

TOWARDS A PRISTINE ISLAMIC FINANCE: PRECONDITIONS

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ABSTRACT – The need for an alternative to the current mainstream financial architecture is not in doubt. As exigent as this call might be through the Islamic finance conduit, it has to be done properly. This is particularly important if we must avoid associated shari'ah risks, avoid rubbing the face of the religion, Islam in the mud and of course if we must reap the benefits that accrues from following Allah's dictates in all our affairs including "econo-financial" matters. This study aims at marshalling a path towards scripting a pristine and practicable Islamic finance by identifying two salient preconditions for it. It utilizes a diachronic approach whilst resorting to scriptural reasoning, historical evidence and were analyzed using inductive rationale. The study finds some unique issues cum scenarios that cannot be shoved or brushed aside as far as Islamic financing is concerned. viz; Scenario one: The impracticability of Islamic financing without an enabling Islamic Law; Scenario two: The non-implementability of Islamic financing without the Islamic man; Scenario three: Islamic finance orchestrated without an Islamic law but with an Islamic man; Scenario four: A "globalized" Islamic finance that can at best fit into a practicable legal micro framework in today's world; and Scenario five: A non-global Islamic finance within a practicable legal micro framework.

Keywords: Pristine Islamic finance, Preconditions, Islamic Man, Islamic Law, Plausible Scenarios

ABSTRAK – Prasyarat Menuju Praktik Keuangan Islam Sejati. Kebutuhan akan sebuah arsitektur keuangan alternatif dari yang ada sekarang merupakan suatu hal yang tidak diragukan lagi. Walaupun seruan ini mungkin mendesak melalui saluran keuangan Islam, itu harus dilakukan dengan benar. Hal ini sangat penting untuk menghindari risiko yang terkait kesyariahan sistem keuangan dalam Islam, ibaratnya ini merupakan upaya untuk menghindari menggosok wajah agama Islam dengan lumpur. Jika kita harus menuai manfaat dari melaksanakan perintah Allah, maka itu ada dalam semua urusan termasuk masalah "Econo-financial". Kajian ini bertujuan menyusun jalan menuju skrip keuangan Islam yang murni dan praktis dengan mengidentifikasi dua prasyarat penting untuk itu. Studi ini menggunakan pendekatan diakronis dengan melakukan penalaran terhadap teks-teks keagamaan, bukti sejarah, dan dianalisis dengan rasionalisasi induktif. Penelitian ini menemukan beberapa masalah unik sekaligus skenario yang tidak dapat disingkirkan atau disingkirkan sejauh menyangkut keuangan Islam. yaitu; Skenario satu: Ketidakpraktisan pembiayaan keuangan syariah tanpa adanya hukum Islam yang memungkinkan; Skenario dua: Ketidakimplementasian pembiayaan keuangan Islam tanpa Islamic man; Skenario tiga: Keuangan Islam diatur tanpa hukum Islam tetapi dengan Islam man; Skenario empat: Keuangan Islam yang "diglobalisasi" yang paling sesuai dengan kerangka mikro hukum yang dapat diterapkan di dunia saat ini; dan Skenario lima: Keuangan Islam non-global dalam kerangka mikro hukum yang praktis.

Kata Kunci: Keuangan Islam Sejati, Prasyarat, Islamic Man, Hukum Islam, Skenario Yang Realistik.

INTRODUCTION

Since its inception as a supposed alternative paradigm to its conventional counterpart, the Islamic financial industry has been plagued with unnecessary imperfections and defects cutting across all aspects of Islamic financial theorizing and applications (Bacha, & Mirakhor, 2013). The response to this imperfection and defects has been chiefly regulatory and supervisory prescriptions (Ibrahim & Kamri, 2017). This approach is however symptomatic and not without flaws; A fundamental flaw is the tendency to want to ensure the workability of the system without an ideal operational/enabling law (Hasan, 2014b; Nienhaus, 1983). Another flaw is that the approach seems to champion the idea that: “in the absence of morals, we have regulation and supervision” translating into wanting to coerce the people, stakeholders, practitioners into observing best practices (Kamri, Ramlan, & Ibrahim, 2014), failing to realize that supervisory and regulatory roles are in fact played by man and that the observance of best practices has a lot to do with internal conviction reinforced with correct knowledge and belief (Grais & Pellegrini, 2006; Hasan, 2014a, 2014c).

Against this backdrop, the author suggests that there are two prerequisites for Islamic financing; an enabling Islamic law and of course an Islamic man. Perhaps a plausible way out of the current embarrassing Islamic financing ambience is religious enlightenment which focuses on institutionalizing an Islamic law and developing a truly Islamic man even though the former might seem out of reach on a macro parlance.

The paper therefore presents evidence and explanations for these two prerequisites by resorting to historical experiences of two epochs, highlights some issues relating to the applicability of Islamic law, thereafter expounds the credentials of a truly Islamic man as defined by the Quran and the Sunnah and concludes with some recommendations. The author is aware that religion often connotes different belief systems, the paper however limits itself to the religion of total submission to Almighty God (Islam) as Islamic financing naturally dictates.

RESEARCH METHOD

This study utilizes a qualitative approach with a diachronic approach. Data for this study is gathered through resorting to scriptural reasoning and historical



evidence from the practices of the prophets and his companions and the people who come after that. The data were then analyzed using inductive rationale.

