

PROPHETIC FINANCE AND ECONOMICS



MUFTI FARAZ ADAM



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Prophetic Finance and Economics

By Mufti Faraz Adam



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Table of Contents

Preface	6
Foreword – Shaykh Nizam Yaquby.....	8
Foreword – Omar Mustafa Ansari	10
Foreword – Harris Irfan	12
Foreword - Amman Muhammad	14
Foreword – Ibrahim Khan.....	15
Foreword – Sultan Choudhury OBE.....	17
Foreword – Shaykh Dr Aznan Hasan	19
Foreword – Dr Mohammed Obaidullah.....	20
Foreword – Daud Vicary Abdullah	24
Foreword – Mohammad Farrukh Raza	25
Foreword – Mohammad Raafi Hossain.....	27
Chapter 1: The Current Landscape and Confusion in Islamic Finance.....	29
Chapter 2: Ḥiyal – Engineering in Islamic Finance	43
Chapter 3: The Protocols of a Muftī	69
Chapter 4: Commodity Murabahah and Sharī‘ah Wrappers	79
Chapter 5: The Purpose of Wealth	111
Chapter 6: The Purpose of Mu‘āmalāt	132
Chapter 7: The Objective of Islamic Finance	138
Chapter 8: Revolutionary Attempts in Islamic Finance.....	156
Chapter 9: What is Sharī‘ah?.....	174
Chapter 10: Who is the Prophet ﷺ?	178
Chapter 11: What is the Sunnah?.....	190
Chapter 12: Prophetic Transactions.....	210
Chapter 13: The Prophetic Macro Economy	222
Chapter 14: The Prophetic Micro Economy.....	236
Chapter 15: From Sharī‘ah Compliance to Sharī‘ah Powered.....	244
Chapter 16: The Sharī‘ah-Powered Framework.....	272
Concluding Thoughts: Islamic Finance, Yesterday, Today and Tomorrow.....	276

*Shari‘ah-Powered Finance: Integrating
Shari‘ah compliance and Sunnah-inspired
guidance.*

Preface

I begin with praising Almighty Allah who has blessed me with innumerable blessings, and I send the warmest *Šalawāt* and heartfelt *Salām* upon our beloved Messenger, the teacher of teachers, our Master Muhammad ﷺ.

The story of this book commenced two years ago, when I started teaching a course called ‘The Messenger’s ﷺ Money Morals’ on the Islamic Finance Guru platform. This course was revolutionary in that it fused Prophetic practice, classical *Fiqh*, and industry practice all in one. My time was consumed in reading the voluminous books of *Hadīth* to piece together the economic activity of the Prophet ﷺ.

The process of writing this book spanned over a year, becoming a source of some of the most treasured memories I hold. There were numerous moments of reading, researching, and writing that led me to pause in awe. Encountering narratives of the Prophet's ﷺ interactions and transactions often left me speechless, as if time itself had halted. I found myself engulfed in a profound admiration and love for our teacher ﷺ, necessitating pauses to fully absorb and appreciate what I had just read. These pauses allowed me to savour these revelations, leaving me in a state of awe and reverence. I would stop everything to take a moment, recite *Šalawāt*, and immerse myself between the lines of the *Hadīth*. If the impact of his actions can be felt on our hearts after 1450 years, just imagine the impact on the hearts of those who were direct beneficiaries of his noble countenance!

He was *everything*; the best teacher, the best guide, the best friend, the best strategist, the best ethicist. The Prophet ﷺ is the most optimal example for the entire humanity; his life is treasured with hundreds of lessons and strategies. Every domain of life can be powered by the *Sunnah* and the Prophetic way. Sadly, our lives are far from his teachings in every sphere, not least the financial and economic arena. The *Sunnah* gives us a sound economic vision, guiding us on how to manage resources effectively and efficiently, and how to transform the lives of the people within an economy. The Prophet ﷺ educated us on how to use resources meaningfully to make the world a better place in serving Almighty Allah.

We are immensely fortunate to have the Prophet ﷺ as a guide, who cared deeply for every individual, creature, and aspect of creation, always striving to uplift and bring positivity to every situation. He only brought out the best. He always added value in every engagement and interaction. He brought positivity in every circumstance. His unwavering faith and exemplary conduct have left a permanent mark on history.

He represents an unparalleled gift from Almighty Allah, embodying unconditional love and guidance for us. My hope is for every reader of this book to commit to making a positive change in the world, inspired by the Prophet's ﷺ forbearance, intelligence, strategic wisdom, compassion, and awareness of Almighty Allah. The need for his teachings is more pressing than ever, presenting the sole solution for the myriad challenges facing the world.

If there is any goodness or benefit in this book, then it is purely due to the brilliance and excellence of our beloved Prophet ﷺ. Imam al-Ālūsī (Rahimahullah) and others narrate the following words of Ḥassān Ibn Thābit (*Radiyallāhu ‘anhu*):

مَا إِنْ مَدَحْتُ مُحَمَّداً بِمَقَالَتِي لَكِنْ مَدَحْتُ مَقَالَتِي بِمُحَمَّدٍ

“I have not praised Muhammad ﷺ with my writings, rather my writings have become praiseworthy by the noble mention of Muhammad ﷺ”.

I pray that Almighty Allah grants my parents a long and healthy life, to whom I owe an eternal debt of gratitude. Similarly, I pray that Almighty Allah rewards my family for their unwavering support, not to forget my youngest brother Mohammed Ayaaz for always assisting in reviewing my work and correcting my many mistakes.

My gratitude extends to all the authors and contributors of forewords, who have been pivotal mentors and leaders to me. I hold deep appreciation for each of them, praying for their success in this life and the hereafter. I am also thankful for the invaluable insights and support from friends, colleagues, and students, from whom I have learned immensely.

Perhaps, I benefit most from my students. Almighty Allah has always given me the best of students, and it is because of them that Allah uses me as a vehicle to deliver knowledge to them. That is where I get to personally learn and benefit. I cannot conclude without acknowledging my beloved teacher Mufti Ebrahim Desai (Rahimahullah), whose influence remains a guiding light in my life, continuing to inspire and motivate me through his teachings and memories, and the occasional dreams and visions of him that Allah blesses me with. May Almighty Allah elevate his status further and shower His infinite mercy on him in his grave. ‘Amīn.

