cit, pp. 16-17.
71. El-Ghazali, op.cit., pp. 62-64.
72. El-Ghazali, op.cit., pp. 65-67.
73. For the details of the Islamic Approach to Development, see the above reference.
74. To determine the most important Fatwas issued in this respect, see the Centre of Islamic Economics, Guide of the Shari'ah Fatwas on Banking Business, Towards an Islamic Economic Awakening series, Issue No. 1 (Centre of Islamic Economics, Cairo, 1989).
75. !bid, pp. 13-46.
76. The Cow, Verses 278-279.
77. The Cattle, Verse 153.
78. Taha, Verses 123-124.

ISLAMIC DEVELOPMENT BANK ISLAMIC RESEARCH AND TRAINING INSTITUTE
TEL 6361400 FAX)(6378927 / 6366871 TLX 601137/601945 CABLE: BANKISLAMI
P.O. BOX 9201 JEDDAH 21413