LITERATURE REVIEW AND DISCUSSIONS

Two Nations with Implicit Islamic Financing

Narrated `Adi bin Hatim:

“While I was in the city of the Prophet, a man came and complained to him (the Prophet,) of destitution and poverty. Then another man came and complained of robbery (by highwaymen). The Prophet (saws) said, "Adi! Have you been to Al-Hira?" I said, "I haven't been to it, but I was informed about it." He said, "If you should live for a long time, you will certainly see that a lady in a Howdah traveling from Al-Hira will (safely reach Mecca and) perform the Tawaf of the Ka`ba, fearing none but Allah." I said to myself, "What will happen to the robbers of the tribe of Tai who have spread evil throughout the country?" The Prophet (saws) further said. "If you should live long, the treasures of Khosrau will be opened (and taken as spoils)." I asked, "You mean Khosrau, son of Hurmuz?" He said, "Khosrau, son of Hurmuz; and if you should live long, you will see that one will carry a handful of gold or silver and go out looking for a person to accept it from him, but will find none to accept it from him. And any of you, when meeting Allah, will meet Him without needing an interpreter between him and Allah to interpret for him, and Allah will say to him: 'Didn't I send a messenger to teach you?' He will say: 'Yes.' Allah will say: 'Didn't I give you wealth and do you favor?' He will say: 'Yes.' Then he will look to his right and see nothing but Hell, and look to his left and see nothing but Hell." `Adi further said: I heard the Prophet (saws) saying, "Save yourself from the (Hell) Fire even with half a date (to be given in charity) and if you do not find a half date, then with a good pleasant word." `Adi added: (later on) I saw a lady in a Howdah traveling from Al-Hira till she performed the Tawaf of the Ka`ba, fearing none but Allah. And I was one of those who opened (conquered) the treasures of Khosrau, son of Hurmuz. If you should live long, you will see what the Prophet (saws) Abu-l-Qasim had said: 'A person will come out with a handful. of gold...etc.'" (Sahih al-Bukhari 3595: Book 61, Hadith 102).

The above Hadith is a prediction of (a) future prosperous nation(s) with visible financial cum economic prosperity, peace, safety and security of lives, in short, a co-existence of absolute wealth and paucity of poverty. The prophecy of peace, safety and security was fulfilled during the life of the narrator; however,



he did not live to see the holistic nation including the first two prophecies and the third prophecy of financial prosperity. This prophecy was however fulfilled during two unique caliphates; The Caliphate of Umar Ibn al-Khattab and that of Umar ibn Abdul-Azeez. These “nations”, in modern terminology represent nations with implicit Islamic financing without all the features modern finance. Short relevant accounts of these societies are presented below;

The Era of Umar Ibn al-Khattab

The epoch of Umar (May Allah be pleased with him) is typified by immense justice and great abundance. The nation flourished and so were the inhabitants. A brief story of a particular incident that happened during Umar’s reign gives a vivid picture of the kind of prosperity that occurred in that land. Reported in al-Amwal written by Abu Ubayd: Mu’adh ibn Jabal one of the companions of the Prophet (peace be on him) was stationed in Yemen as an envoy to the state, he served in this position and capacity during the time of the Prophet through the time of Abu Bakr (may Allah be pleased with him) and he was reappointed to this position during the reign of Umar. Mu’adh sent a third of the compulsory charity collected from the people to Umar, however, Umar refused to accept the Zakah proceeds saying; I have not sent you to as a tax collector or as a gatherer of the security tax (jizyah) but rather your job is to redistribute resources. Mu’adh explained his position saying that; he only sent what he could not find anyone to accept. In following year, the same repartee ensued following the same action by Mu’adh. Also, in the following year, Mu’adh again sent Zakah to Umar but this time not half but all, Umar declined acceptance but he (Mu’adh) said; I could not find anyone to accept any of it from me. This account reflects a real Utopian state with great level of financial sufficiency, contentment, honesty and justice.

A prominent Islamic financial feature of the caliphates under Umar’s is the Waqf which he himself institutionalized as the following Hadith reveals;

Narrated Ibn `Umar:

Umar bin Khattab got some land in Khaibar and he went to the Prophet (saws) to consult him about it saying, "O Allah's Messenger (saws) I got some land in Khaibar better than which I have never had, what do you suggest that I do with it?" The Prophet (saws) said, "If you like you can give the land (corpus) as endowment and give its fruits in charity." So `Umar gave it in charity as an endowment on the condition that would not be sold nor given to anybody as a



present and not to be inherited, but its yield would be given in charity to the poor people, to the Kith and kin, for freeing slaves, for Allah's Cause, to the travelers and guests; and that there would be no harm if the guardian of the endowment ate from it according to his need with good intention, and fed others without storing it for the future (with a view to becoming rich) "(Sahih al-Bukhari 2737 : Book 54, Hadith 24).

This tradition continues till this day though less pronounced in Muslim lands.