Faraz Adam
Leicester, United Kingdom
17th January 2024

Foreword – Shaykh Nizam Yaquby

World Renowned Shariah Scholar, Member of several Shariah councils, including the Shariah Council of AAOIFI, Dow Jones Islamic Index, Central Bank of Bahrain Shariah Committee and IIFM Shariah Council.

بسم الله الرحمن الرحيم

الحمد لله والصلوة والسلام على سيدنا رسول الله وعلى آله وصحبه ومن والاه، وبعد:

فقد سرحت طرف النظر في هذه الحديقة الغناء التي دبرجتها براعة العالم الشاب الفاضل المفتى فراز آدم حفظه الله ووفقه، فوجدته قد أحسن نظامها، وأتقن بنائها، وسقاها من فيض علمه، وأتقن تعميقها بتحقيقات بد菊花ة، وبحوث قيمة مفيدة.

والمفتى فراز قد تشرب بهذه البحوث المصرفية الإسلامية، لممارسته إياها، ودخوله في معمعة الميدان، وخبرته الطويلة في الاستشارات الشرعية والفتاوی المصرفية، فلله دره وعلى الله أجره.

ومن الفصول الممتعة في هذا الكتاب القيم فصل الحيلة والحيل في الشريعة، فقد دقق في مفهوم الحيلة، وبين الفرق بين الحيل المباحة التي يسمى بها "الخاج الشرعية" وبين الحيل الممنوعة المرذولة التي يقصد بها الخروج عن حدود الشريعة، وبينهما فروق دقيقة، ومقاطع تخفى على بعض الأكاديميين والاقتصاديين ومن على نهجهم، ومن لم يتشرب بفقه الشريعة، ولم يجثم بالركب بين يدي العلماء ليتلقنه في الدين كما ينبغي.

ولا شك أن لكل مجتهد نصيب، وكل يؤخذ من قوله ويترك، إلا صاحب الرسالة، والمبلغ عن الله وهي السماء، صلى الله عليه وعلى آله وأصحابه وأتباعه.

أسأل الله تعالى أن ينفع بهذا الكتاب وبسائر أعمال وبحوث وجهود المؤلف الفاضل المفتى فراز، وأن يكون في موازين حسناته، وصدقه جارية فهو علم نافع ينتفع به في حياته، وبعد مماته، أطال الله في عمره في صحة وعافية وأمن وإيمان، وختم الله لنا وله بخير، وحضرنا جميعاً في مستقر رحمته مع الذين أنعم عليهم من النبيين والصديقين والشهداء والصالحين، وحسن أولئك رفيقا، والحمد لله الذي بنعمته تتم الصالحات،

وصلى الله على سيدنا محمد وآله وصحبه وسلم عدد ما خلق من عدد من الأزل إلى الأبد.
قاله بلسانه وكتبه ببنائه

الفقير إلى رحمة رب

نظام يعقوبي

البحرين ١٠ رجب الحرام ١٤٤٥ من هجرة سيد الأنام

In the name of Allah the most Merciful, the most Compassionate.

Praise be to Allah, and peace and blessings be upon our master, the Messenger of Allah, his family and companions, and those who follow him.

I have cast my gaze upon this flourishing garden, crafted by the pen of the esteemed young scholar, Mufti Faraz Adam, may Allah preserve him and grant him success. I found that he has excellently

organised this contribution, perfected its structure, watered it with the overflow of his knowledge, and adorned it with exquisite verifications and valuable, beneficial research.

Mufti Faraz has deeply immersed himself in these Islamic banking research topics through practical experience, entering the fray of the field, and his extensive experience in Sharī'ah consulting and banking Fatwas. May Allah reward him greatly.

Among the engaging chapters in this valuable book is the one on *Hiyal* (legal devices) and their use in Sharī'ah. He has delved into the concept of *Hiyal*, distinguishing between the permissible stratagems, which our jurists call "legal exits," and the prohibited deceitful ones intended to circumvent the bounds of Sharī'ah. These distinctions are subtle and may elude some academics and economists who have not been imbued with the jurisprudence of Sharī'ah or have not sat at the feet of scholars to properly learn the religion as it should be.

Indeed, every Mujtahid has the potential to be correct, and from everyone's sayings, we take and leave, except for the Messenger of Allah, the conveyer of the divine revelation, peace be upon him, his family, his companions, and his followers.

I ask Almighty Allah to make this book, along with all other works, research, and efforts of the honourable author, Mufti Faraz, beneficial, to weigh heavily in his scale of good deeds, and to be a continuous charity for him. It is beneficial knowledge from which people benefit in his lifetime and after his demise. May Allah extend his life in health, well-being, security, and faith, and may Allah conclude our lives and his with good, and gather us all in the abode of His mercy among the prophets, the truthful, the martyrs, and the righteous, and what excellent company they are.

All praise is due to Allah, through whose grace righteous deeds are completed, and may Allah send peace and blessings upon our master Muhammad, his family, and his companions, as much as He has created from eternity to eternity.

Spoken by his tongue and written by his hand,
The one in need of his Lord's mercy,
Nizam Yaquby,
Bahrain,
10 Rajab al-Haram 1445 Hijri

Foreword – Omar Mustafa Ansari

Secretary General, AAOIFI

All praise be to Allah, the Lord of the worlds, and Allah's blessings and peace be upon Prophet Muhammed ﷺ, his household and his companions.

I am thankful to Mufti Faraz Adam for inviting me to write the foreword of this book. I have known him as an energetic and very active Islamic finance scholar who has been contributing greatly for the contemporary issues of the Muslim society, particularly Islamic finance and economics.

This publication, "Prophetic Finance and Economics," authored by him is an admirable work towards elucidating the complex ecosystem of contemporary Islamic finance, strengthening the literature on Islamic finance from a different and unique perspectives. The book has a unique perspective, whereby on side it supports and strengthens the arguments supporting the core concept and foundations of the contemporary Islamic finance, but on the other hand, also addresses certain challenges in terms of quality and purity of such practices, in line with the true tenets of Shari'ah. I strongly believe that while it is an important read for the Shari'ah scholars related to Islamic finance industry on one hand, but more importantly it clarifies the concepts for the professionals, C-suite executives and academicians aiming to gain an understanding of Shari'ah principles, Fiqh protocols and their application in the modern-day Islamic finance with an easy, logical, and interesting approach and chronology.

I would highly like to appreciate the way in which the author attempts to organise and structure various prophetic sayings (Ahādīth) to explain these concepts and protocols and drive home the arguments that forms the building blocks of a Shari'ah compliant transaction, something that conventional finance industry has unheard of. Sometimes it may seem a repetition of the existing literature discussed time and again, but wherever it does, it serves as an emphasis to the important concepts and underlying principles of Islamic finance to the audiences more clearly to help understand and resolve common dilemmas and misunderstandings / misconceptions of Islamic finance industry.

The book also puts various questions to the Shari'ah scholars who are already in the field and are involved in managing complex issues and scenarios that are encountered in today's financial and economic realm. While the author supports certain approaches taken by the scholars, yet he challenges some of the solutions found in the practical application of Islamic banking and finance and tries to emphasise on the need to align these again and again with the real prophetic teachings. What I personally felt good about the book include that different scenarios are explained both from theoretical and practical perspectives, and recommend ways and means towards taking Islamic finance from how it is practiced today to a more idealistic form. I also like that the book also

emphasises the role Islamic finance plays both at macro and micro levels – from benefiting the overall economy to the individual and personal finance solutions, to its role in fulfilling social obligations. Moreover, the summaries both in the beginning and at the end of respective chapters provide a unique reference and snapshot of the topics explained, and I will count it as a significant value addition of the author to the core contents of the book.

Although the book over emphasises the role of Sharī‘ah scholars but this is not without a reason. These scholars are the backbone of Sharī‘ah compliance on which the very premise of Islamic finance industry rests. However, one aspect the book lacks in my view is that it may not seem to have enough focus on the standardisation of practices and the significant of consensus (Ijma) in the aspects of Sharī‘ah and application of Islamic finance. A lot of discussions would have become more useful by finding solutions as per the prophetic guidance, in view of the consensus and standardised practices, most notably the AAOIFI Sharī‘ah Standards and the OIC Islamic Fiqh Academy resolutions. This in my view is very crucial to emphasise, as the need for the individual views in the times of the evolution of Islamic finance and economy and the globalisation has reduced, and the real need is to focus and emphasise on the standardised and harmonised practices and views.

The book's ending chapters are also particularly interesting in how the micro and macro-economic aspects are covered and explained with a forward-looking vision that blends the Islamic finance precepts with modern concepts such as sustainability, latest technologies, circular economy, renewable energies, and tokenisation, among others.

Another good thing about the book is that it is licensed under the Creative Commons Attribution 4.0 International License which can be available for free sharing (copy and redistribute the material in any medium or format) and adaptation.

Overall, in my humble view, this book is a valuable contribution towards providing insights and a good reference material for practitioners and help strengthen the existing literature on Islamic finance. It may also be a substantive material for faculties of universities and business schools, in addition to being useful for researchers, policymakers, regulatory and supervisory institutions keen on understanding the background concepts of Islamic finance transactions and the basis for Sharī‘ah compliance in a succinct manner. Authored by an accomplished and a versatile scholar, I sincerely hope that this book will be an interesting and insightful read for all.

Foreword – Harris Irfan

Renowned Islamic Finance Practitioner, CEO, Cordoba Capital Markets Ltd

There is great value in understanding the world of finance and economics from the perspective of researchers, historians and thinkers. As a practitioner, I recognise that I stand on the shoulders of giants who have done much of the hard thinking for me. The late Sheikh Hussain Hamed Hassan *Rahimahullah* was my own personal mentor in this regard. He was the architect of some of the most impactful products and services in the modern Islamic finance industry. His office was no ivory tower; instead, he was positioned at the intersection of research and commerce, both collaborating and debating robustly on a daily basis with bankers and lawyers.

There are too few of these uniquely qualified scholars. To whom can we pass the baton of scholarship? Without dynamic young thinkers, well versed not only in Islamic jurisprudence, but also English law and other legal systems, complex financial instruments, economics, accounting, tax and commercial pragmatism, the Islamic finance industry risks stagnation.

In an era of dilettante bloggers, social media confidently debates its knowledge of Islamic finance in a manner that would make Professors Dunning and Kruger proud. Meanwhile, very few individuals plough a more challenging and meaningful furrow with erudition and nuance.

I have come to know Mufti Faraz Adam through his work over several years, and in many respects, this important book is a faithful representation of his style: intellectually curious yet instructive in a quietly thoughtful manner, the book takes a step back to guide the reader in the philosophical foundations of prophetic economics to the practice of Islamic finance. It helps us to understand what techniques scholars use to reach their rulings. From ideology to practice, it takes us on a journey from the nature of wealth to the objectives of Islamic finance to the practical implementation of a Shari‘ah -powered economic system.

Mufti Faraz has not bowed to pressure to conform to popular opinions and trends within the industry, such as the normative distinction between “Shari‘ah -compliant” and “Shari‘ah -based”, or the view that risk sharing is always an apparently “purer” form of financing. Indeed, this book has caused me to reflect on some of my own views in this regard.

I have also long been of the view that if an idea cannot be directly tested in the crucible of the marketplace, it remains merely an idea. If a theory cannot be actualised in the real world, its value is limited. For practitioners like me, it can be tempting to ignore the contribution of scholars and academics to the development of Islamic finance. In this book, Mufti Faraz demonstrates the importance of a collaborative approach between scholars and practitioners, a symbiotic relationship that is essential for the growth and integrity of Islamic finance.

He places emphasis on a healthy, scholarly discourse, a prophetic approach to disagreement, something we are in danger of collectively losing if we are intolerant or criticise unjustly. I must first remind myself of this etiquette. Having thrown my efforts into creating financial products that most closely reflect what I believe to be the tenets of Islamic economics, I have often spoken against the industry's use of the commodity murabaha as a financing method. Mufti Faraz has addressed many of my concerns in a nuanced and erudite way. He provides a simple and excellent breakdown of the issues surrounding commodity murabaha and concludes with practical advice to "wean off" this ubiquitous structure.

I am often asked by young people to recommend books and papers to further their learning in Islamic finance and economics. I often advise them that, sadly, much of contemporary literature lacks credibility or deep understanding, and instead direct them to books about alternative economic theories and practices that don't specifically focus on Islamic finance. I'm very pleased that *Prophetic Finance and Economics* is one of the rare examples in this industry I feel I can recommend. May Allah swt put baraka in it.

Harris Irfan
CEO, Cordoba Capital Markets Ltd
12 February 2024

Foreword - Amman Muhammad

CEO, FNB Islamic Banking

In an era where Islamic finance garners substantial global interest through its significant and continuous expansion, it records unparalleled growth, not only in regions with Islamic majorities but also across countries where Islam is in the minority. Remarkably, Islamic finance has been outpacing its counterparts in various sectors, including conventional banking, fund management, and insurance, achieving levels of growth that are truly unprecedented.