The Era of Umar Ibn Abdul Azeez

Like the era of Umar ibn Al-Khattab, the reign of Umar ibn Abdul Azeez is also an evidence of economic prosperity. The following first hand narrations and reports allude to this fact; Yahya ibn Sa'eed reported that he was sent to collect the Zakah of North of Africa by Umar ibn Abdul-Azeez, I collected the Zakah but I could not find any poor person to give it to as Umar Ibn Abdul Azeez has made the people rich, so I bought some slaves with them and thereafter set them free. The governor of Basra which was under Umar's reign communicated in a letter to him (Umar) that the citizens have become so prosperous that he fears that they may become vain and reckless but he replied with a quotation from the holy Quran of Chapter 39 verse 72-74; "it will be said, enter the gates of Hell to abide eternally therein, and wretched is the residence of the arrogant. But those who feared their Lord will be driven to Paradise in groups until, when they reach it while its gates have been opened and its keepers say, "Peace be upon you"; you have become pure; so enter it to abide eternally therein, [they will enter]. And they will say, Praise to Allah, who has fulfilled for us His promise and made us inherit the earth [so] we may settle in Paradise wherever we will. And excellent is the reward of [righteous] workers." He added; so, tell the people to praise their Lord (Allah). Abu Ubayd also narrated in Al-amwal that Umar ibn Abdul Azeez wrote to Abdul-Hameed Ibn 'Abdul-Rahman in Iraq instructing him to give the people their entitlements. Abdul-Hameed replied that he had done that but there is money left in the treasury(Bayt al-mal), Umar then instructed that anyone who had incurred a genuine debt out of need should be helped to pay the debt, he replied again that he has done that and there is money left in the treasury, Umar then said that he should help anyone who wanted to get married to arrange the marriage and pay the dowry, Abdul-hameed said he has done this for every single man but still money remains in the treasury, At this point, the caliph gave an instruction that anyone who owed the land tax and needed finance to



cultivate the land should be given whatever he needed and that this need not be repaid until after one or two years. It was also narrated in *ad-Dala'il* by Al-Bayhaqi that Umar ibn Usayd ibn Zayd ibn al-Khattab said; the reign of Umar ibn Abdul Azeez (may Allah be pleased with him) lasted for two years and six months and he did not die until it happened that men would offer large amount of money for charity but they would have to go back with their offer faced with a dilemma of finding who to receive their offer as Umar ibn Abdul-Azeez has made the people rich.

A salient Islamic finance feature of the regime was non- interest agricultural loans by the state to the farmers as well as land owners to ease cultivation.

A panoramic analysis of these epochs reveals that the four fundamentals of any Islamic financial system was adhered to; these fundamentals are; the prohibition of interest which has anchorage in risk sharing and avoidance of unnecessary risk, ambiguity and uncertainties; the feature of material finality, no exploitation between contracting parties and of course the prohibition of dealing in “unhalal” products (Ibrahim, 2000). Also deducible is that, two ingredients were largely responsible for the success cum prosperity witnessed in these eras; a perfect divinely-prescribed legislation (Islamic law) and a truly Islamic man i.e. a law which outperformed all other unperfect man made legal systems on which all economic, social, moral, spiritual activities were based and of course the man whose objective is to obey Allah at all times in all his dealings (Iqbal & Molyneux, 2005); a true slave of Allah, seeking Allah’s pleasure in all his actions; both mundane and otherwise, doing all he does for His sake, establishing a connection between all his earthly dealings and the hereafter and thereby emancipating himself from the shackles of illusory whims and desires as well as the trivialities of this transient world (Khan & Mirakhor, 1989). Therefore, if the two deduced prerequisites were in place and in continuum prior and during the described reigns with features of Islamic financing, by, extension, it follows arguably that they are indeed plausible requirements for today’s Islamic financing (Iqbal & Mirakhor, 2011).

Enabling Islamic Law in Modern Times; Is It Wishful Thinking?

Hutchings (1934) defines Law as a body of principles and rules developed in the light of the rational sciences of Ethics and Politics. He was of the opinion that the aim of politics and ethics is good life and so is the aim of Law. Legal positivism presents laws as commands issued by the uncommanded



commander; the sovereign whose commands are enforced by sanctions and one who is obeyed by the majority (Austin, 1875). In spite of its variations, the theory of legal positivism explains that the legal validity and acceptability of a norm in any system rests not on its merits but on its sources (Lewis, Ariff & Mohamad, 2014). If the above definitions are put into the right perspective, they might forge our understanding of that law that originates from the Creator of the worlds.

The Quran makes it crystal clear that it is mandatory to rule by Allah's law. This is stressed in not less than six places in the Quran; "Indeed, We have revealed to you, [O Muhammad], the Book in truth so you may judge between the people by that which Allah has shown you. And do not be for the deceitful an advocate (Quran 4 verse 105). And judge, [O Muhammad], between them by what Allah has revealed and do not follow their inclinations and beware of them, lest they tempt you away from some of what Allah has revealed to you. And if they turn away – then know that Allah only intends to afflict them with some of their [own] sins. And indeed, many among the people are defiantly disobedient. (Quran 5 verse 49). Then is it the judgement of [the time of] ignorance they desire? But who is better than Allah in judgement for a people who are certain [in faith] (Quran 5 verse 50). Legislation is not but for Allah (Quran 12 verse 40) and He shares not His legislation with anyone (Quran 18 verse 26).