Despite efforts to demystify the complex ecosystem that underpins contemporary Islamic finance and economics, a veil of uncertainty still shrouds the industry. At the heart of this confusion lies a tendency to examine the components of this system in isolation, thereby failing to fully appreciate the comprehensive nature of Islam.

Islam offers directional values and guidelines that touch upon every facet of human life, economic dimensions included.

The fundamental basis of Islamic finance is its adherence to Sharī'ah principles, which, unfortunately, are not always fully understood and, in some cases, are completely misinterpreted.

This book presents unique insights into the intricacies of the current Islamic finance landscape through the eyes of a seasoned Sharī'ah scholar in contemporary Islamic finance.

Mufti Faraz tactfully articulates the application of prophetic traditions and theoretical Islamic finance, into practical applications, traversing the complexity of contemporary Islamic finance and gracefully allows the reader a rare perspective into the meticulous processes that scholars navigate to pronounce Shari'ah certification.

"Prophetic Finance and Economics" seeks not only to bridge the knowledge gaps found in traditional discourse but also to stimulate and enrich the ongoing debate about the future of Islamic finance.

Foreword – Ibrahim Khan

Co-Founder, Islamic Finance Guru and Cur8 Capital

I am honoured and humbled to be asked by Mufti Faraz Adam to write this foreword to the excellent "Prophetic Finance and Economics". Through this book one navigates through a work of both breadth and depth, elucidating intricate aspects of Islamic finance and economics framed within the gaze of the Shari'ah. This remarkable book is penned by the thoughtful Mufti Faraz Adam, who demonstrates his acute understanding of his subject and, indeed, of a broad spectrum of crucial financial themes.

Mufti Faraz Adam, a name synonymous with acuity and forthrightness in the realm of modern Islamic finance in the Western world, has continuously proven his ability over the last decade in the field to blend eloquence, intellect, and a comprehensive understanding of Islamic philosophy in his offerings. This book, perhaps his magnum opus, is no exception.

The beauty of the book is that it frames the approach to Islamic finance through the Prophetic lens - something, it strikes me, many in the Islamic finance industry fail to do. All too often our industry is focused on the legalese and the corporate speak - losing touch with the spirit of Islamic finance as it was first set out for us all in the sand-swept markets of Makkah and Madinah in the 7th century CE.

Mufti Faraz addresses wide-ranging topics - from the principles of Islamic finance and economics to the socio-economic factors that influence decision-making in the Muslim community, and from the mechanics of Hiyal-engineering to explorations of the Prophetic macro and microeconomy. This spectrum mirrors not only the breadth of Mufti Faraz's knowledge but also the depth of his understanding and analysis.

The author's handling of difficult topics, fraught with immense complexity and strong views on both sides, is particularly commendable. He approaches every challenge or controversy not as an obstacle to be shied away from but as an opportunity to highlight the resilience, adaptability, and inherent compassion of Islamic finance and economics.

I think Mufti Faraz would agree with me when I say that he could not have written this book five years ago. There is a level of distillation and consolidation of views displayed in this book that makes it internally coherent - an effect only really possible after sitting with a subject for many years.

To venture through this text is to embark upon a journey, a voyage traversing our worldly transactions' ethical and spiritual landscape, shaped by principles and guided by an ethical compass. In navigating this landscape, one is privy to the fiqh, commercial and spiritual aperçus of

Mufti Faraz Adam - something I have been privileged to enjoy in our weekly Friday classes offered through IFG.

To the reader, I offer these final words: savour this book, cherish its teachings, and benefit from Mufti Faraz Adam. It is a beacon guiding us through the intricacies of Prophetic finance and economics, a testament to its author's ability, and a jewel in the crown of Islamic financial literature.

May Allah accept it from him and make us better human beings for having read it.

Foreword – Sultan Choudhury OBE

Renowned Islamic Finance Practitioner and Board Member of Islamic Finance Council UK

I have been working in the world of Islamic Finance now for over 20 years, from being in the team setting up the first Islamic Bank in the UK to working with start-ups in the sector and interacting with an array of stakeholders including Government, regulators, politicians, legal professionals, Shari‘ah scholars, Muslim community organisations, the community at large, charities, businesses, investors customers and various media organisations.

During that time, I have participated and witnessed considerable developments in the industry. Initially, it was tackling the absence of any products or institutions and the complexity of bringing them about in a system geared towards conventional finance and *Riba*. Whilst the practitioner community and supporters overcame some of these challenges – new issues continuously emerged. These included the dearth of both financial and human resource capital, the lack of education and awareness amongst consumers, the absence of standardisation in product rulings, to grappling with an array of opinions within the industry leading to limited consensus amongst stakeholders as to how to approach building upon the early foundations. Despite this, the Islamic Finance industry continues to slowly mature but is nevertheless still in the throes of its growing pains.

Prophetic Finance and Economics by Mufti Faraz Adam is a timely intervention that just might provide the ideas to help guide us through this necessary developmental phase in our industry and help achieve the inherent potential of finance based on the principles of our noble Islamic faith.

Mufti Faraz Adam is a leading Islamic Finance scholar in the UK advising many start-ups and scale up Islamic Finance businesses in the UK. In my capacity working with a number of these organisations I have often been involved in meetings with Mufti Faraz on how to resolve issues in respect of product structures and contracts, and even Shari‘ah considerations in relation to how Islamic Finance businesses interact with the conventional finance based world. In effect, some of our discussions were about how to engineer solutions in the complex context and environment in which we live, to achieve outcomes that were permissible, rooted in correct (lawful) intention and beneficial to the contracting parties and the community. The principles for seeking those solutions are outlined in a very insightful chapter on Hiyal (legal mechanisms to attain permissible objectives) – which provides practitioners and interested parties with the context of how product engineering in Islamic Finance can be used legitimately.

Mufti Faraz then gives very useful analysis on the contemporary Islamic Finance instrument of Commodity Murabaha, its contextual use and how over time we should progress forward from it. The more general issue in terms of moving to a more fitting destination for Islamic Finance is if that progression stops simply because of the convenience of having found a *device* that works but is not

the end point we should be driving towards. There is a great onus on leaders within Islamic Finance to strive for better solutions and stay the course in continuing to innovate rather than end the product journey at this imperfect point. This book covers the topics of Hiyal and the controversial issue Commodity Murabaha (or Tawarruq) in a very compelling way.