The law of the creator is an embodiment of the Quran and the Sunnah of the prophet i.e. his saying, actions and of course tacit approvals. This is because obeying the messenger is tantamount to obeying Allah as evidenced in the following Quranic verses; He who obeys the Messenger has obeyed Allah (Quran 8 verse 40). It is not for a believing man or a believing woman, when Allah and His Messenger have decided a matter, that they should [thereafter] have any choice about their affair. And whoever disobeys Allah and His Messenger has certainly strayed into clear error (Quran 33 verse 36). But no, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission (Quran 4 verse 65). And whoever obeys Allah and His Messenger has certainly attained a great attainment. (Quran 33 verse 71).

The rationale for Allah's injunction and insistence on ruling with His laws is so that justice is always established in any social system or organization as Allah



clearly spell out in Chapter 57 verse 25 of the Quran; “We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice.” Therefore, it is incumbent on any nation who wants to establish justice in all its affairs to rule with what the Creator has revealed. Allah likens those who do not judge by his Laws to unbelievers, wrongdoers and transgressors. Allah says; ...And whoever does not judge by what Allah has revealed – then it is those who are the disbelievers (Quran 5 verse 44). And whoever does not judge by what Allah has revealed – then it is those who are the wrongdoers (Quran 5 verse 45). And whoever does not judge by what Allah has revealed – then it is those who are the defiantly disobedient. (Quran 5 verse 47). Cross referencing verse 2 and verse 55 of chapter 2 and 24 respectively with the just mentioned verses of the Quran reveals that not judging by what Allah has ordained is akin to wrong doing and rebellion, disobedience which is in fact disbelieve in Allah. Disbelieve here would mean a tacit and implicit denial of Allah’s divinity by rejecting his command, wrongdoing would denote making people follow other than the clear path of Allah thereby accentuating corruption, while rebellion would connote a deviation from the prescribed divine injunctions.

Therefore, it is imperative to rule by the laws of Allah as it is the effective and complete code that governs all aspects of any social system; relationships, business dealings, dispute resolutions, punishment and reproaches, compensations and so on. It is after this law has been institutionalized that Islamic finance can flourish otherwise an attempt to practice Islamic finance will mean putting square pegs in round holes or better still wanting to build a house without a land let alone a foundation. It is however worthy of mention that ruling by Allah’s injunction does not necessarily imply compulsion in religion, or islamizing all persons of “different” faiths but rather it entails tolerance to all other beliefs without compromising the laws of Allah.

Of particular concern to the author is the realizability of this prerequisite in today’s world. Establishing an Islamic law on a macro scale might be unattainable, nevertheless, this is possible on a micro level (Iqbal, Mirakhor & Krichene, 2012). Settling for micro institutionalization presents a stumbling block which borders on whether Islamic financing is a global phenomenon or not? Hence, we might have to settle for the implementation of the second prerequisite; Islamic man which seems realizable but quite a herculean task.



The Islamic Man Described

The word Islam in his verbal noun form occurs 8 times in the Quran and is derived from the Arabic trilateral root word Sin Lam Min which occurs 140 times in the Quran. It simply means peace acquired by total submission to Allah. It follows that the Islamic man is one who acquires peace through total submission to Allah. This prerequisite (the Islamic man) is pertinent as all applications as well as implementations rests with him. The following exposition presents the Islamic man in relation to his Lord, himself, and the society.

The Islamic Man and his Lord

The Islamic man is a true servant of Allah. He knows that he is in this world solely to worship Allah as his Creator has informed him in Chapter 51 verse 56 of the Quran that “And I did not create the jinn and mankind except to worship Me”. He is therefore aware that all his deeds both religious and mundane constitute worship and does them wholly for His sake. He knows that this earthly life and its adornment are a test of his/her deeds or actions which has an apparent connection to the next life i.e. hereafter; Quran 67 verse 2 and Quran 18 verse 7 says; “..[He] who created death and life to test you [as to] which of you is best in deed - and He is the Exalted in Might the Forgiving”. “ Verily! We have made that which is on earth as an adornment for it, in order that We may test them (mankind) as to which of them are best in deeds. [i.e. those who do good deeds in the most perfect manner, that means to do them (deeds) totally for Allah's sake and in accordance to the legal ways of the Prophet SAW].” and as such every deed both mundane and religious not performed for the sake of Allah is a wasted deed as the Hadith of Umar ibn Khattab confirms; “I heard Allah's Messenger (saws) saying; "The reward of deeds depends upon the intentions and every person will get the reward according to what he has intended. So, whoever emigrated for worldly benefits or for a woman to marry, his emigration was for what he emigrated for." (Sahih Bukhari Book 1 Volume 1). This message is also repeated in Sunan an-Nasa'i 3140: Book 25, Hadith 56 where the Prophet is reported to have said; “Allah does not accept any deed, except that which is purely for Him, and seeking His Face.”

The Islamic man loves Allah more than any other phenomenon or entity that exists in the heavens and the earth both animate and inanimate. He is conscious of the message contained in verse 24 chapter 9 of the Quran where Allah says;



“Say: If your fathers, your sons, your brothers, your wives, your kindred, the wealth that you have gained, the commerce in which you fear a decline (the trade you fear may have no profit), and the dwellings in which you delight (the homely life) ... are dearer to you than Allah and His Messenger, and striving hard and fighting in His Cause, then wait until Allah brings about His Decision (torment). And Allah guides not the people who are Al-Fasiqun (the rebellious, disobedient to Allah).” and knows that if he loves anything equally or more than Allah including obedience and allegiance to other than Him, it is tantamount to worshipping other than Him (i. e. Shirk) taking note of verses 106 and 165, chapter 12 and 2 respectively of the Quran where Allah says; “And most of them believe not in Allah except while they associate others with Him”. “And [yet], among the people are those who take other than Allah as equals [to Him]. They love them as they [should] love Allah. But those who believe are stronger in love for Allah”.