For those of us who are practitioners and are very familiar with the recurring and new themes of discourse within the industry – the chapter on “The Reformers” is exceptional. It tackles from a sound Sharia basis recurring ideas such as ‘letter of the law vs the spirit of the law’ and ‘substance over form’ as well as more contemporary ideas such as ‘Sharī‘ah-based vs Sharī‘ah compliant’ and more latterly ‘halal vs tayyib’ and in doing so ‘busting’ a few myths.

Finally, and most importantly Mufti Faraz introduces his idea of a ‘Sharī‘ah -powered’ framework grounded in the Prophetic life and character, as well as the economic system deployed by the Prophet (peace be upon him) and his companions in al Madinah al Munawwarah. The ideas and the framework presented in *Prophetic Finance and Economics* formulate early-stage practical steps, which if adopted and developed by practitioners, investors and others could elevate Islamic Finance to the leadership position we pray it will one day hold.

Mufti Faraz has written his best book yet. It is well crafted, combats confusion that exists in the industry and provides much needed contemporary insight for all involved stakeholders and interested students of Islamic Finance.

Sultan Choudhury OBE

12 February 2024

Board Member, Islamic Finance Council UK

Chairman National Zakat Foundation UK

Chairman OFFA

Director, Islamic Bank of Australia

Foreword – Shaykh Dr Aznan Hasan

World Renowned Shariah Scholar, Chairman, Shariah Advisory Council of Securities Commission Malaysia, member of AAOIFI Shariah Board and member of Higher Shariah Authority, UAE

In an era where the global economic landscape is continuously evolving, and ethical considerations are becoming increasingly paramount, "Prophetic Finance and Economics" by Mufti Faraz Adam emerges as a beacon of enlightenment and guidance. This seminal work is not just a book; it is a comprehensive journey through the intricate and often misunderstood world of Islamic finance and economics, viewed through the prism of prophetic wisdom.

Mufti Faraz Adam, a renowned scholar and a respected authority in Islamic Finance, has meticulously crafted a narrative that is both profound and accessible. His deep understanding of Islamic jurisprudence and modern financial systems enables him to bridge the gap between timeless Islamic principles and contemporary economic challenges. This book is a testament to his dedication and relentless pursuit of knowledge, aimed at demystifying complex financial concepts within the framework of Shari'ah.

The relevance of this book cannot be overstated. In a time when financial markets are characterised by volatility and moral ambiguity, Mufti Faraz Adam offers a refreshing and much-needed perspective. He adeptly illustrates how the prophetic teachings can provide practical solutions to modern economic issues, ranging from personal finance to global economic policies. His approach is not merely theoretical; it is imbued with practical insights and real-world applicability.

"Prophetic Finance and Economics" is a bold attempt to reconcile faith with finance, spirituality with economics. Mufti Faraz Adam's scholarly rigor and his ability to present profound religious insights in the context of modern economic realities make this work an invaluable resource for academics, practitioners, and anyone interested in understanding Islamic finance's ethical and moral dimensions.

Moreover, this book is a clarion call for a more just and equitable economic system, one that prioritises human welfare and ethical values over mere profit maximisation. It challenges the reader to rethink conventional financial practices and to consider how Islamic teachings can contribute to creating a more sustainable and inclusive economic environment.

"Prophetic Finance and Economics" is more than just a scholarly contribution; it is a visionary work that paves the way for a new paradigm in understanding and practicing finance and economics. Mufti Faraz Adam's dedication, scholarly depth, and practical insights are praiseworthy. This book is poised to become a cornerstone in the libraries of those seeking to navigate the complex interplay between Islamic teachings and the economic challenges of our times.

Foreword – Dr Mohammed Obaidullah

Renowned Economist, Professor, Researcher and Academic, Chairman at IBF Net Group and
President Director, Netversity

In this ground-breaking exploration of Islamic Finance, the author offers an enlightening journey into the heart of a financial system rooted deeply in ethical principles, guided by the light of Sharī‘ah and the Prophetic way. Merging ancient wisdom with cutting-edge innovations, this work challenges the conventional boundaries of finance, advocating for a model that not only ensures compliance with Islamic law but is also powered by its spiritual and ethical ethos. It is a timely reminder of the transformative potential of Islamic Finance to foster a more equitable, sustainable, and morally grounded economic landscape. This book is a beacon for those navigating the complexities of modern finance, seeking paths that honour the rich heritage of Islamic economic teachings while embracing the future with open arms.

Its maiden chapter highlights the importance of unity amidst diversity, the need for iterative growth based on ethical integrity, and the potential of Islamic Finance to offer globally relevant, ethical financial solutions. It suggests that addressing these issues requires increased consumer education, scholarly decorum, and ethical discourse. New ideas proposed include fostering a culture of respectful disagreement and leveraging the complementary strengths of different stakeholders for holistic industry growth.

The next chapter focuses on legal mechanisms or stratagems that achieve permissible objectives without violating Sharī‘ah law. It explores the controversial area of Commodity Murabahah and Tawarruq, highlighting their significant use in markets like Malaysia. The chapter critically examines the ethical considerations in employing hiyal, emphasising that they must not result in harm, violate trusts, or involve deceit. The text demonstrates that classical jurists across all schools of Fiqh have discussed hiyal, offering solutions to various legal and financial problems.

Chapter 3 delves into the nuanced principles and protocols known as Rasm al-Muftī, which play a pivotal role in the crafting and ethical application of Hiyal in product engineering. The chapter emphasises the importance of employing these legal stratagems within the ethical framework of Shariah to ensure that financial engineering does not deviate from Islamic principles.

Chapter 4 delves into the complexities of Bay‘ al-Wafā’, Commodity Murabahah, and Sharī‘ah wrappers within the Islamic finance landscape, assessing their adherence to Islamic principles against their practical application in today's financial world. The author points towards the need for innovation in developing financial structures that comply with Islamic law but are economically sustainable and ethically aligned with Islamic values. In conclusion, the author's

discussion on these financial instruments underlines a nuanced approach that balances the need for adherence to Islamic financial laws with the realities of modern economic systems.

In the next chapter, the author introduces the crux of this work, which is the importance of promoting a Prophetic way of doing financing. He asserts that Islamic finance must embrace Islam's worldview and guidance on the purpose of wealth. Chapter 5 of the book delves into the Islamic perspective on wealth, emphasising its purpose beyond mere accumulation. It emphasises the importance of understanding wealth in Islam and discussing the idea of a "Shari'ah-powered model." The text discusses financial 'Ihsān', which represents the pinnacle of ethical and impactful wealth usage, emphasising earning Ḥalāl, preserving, and wisely investing wealth. It also touches on the societal impact and philanthropy, suggesting that wealth should be used for fulfilling obligations, supporting good causes, and lawful enjoyment without succumbing to extravagance or miserliness.

The next chapter on the Purpose of Mu'amalāt delves into the Islamic perspective on commercial transactions and financial dealings, emphasising their role in fulfilling worldly needs and ultimately focusing on spiritual and existential purposes. Mu'amalāt, governed by Fiqh al-Mu'amalāt, outlines the legal principles for Islamic business activities, advocating for transactions that are not only ethically aligned but also conducive to societal welfare and individual growth.

In chapter 7, the author discusses the objectives of Islamic finance, which align financial activities with Islamic principles, promoting ethical investments, avoiding interest, and ensuring fairness. It contrasts with conventional finance by prohibiting speculative practices and mandating asset-backed transactions and risk-sharing. This system aims to distribute wealth equitably and foster sustainable growth, addressing both individual needs and broader economic challenges like debt and inequality.

The next chapter looks at revolutionary attempts and delves into contemporary discussions within Islamic finance, focusing on concepts like 'Shari'ah Based', Maqāṣid al-Shari'ah, and the distinction between the 'spirit' and 'letter' of the law. It critiques the vagueness and potential misapplication of these concepts, arguing that they risk diverting from authentic Shari'ah teachings or misrepresenting its principles.

The chapter "What is Shari'ah?" explores the comprehensive nature of Shari'ah, illustrating its importance beyond mere legal frameworks to encompass a holistic guide for life. It serves as a clear, well-trodden path to spiritual and worldly well-being, aiming to guide humanity from ignorance to enlightenment. The next chapter emphasises the role of Prophet Muhammad ﷺ in shaping Islamic finance through his teachings, character, and practices. The text highlights his commitment to social justice, ethical business practices, and the equitable distribution of wealth, offering timeless

lessons for today's Islamic finance sector. By adhering to the Prophet's ﷺ example, Islamic finance can evolve into a system that not only caters to financial needs but also promotes moral values and social welfare.

Chapter 11 explores the Prophet Muhammad's ﷺ teachings on ethical financial transactions, emphasising principles relevant for modern economic systems. Key principles include fairness, equity, compliance with laws, maintaining high moral standards, valuing employee welfare, and promoting collaboration. The text underscores the Prophet's practices as a framework for ethical market activities, with a focus on social responsibility, fairness, and compassion in transactions.

Chapter 12 outlines the principles of an Islamic economic system, contrasting it with capitalism, particularly Financial Capitalism, and socialism. It emphasises a market-driven economy integrated within the Shari'ah framework to foster a just and sustainable world. The Islamic model values private property and entrepreneurship like capitalism but diverges significantly in its emphasis on ethical values, social justice, and prohibition of interest-based debt. The chapter discusses the foundational purposes of the Islamic economic system: to maintain the welfare of people and develop a meaningful civilisation while restricting harmful economic activities. It highlights the system's focus on ethical ownership, market-based economy with moral oversight, fair competition, balanced economic freedom, profit within ethical limits, the role of government in welfare and justice, consumer rights, ethical investment, economic diversity, and adaptability.

Chapter 13 delves into the Prophetic microeconomy, presenting principles based on the Prophet Muhammad's ﷺ teachings that emphasise ethical economic behaviour, fair trade, and consumer protection. It underlines the significance of efficient resource allocation, consumer protection, price mechanisms as market signals, competition to foster innovation, and the balance of supply and demand for efficient market functioning. The chapter calls for effective regulatory frameworks to balance economic freedom with consumer protection and market integrity. By studying the Prophet ﷺ, the chapter presents a blueprint for an ethical and productive microeconomy, where economic actions are intertwined with ethical stewardship. This vision encourages a reimagining of global economic practices towards a more just and sustainable future, where economic prosperity and ethical integrity coexist harmoniously.

Chapter 14 explores the transformative approach of Islamic Finance, focusing on the infusion of Sunnah-inspired guidance and Prophetic ways into financial activities. It introduces a dual approach for screening investments within Islamic Finance, focusing on negative screening to exclude harmful industries and activities, and positive screening to incorporate Prophetic values into financial activities, aiming to achieve a broader impact on society and the environment. Key areas include renewable energies, environmental responsibility, support for emerging markets, and ecological and wildlife conservation. The chapter emphasises spiritual development, reflecting the

essence of the Prophetic mission in Islamic Finance. Positive screening seeks investments that align with Prophetic practice, offering multi-dimensional returns beyond financial gains. Implementing a scoring-based positive screening could revolutionise the industry by providing a nuanced understanding of Shari‘ah compliance and incentivising better business practices.

The Shari‘ah-Powered Framework, inspired by the *Sunnah*, encompasses a wide range of criteria including sustainability, technology, real economy focus, impact, circular economy, social enterprise, avoiding debt, focusing on emerging markets, renewable energy, environmental and ecological considerations, minimising negative externalities, responsible consumption, inclusive business models, and spiritual development. This framework aligns Islamic Finance with its fundamental principles, addressing modern challenges and promoting holistic societal well-being. The future of Islamic Finance is envisioned to be significantly influenced by technological advancements, particularly through the integration of Web3 technologies. Web3's pillars of property ownership, disintermediation, borderless access, and inclusive participation offer a framework for Islamic Finance to innovate and expand its reach and impact. Tokenisation is highlighted as a key aspect of Web3, which could revolutionise Islamic Finance by enabling fractional ownership of assets, increasing liquidity, and democratising access to financial opportunities.

Indeed, the author of this work has masterfully articulated the profound principles of Islamic Finance, weaving together the rich tapestry of Shari‘ah law with the timeless teachings of the Prophet Muhammad ﷺ. Through meticulous research and deep understanding, the author presents a compelling vision of how Islamic Finance can transcend traditional boundaries to offer a more ethical, equitable, and sustainable financial system. The work stands as a testament to the potential of Islamic Finance to not only align with Shari‘ah principles but to be powered by them, bringing to light the transformative impact it can have on the global economy. The author's dedication to integrating technological advancements, such as Web3 and tokenisation, showcases an innovative approach that respects the past while boldly stepping into the future. This work is a valuable contribution to the field of Islamic Finance, inspiring both practitioners and scholars to explore the full potential of finance that is truly Shari‘ah-powered.