The truly Islamic man is full of “eeman” translated narrowly as belief/faith in the English language. He acquires and develops eeman because he knows he cannot fulfil his obligation to Allah without it holding on to the saying of the Prophet that no one can enter paradise until he possesses faith.... (Sahih Muslim Book 1 Hadith 102). Eeman has been defined by the early scholars of Islam as the product of three variables; utterances of the tongue, conviction in the heart and action of the limbs (Quran 48 verse 4, Quran 9 verse 124, Quran 3 verse 173, Sahih Muslim Book 1, hadith number 84 and 60). His eeman increases or decreases depending on his knowledge, remembrance of his Creator and other fruitful activities. He is aware that if any one of the three components becomes zero his eeman automatically becomes zero meaning he would not enter paradise as all deeds or action both religious and mundane are done in futility and ultimately baseless (Askari, Iqbal, & Mirakhor, 2010).

The Islamic man stays away from all religious innovations and abstains from unlawful activities in all ramifications as they are the sanctuary of the Creator .He therefore acts on the Hadith reported by An-Numan bin Bashir which states; "The lawful is clear and the unlawful is clear, and between that are matters that are doubtful (not clear); many of the people do not know whether it is lawful or unlawful. So, whoever leaves it to protect his religion and his honour, then he will be safe, and whoever falls into something from them, then he soon will have fallen into the unlawful. Just like if someone grazes (his animals) around a sanctuary, he would soon wind up in it. Indeed, for every king is a sanctuary (pasture), and indeed Allah's sanctuary is what He made



unlawful." (Jami at-Tirmidhi Book of Business (14) Hadith number 1) and he is also quick to sincerely repent and ask for forgiveness from his Lord when he falters as he is aware, he forgives all sins except the sin of ascribing partners to Allah (Quran 4 verse 17-18, 48, 116, Quran 39:53).

The Islamic man establishes and maintains a close contact with Allah by observing the five compulsory five daily prayers and the supererogatory prayers and never delays them (Quran 2 verse 238, Quran 19 verse 59, Quran 23 verse 1-2 etc.). He is aware that the call to the prayers is indeed a call from/to Allah and responds swiftly by leaving whatever "obligation" he is doing and proceeds to the prayer centre to pray in congregation (stipulated for the male) as the following hadith reveal and compels;

It was narrated that 'Abdullah said:" Whoever would like to meet Allah tomorrow as a Muslim, let him regularly attend these five (daily) prayers whenever the call for them is given (that in the mosques), for Allah prescribed for His Prophet the ways of guidance, and they (the prayers) are part of those ways of guidance. I do not think that there is anyone among you who does not have a place where he prays in his house. But if you were to pray in your houses and forsake the Masjids, you would be forsaking the Sunnah of your Prophet, and if you were to forsake the Sunnah of your Prophet you would go astray. There is no Muslim slave who performs Wudu and does it well, then walks to the prayer, but Allah will record one Hasanah (good deed) for each step he takes, or raise' him one level by it or erase one sin from him. I remember how we used to take short steps, and I remember (a time) when no one stayed behind from the prayer except a hypocrite whose hypocrisy was well known. And I have seen a man coming Supported by two others until he would be made to stand in the row." (Sunan an-Nasa'i 849: Book 10, Hadith 73). Also narrated from Ibn 'Abbas that: "The Prophet said: "Whoever hears the call and does not come, his prayer is not valid, except for those who have an excuse" (Sunan Ibn Majah 793: Book 4, Hadith 59). The narrator was asked what counts as excuse and he said fear or sickness.

The Islamic man does all the above confident of the promises contained in the Hadith of Abu Huraira where Allah's Messenger (saws) said, "Allah said, 'I will declare war against him who shows hostility to a pious worshipper of Mine. And the most beloved things with which My slave comes nearer to Me, is what I have enjoined upon him; and My slave keeps on coming closer to Me through performing Nawafil (praying or doing extra deeds besides what is obligatory)



till I love him, so I become his sense of hearing with which he hears, and his sense of sight with which he sees, and his hand with which he grips, and his leg with which he walks; and if he asks Me, I will give him, and if he asks My protection (Refuge), I will protect him; (i.e. give him My Refuge) and I do not hesitate to do anything as I hesitate to take the soul of the believer, for he hates death, and I hate to disappoint him." (Sahih al-Bukhari 6502: Book 81, Hadith 91).

The Islamic man and himself

The Islamic man takes care of his body and soul. As far as his body is concerned, he maintains good health by not committing excesses in eating and drinking. He takes seriously his creator's injunction in Chapter 7 verse 31 as well as in Chapter 5 verse 87 where Allah says; "O children of Adam, take your adornment at every masjid, and eat and drink, but be not excessive. Indeed, He likes not those who commit excess." He is also equally aware of the Hadith of the prophet reported in Vol. 1, Book 29, Hadith 3349/Book 29, Hadith 3474 of Sunan Ibn Majah where Miqdam bin Madikarib said: "I heard the Messenger of Allah (saws) say: 'A human being fills no worse vessel than his stomach. It is sufficient for a human being to eat a few mouthfuls to keep his spine straight. But if he must (fill it), then one third of food, one third for drink and one third for air.'" He does this because he knows a strong believer is better and more beloved to Allah than a weak believer even though both are good (Sunan ibn Majah Vol. 1, Book 1, Hadith 79/Book 1, Hadith 83). He knows he needs strength and good health to worship Allah; the purpose of his existence. The Islamic man keeps all parts of his body clean and tries to look good at all times as instructed by the Messenger of Allah that "It is Allah's right on every Muslim that he should take a bath (at least) once in seven days." (Sahih Bukhari 898: Book 11, Hadith 22).