Foreword – Daud Vicary Abdullah

World Renowned and Seasoned Islamic Finance Practitioner, Managing Director of DVA Consulting Sdn Bhd

A philosophy I have held dear for decades is one that states, “When the student is ready, the teacher appears.” My state of readiness has often dictated my ability to move forward. On reading this book, Prophetic Finance and Economics, I have to say that, once again I am ready to move forward in Islamic Finance once again.

Hindsight would allow me to say that I wish that this book had been available more than three decades ago when I began my own journey in Islamic Finance as an accidental tourist. However, that was not the case: my journey may not have been the same had I been able to access the wisdom available in this piece of work. More than anything this book encourages the reader to embrace rapid evolution and iteration in what is a dynamic eco-system. There is a call that resonates well with me regarding how essential communication and education are and that we all have a Duty of Care to pass on the knowledge that we have accumulated to move forward. We should, of course, look back, to learn from experience, rather than to criticise mistakes.

The book has an engaging structure, it draws you in with relevant insights and helps with practical examples based on authentic experience. For me it is a further call to action and an inspiration to carry the baton just a little further.

As always there is much to do and not a moment to lose.

Daud Vicary Abdullah
Managing Director
DVA Consulting Sdn Bhd.

Foreword – Mohammad Farrukh Raza

CEO, IFAAS (Islamic Finance Advisory & Assurance Services) and Chairman, AAOIFI's Governance & Ethics Board

Mufti Faraz Adam's remarkable book has effectively bridged a significant gap felt by many practitioners in the Islamic finance industry. This gap primarily revolves around understanding the rationale behind certain restrictions in Islamic finance transactions and the specific requirements for ensuring Shari‘ah compliance. Through his easily digestible and enlightening writing style, Mufti Faraz Adam has provided industry practitioners with a comprehensive understanding of these requirements. Drawing from real-life examples dating back to the time of the Prophet Muhammad (peace be upon him), he adeptly relates them to contemporary financial markets, making complex concepts accessible.

While delving into the text, practitioners experience a sense of clarity as numerous previously confusing aspects fall into place, and longstanding questions find simple yet profound answers. Mufti Faraz Adam's book effectively demystifies the pronouncements of Shari‘ah Boards within the industry.

The book is structured into four parts. Firstly, the author analyses the current landscape of the Islamic finance industry, offering insight into existing products, their alignment with Shari‘ah principles, and the reasons behind prevalent confusion and criticism. Secondly, he explores the Islamic perspective on wealth and the significance of financial dealings in both individual and societal Muslim lives, emphasising how Islamic finance objectives can facilitate material and moral goals.

In the third part, the author elucidates Shari‘ah's role in daily life, highlighting the status of the Prophet Muhammad (peace be upon him) and his teachings as foundational to Muslim lifestyle, economy, and financial markets. Detailed descriptions of the Prophetic approach towards macro and micro economies, supported by relevant examples, enrich this section.

Finally, in the fourth part, the author proposes transitioning the Islamic finance industry from mere Shari‘ah compliance to being Shari‘ah powered. He argues that by embracing the Prophetic spirit in economics and finance, the industry can enhance its effectiveness, resilience, and sustainability, fostering economic growth and social development while addressing contemporary challenges such as climate change.

The book also advocates for legal and regulatory reforms to create frameworks conducive to Islamic finance's full potential and emphasises entrepreneurship as a key driver of economic development and social progress.

While the book offers comprehensive insights, some sections may benefit from further elaboration. For instance, the Sharī‘ah-powered Framework could be more detailed, and the chapter on *Hiyal* could emphasise the ethical responsibility of Muftis in context. These minor observations could be addressed in future editions.

In conclusion, Mufti Faraz Adam's invaluable contribution deserves recognition and appreciation. His efforts in elucidating Islamic finance principles are commendable, and it is hoped that his book becomes essential reading for industry practitioners and a standard part of Islamic finance curricula worldwide. Sincere thanks are extended to Mufti Faraz Adam, accompanied by prayers for his continued success and reward in this world and the hereafter.

Foreword – Mohammad Raafi Hossain

Co-Founder and CEO, Fasset

In the ever-evolving landscape of finance, the emergence of Web3 and tokenisation marks a transformative era. As an ardent advocate and supporter of this intersection where Islamic finance meets technology, I believe in this combination's potential to revolutionise financial systems and create holistic equality. Islamic Finance, with its unique emphasis on ethical and equitable practices, is poised to leverage these technologies, ushering in a new paradigm of asset-backed transactions.

Mufti Faraz elucidates the promise held by Islamic Finance in this transformative context and explores Islamic Finance's principles, its growth trajectory driven by the dedication and innovation of its practitioners, and its resolute journey through the challenges of a predominantly Riba-based system.

Central to this narrative is the global expansion of Islamic Finance. No longer confined to Muslim-majority nations, Islamic Finance is gaining significant ground in other parts of the world, including Europe and North America. This transition underscores the appeal of a financial system grounded in ethical and equitable principles.

In my journey, I have been driven by the belief that access to wealth-building opportunities should not be limited by traditional barriers. This belief forms the cornerstone of our core mission - to level the wealth creation playing field and foster an environment where economic growth is inclusive.

Mufti Faraz's writing in this book also embodies the commitment to empower every individual to invest in high-quality assets by bringing these onto the blockchain. From blue-chip stocks, sukuk, commodities, to digitally native assets, there is a possibility to dismantle traditional barriers to entry, making these investment opportunities accessible to all, and thus bringing more equal footing to everyone.

The proliferation of digital assets democratises asset ownership in an irrevocable, immutable, and unequivocal way. This democratisation of asset ownership is not a luxury but a necessity, particularly in emerging markets where both access is limited and institutions are weak. Herein lies the true innovation of blockchain technology: the propagation of equal property rights without the need of counter party institutions.

In Muslim markets, ownership via real-world assets is critical for long-term prosperity. Islamic Finance, focusing on asset-backed finance, and the element of ownership that blockchain and tokenisation enable, align perfectly with the needs of the Muslim world. It meets the desire for individuals to own their assets, making it a powerful path towards economic growth and stability.

This alignment underscores the immense potential and future of Islamic Finance in the global financial landscape.