Upon realization that he cannot fully achieve his purpose of existence on earth without acquiring adequate knowledge, the Islamic man seeks beneficial and useful knowledge. He is aware that "There is no one who goes out of his house in order to seek knowledge, but the angels lower their wings in approval of his action. (Sunan Ibn Majah: Vol. 1, Book 1, Hadith 226/Book 1, Hadith 231). He therefore "Ask(s) Allah for beneficial knowledge and seek refuge with Allah from knowledge that is of no benefit (Sunan Ibn Majah 3843: Book 34, Hadith 17). He is not oblivious of the fact that it is only those who fear Allah among His slaves who have knowledge (Quran 35 verse 28) and knows that those who



know are quite distinct from those who do not know (Quran 39 verse 9) and he further knows that sincerity is the key to seeking knowledge, beneficial for achieving success in the hereafter and in this world.

The Islamic man is constantly in the remembrance of his lord because he knows that “Unquestionably, by the remembrance of Allah hearts are assured.” (Quran 13 verse 28). He knows that; Abu Huraira reported that the Prophet (saws) said, "Allah says: 'I am just as My slave thinks I am, (i.e. I am able to do for him what he thinks I can do for him) and I am with him if He remembers Me. If he remembers Me in himself, I too, remember him in Myself; and if he remembers Me in a group of people, I remember him in a group that is better than they; and if he comes one span nearer to Me, I go one cubit nearer to him; and if he comes one cubit nearer to Me, I go a distance of two outstretched arms nearer to him; and if he comes to Me walking, I go to him running “ (Sahih al-Bukhari 7405: Book 97, Hadith 34). Therefore, his soul is constantly at rest, connected to Allah, his actions are thus guided by his Creator and his activities in this world is fruitful and with a reasonable level of perfection.

The apt Islamic man has no personal opinion except that which coincides with what Allah and his messenger has decreed because he is aware of Allah’s statements in the Quran which says “It is not for a believing man or a believing woman, when Allah and His Messenger have decided a matter, that they should [thereafter] have any choice about their affair. And whoever disobeys Allah and His Messenger has certainly strayed into clear error” (Quran 33 verse 35), hence his decisions rule on any matter is; what is good is what the Creator okays and what is bad is what the Creator detests. In short nothing matters to the Islamic man other than Allah, indeed the Islamic man is Allah centred.

The Islamic Man and the Society

While the true Muslim gets along effectively with all members of the society and never discriminates because he knows that origin of man as the Quran reveals; “O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted (Quran 49 verse 13), he however keeps close contact with the righteous as his creator has equally instructed in chapter 18 verse 28; “And keep yourself patient [by being] with those who call upon their Lord in the morning and the evening, seeking His countenance. And let not your eyes



pass beyond them, desiring adornments of the worldly life, and do not obey one whose heart We have made heedless of Our remembrance and who follows his desire and whose affair is ever [in] neglect” and he never leaves a gathering whether religious or mundane without remembering Allah because he takes note of the Hadith of the Prophet reported by Abu Hurairah :” The Prophet (saws) said, "Whenever a group of people sit in a gathering in which they do not remember Allah the Exalted, nor supplicate to elevate the rank of their Prophet, such a gathering will be a cause of grief to them. If Allah wills, He will punish them, and if He wills, He will forgive them." (Jami at-Tirmidhi. Book 5, Hadith 836).

The Islamic man fosters love among the inhabitants of the society by extending greetings to every individual he comes across as instituted by the Prophet where He observed and said; “You shall not enter Paradise so long as you do not affirm belief (in all those things which are the articles of faith) and you will not believe as long as you do not love one another. Should I not direct you to a thing which, if you do, will foster love amongst you: (i. e.) give currency to (the practice of paying salutation to one another by saying) as-salamu alaikum. (Sahih Muslim Book 1, Hadith 101). He loves every member of the society for the sake of Allah because he knows that Anas reported that the Prophet, may Allah bless him and grant him peace, said, "When two men have love for one another, the better of them is the one who has the strongest love for his companion." (Al-Adab Al-Mufrad Book 30, Hadith 7) and does not forsake them. Even when there are disputes he is just and quick to reconcile with people whether they are of the same faith or not (Quran 60 verse 8) as he is not allowed to hold grudges as the prophet has commanded; "Beware of suspicion, for suspicion is the worst of false tales; and do not look for the others' faults and do not spy, and do not be jealous of one another, and do not desert (cut your relation with) one another, and do not hate one another; and O Allah's worshipers! Be brothers (as Allah has ordered you!)" (Sahih al-Bukhari Book 78, Hadith 94).

The Islamic man collaborates with the society in good and not in sin and aggression (Quran 5 verse 2). He helps the people if they are wronged by defending them or if they are the wrongdoers by stopping them. (Sahih Muslim 2584a: Book 45, Hadith 80). He is indeed one of the people described in the Quran in Chapter 3 verse 110 as; “You are the best nation produced [as an example] for mankind. You enjoin what is right and forbid what is wrong and believe in Allah...”He is compassionate and merciful towards other members of the society because of the message contained in Chapter 4 verse 36 of the



Quran; “Worship Allah and associate nothing with Him, and to parents do good, and to relatives, orphans, the needy, the near neighbour, the neighbour farther away, the companion at your side, the traveller, and those whom your right hands possess. Indeed, Allah does not like those who are self-deluding and boastful”. He is aware that no one will have faith till he wishes for his (Muslim) brother what he likes for himself." (Sahih al-Bukhari 13 In-book reference : Book 2, Hadith 6) and as such does not do any of the following as mandated by the Prophet; “Don't nurse malice against one another, don't nurse aversion against one another and don't be inquisitive about one another and don't outbid one another (with a view to raising the price) and be fellow-brothers and servants of Allah”. (Sahih Muslim Book 45, Hadith 37).

In fact the Islamic man prefers other members of the society to himself , he spends on people in times of ease and hardship, restrains anger and pardons people for Allah likes the doers of good (Quran 3 verse 134).The Islamic man reminds himself of the above obligations and many more by frequently remembering the destroyer of pleasures; death (Vol. 1, Book 37, Hadith 4258/Book 37, Hadith 4399) which marks the end of his test(life) in this world for which the results will be shown to him in the hereafter by his Lord as Allah informs in Chapter 67 verse 1-2 of the Quran. Overall, the Islamic man should be able to “Say Indeed, my prayer, my rites of sacrifice, my living and my dying are for Allah, Lord of the worlds (Quran 6 verse 162).

The reality is that so long as the man is truly Islamic, his finance will be Islamic. Simply put, the Islamic man naturally practices Islamic finance . He is always ready to do away with widely perceived important aspects of modern finance which seem irreconcilable with his Creators dictates.

CONCLUDING REMARKS

By and large, the paper has employed a diachronic approach in deducing two perceived prerequisites for Islamic financing; The Islamic law and the Islamic Man both of which, while not mutually exclusive and not unconnected are mutually reinforcing, in fact their inexistence synergistically precludes the workability as well as practicability of a pristine clear Islamic finance. Deducible from the paper are some unique issues cum scenarios that cannot be shoved or brushed aside as far as Islamic financing is concerned. viz;

1. Scenario one: The impracticability of Islamic financing without an enabling Islamic Law



The first scenario foreshadows that Islamic finance cannot exist without an Islamic law and if it does it will be filled with unforgivable pitfalls which is not befitting of a complete system called Islam on which such financing is purportedly based (Rehman, 2007). In other words, the finance practiced in the absence of an Islamic law cannot be deemed to be Islamic finance. Allah clearly states in the Quran Chapter 5 verse 3 that; "... This day I have perfected for you your religion and completed My favour upon you and have approved for you Islam as religion." It follows that a form of finance based on a perfected system should be free of defects. Hence the common argument that Islamic finance is still in its infancy does and cannot hold water.

2. Scenario two: The non-implementability of Islamic financing without the Islamic man.

Scenario two connotes that a necessary but insufficient ingredient for Islamic financial practice is an Islamic man. This man is instrumental to the development of the financial system as everything rests on him. He in fact executes the legislated law of Allah, as such Islamic finance cannot exist without the Islamic man.

3. Scenario three: Islamic finance orchestrated without an Islamic law but with an Islamic man.

Scenario three sends a signal of the workability of Islamic finance by meeting one prerequisite. It is however contentious whether the Islamic man can operate effectively without an Islamic law which charts the course for a practicable Islamic finance. Perhaps a route would be to develop an Islamic man which would uphold an Islamic law, this might nevertheless mean an "unislamic" finance before the Islamic man evolves. This could be pursued in view of the highlighted shortcomings by developing curriculum which inculcate pedagogical modules in eeman/aqeedah (belief) and other related basic Islamic sciences within Islamic finance institutions such as universities, research centres, Islamic banks, central banks, Islamic insurance companies and so on. These modules are to be tested via oral and written exams. The examiners also must have passed these modules via the same process. In addition, there should be operational shut down in these institutions at specific times such as prayer times and Islamic dress codes should be prescribed and enforced.



4. Scenario four: A “globalized” Islamic finance that can at best fit into a practicable legal micro framework in today’s world.

The fourth scenario simply construes setting up or establishing Islamic law on a micro scale e.g. city, municipal unit, family, communal level etc. and thereby implementing Islamic finance within that social organization but the Islamic finance we have today is global considering the growth, demand and the number of legitimacies seeking Muslims seeking Islamic financing. This is incongruent and preposterous.

5. Scenario five: A non-global Islamic finance within a practicable legal micro framework

Scenario five sends a message that Islamic finance is at best a micro phenomenon within a micro organization such as family, society, city and other forms of micro social organizations. It entails individuals or people within such social organizations governing themselves with Allah’s laws, doing financing among themselves as far as the divine Law allows. This scenario seems most realizable as it incorporates the Islamic law and the Islamic man.

This write up should be seen as a sincere advice in view of the Prophetic statement narrated from Abu Hurairah where the Messenger of Allah is reported to have said: "Religion is sincerity/sincere advice, religion is sincerity (Al-Nasihah), religion is sincerity." they said; 'to whom, O Messenger of Allah?' He said: "to Allah, to His Book, to His Messenger, to the imams of the Muslims and to their common folk" (Sunan an-Nasa'i 4199: Book 39, Hadith 51). It therefore represents a reminder and I hope it benefits the believers; as Allah says; And remind, for indeed, the reminder benefits the believers (Quran 51 verse 55).

REFERENCES

- Al-Albani, N.A. 1995. *The Hadith is Proof Itself in Belief and Laws*. Miami Florida. The Dar of Islamic Heritage.
- Al-Bukhari, M. 2011. *Al-Adab al-Mufrad English-Arabic*. Translated to English by R. Abdur Rahman. Lebanon. Dar Al-Kotob Al-limiyah.
- Al-Bukhari, M. 1997. *Sahih al-Bukhari*. English-Arabic. Translated to English by M.M. Khan. Saudi Arabia. Darussalam.



- An-Nasa'i, H.A. 2007. Sunan an-Nasai. English-Arabic. Translated to English by Al-Khattab N. Saudi Arabia. Darussalam.
- Askari, H., Iqbal, Z., & Mirakhor, A. (2010). Globalization and Islamic Finance: Convergence, Prospects and Challenges (Vol. 778). John Wiley & Sons.
- At-Tirmidhi, H.M. 2007. Jami at-Tirmidhi. English-Arabic. Translated to English by Abu Khaliyi. Saudi Arabia. Darussalam
- Austin, J. (1875). ... Lectures on Jurisprudence: Or, The Philosophy of Positive Law. J. Murray.
- Available at: http://mpra.ub.uni-muenchen.de/56446/1/MPRA_paper_56446.pdf
- Bacha, O. I., & Mirakhor, A. (2013). Islamic Capital Markets: A Comparative Approach. John Wiley & Sons.
- Dawud, A. S. 2008. Sunan Abu Dawud. English-Arabic. Translated to English by Yaser Qadhi Saudi Arabia. Darussalam.
- Grais, W., & Pellegrini, M. (2006). Corporate governance in institutions offering Islamic financial services: issues and options (Vol. 4052). World Bank Publications.
- Hasan, Z. (2014). Basel Accords and Islamic banking: A critical evaluation.
- Hasan, Z. (2014). Islamic Banking and Finance: An Integrative Approach. OUP Catalogue.
- Hasan, Z. (2014). Risk-sharing versus risk-transfer in Islamic finance: An evaluation. Available at: http://mpra.ub.uni-muenchen.de/58059/1/MPRA_paper_58059.pdf
- Hutchins, R. M. 1934. The Autobiography of an Ex-Law Student. The University of Chicago Law Review, 511-518.



- Ibrahim, A., & Kamri, N. A. (2017). The Ethical Practices of Islamic Banking: An Analysis from Customer Satisfaction Perspective. *MIQOT: Jurnal Ilmu-ilmu Keislaman*, 41(1).
- Ibrahim, S. H. M. (2000). Nurtured by 'Kufr': The Western philosophical assumptions underlying conventional (Anglo-American) accounting. *International Journal of Islamic Financial Services*, 2(2), 19-38.
- Iqbal, M., & Molyneux, P. (2005). *Thirty Years of Islamic Banking: History, Performance, and Prospects*.
- Iqbal, Z., & Mirakhor, A. (2011). *An introduction to Islamic finance: theory and practice* (Vol. 687). John Wiley & Sons.
- Iqbal, Z., Mirakhor, A., & Krichene, N. (2012). *Risk sharing in finance: The Islamic finance alternative*. John Wiley & Sons.
- Kamri, N. A., Ramlan, S. F., & Ibrahim, A. (2014). Qur'anic Work Ethics. *Journal of Usuluddin*, 40(July-December), 135-172.
- Khan, M. S., & Mirakhor, A. (1989). The financial system and monetary policy in an Islamic economy. *Islamic Economics*, 1(1), 39-58.
- Lewis, M. K., Ariff, M., & Mohamad, S. (Eds.). (2014). *Risk and Regulation of Islamic Banking*. Edward Elgar Publishing.
- Majah, M. A. 2007. *Sunan ibn Majah*. English-Arabic. Translated by Al-Khattab N. Saudi Arabia. Darussalam.
- Muslim, H. N. 2007. *Sahih Muslim*. English-Arabic. Translated to English by N. Khattab. Saudi Arabia. Darussalam.
- Nienhaus, V. (1983). Profitability of Islamic PLS banks competing with interest banks: problems and prospects. *Journal of research in Islamic Economics*, 1(1), 37-47.
- Philips, A.B. 2005. *Usool At-Tafseer*. Saudi Arabia. International Islamic Publishing House.



Philips, A.B. 2007. *Usool Al-Hadeeth*. Saudi Arabia. International Islamic Publishing House.

Rehman, S. S. (2007). Globalization of Islamic Finance Law. *Wis. Int'l LJ*, 25, 625.

The Quran. Muhsin Khan Translation. 1996. Riyadh. Muktaba Darusslam.

The Quran. Saheeh International Translation. 2012. Jeddah. Al-Muntada Al-Islami.