As we stand at the threshold of a new era where Web3 and Islamic Finance converge, this book serves as a foundational resource. It is an invaluable guide for anyone seeking to understand and navigate the transformative potential of this integration. This understanding will empower builders and innovators to create lasting solutions that transcend traditional financial barriers and bring about equitable economic growth. The fusion of ethical, asset-backed Islamic Finance principles with the decentralised, democratising power of blockchain and tokenisation sets the stage for a future where financial inclusivity is not merely an aspiration, but a reality. This book is a stepping stone into that promising future, illuminating the path for those who seek to build transformative solutions for the benefit of all.

Chapter 1: The Current Landscape and Confusion in Islamic Finance

Chapter Summary

This chapter explores the ecosystem of Islamic Finance, recognising the diversity of stakeholders, markets and consumer perspectives that characterise the industry. It highlights the unique roles and occasional tensions among key groups like academics, scholars, and practitioners, emphasising the need for greater communication and collaboration. The discussion also situates Islamic Finance within its nascent stage, emphasising that multiplicity of interpretation and implementation across regions is inevitable and arguably, even desirable. Additionally, the chapter addresses the uncertainty and scepticism that still marks public perception, pinpointing inadequate consumer education from among the reasons. Critically, the chapter calls for decorum and ethical discourse as crucial for the industry's advancement.

The State of Play

Discussing Islamic Finance often leads to a moment of contemplation: *How does one encapsulate its essence? Should we highlight the expansion in banking assets, or the burgeoning Sukuk market? Or perhaps, focus on the challenges, like the widespread lack of understanding, or the various critiques and misconceptions about Islamic Finance? Or the theory? Or the practice?* You see, the state of Islamic Finance can be described in so many different ways. There are multiple cuts to slice this one. Indeed, Islamic Finance is multi-faceted. This financial system is nestled within a multidimensional ecosystem, marked by a diverse array of stakeholders, constantly evolving practices, and continuous discussions. To fully understand the nuances of this industry, it's vital to explore its various aspects and dimensions. Understanding the current state of Islamic Finance involves delving into a complex ecosystem, one characterised by diverse stakeholders, evolving practices, and ongoing debates. To thoroughly grasp this landscape, it's essential to consider various dimensions of the industry.

1. The State of Stakeholders

Islamic Finance, as a dynamic field, is characterised by continuous growth and development. This evolution is shaped by the dedication and contributions of a diverse array of stakeholders, each playing a unique and integral role. These stakeholders can be categorised into three distinct groups: academics, Shari‘ah scholars, and practitioners. They all contribute significantly to the field's progression.

Academics, encompassing lecturers, researchers, and writers, approach Islamic Finance from an economic and social sciences' perspective, offering vital insights and theoretical frameworks. Their

role goes beyond analysis and thought leadership; they also educate and disseminate knowledge, thereby strengthening the intellectual base of Islamic Finance.

Shari‘ah scholars, with their deep expertise in Shari‘ah and *Fiqh*, serve a crucial function in ensuring that financial products and practices are in strict compliance with Islamic principles. Their responsibilities include advising, reviewing, certifying, and auditing financial products, thereby safeguarding the ethical integrity of the industry. In addition, they often play a role in thought leadership, education, and theorising new perspectives from a Shari‘ah perspective.

Practitioners – CEOs, founders, risk managers, Shari‘ah auditors, accountants, lawyers, and Islamic bankers, among others – are instrumental in the practical application of Islamic Finance principles. They are responsible for the development, management, and delivery of Shari‘ah-compliant products to consumers, playing a vital role in the public-facing aspects of the industry or supporting those offering products in the markets.

Despite the individual strengths and contributions of these groups, the Islamic Finance industry often faces challenges in achieving harmony and effective collaboration among them. There are occasional tensions and communication gaps, with each group sometimes working in isolation or misunderstanding the roles and contributions of the others.

Academics, for instance, may express concerns over the economic outcomes of Islamic Finance, comparing the positive and normative, or voice their frustration with certain products. Practitioners, while earnest in their intentions, may question particular structures within Islamic Finance, and at times, not understand why certain things are prohibited by the Shari‘ah board. Shari‘ah scholars, on their part, may face challenges when other stakeholders impose their unqualified views or seek to push through controversial products or structures because of the status-quo.

A lack of communication, overstepping roles, inadequate explanations, a lack of knowledge, or hastiness can all lead to bottlenecks in the journey. The reality is, all stakeholders want positive outcomes for the industry. However, each group either works in silo, or at times, fails to engage courteously and prophetically with the other. This does have a real bearing on the growth of Islamic Finance, and impacts confidence in the industry. Those who have spent twenty, thirty years begin to wonder what change they made, if any. They then often venture into social finance. Some then end up venting frustration and criticising the efforts of others, which then undermines the very work they did to build the industry thus far.

All stakeholders are important and are all needed. Each compliments the other. An academic cannot do what a Shari‘ah scholar does. A Shari‘ah scholar cannot do what a practitioner and

academic does. A practitioner cannot do what the other two do. In fact, a practitioner would not be able to work confidently in the market and deliver without the others. Similarly, an academic cannot lecture, write, teach or analyse without the input and activities of the others. A Shari‘ah scholar would not be able to develop his understanding of the context and circumstances of the product without the insights of the practitioners, nor would he be able to present Islamic Finance holistically without the presentation and studies on Islamic Finance from academics.

The reality is that each group – academics, Shari‘ah scholars, and practitioners – is essential to the industry, and their collaborative efforts are crucial for its advancement. The strengths and capabilities of one group complement the others, creating a synergistic effect that is vital for the industry’s success.

To overcome these challenges and fully harness the potential of Islamic Finance, it is imperative that there be increased coordination and engagement among these key stakeholders. Regular dialogues, joint policy formulation, and strategy development sessions, conducted with mutual respect for each group’s expertise, are necessary. It is through such collaboration, debate, and discussion that Islamic Finance can achieve its true potential, both in adhering to its ethical principles and in its practical application.

While the current state of Islamic Finance reflects a diverse and evolving landscape, the need for enhanced collaboration and understanding among its stakeholders is clear. By bringing together the unique perspectives and expertise of academics, Shari‘ah scholars, and practitioners, the industry can address its challenges and continue its journey towards growth and innovation.

2. The State of the Markets

The landscape of Islamic Finance is a complex tapestry woven from a multitude of threads—legal, ethical, cultural, and theoretical—each contributing to an industry that is unified in its core beliefs but varied in its practice. At the outset, it’s essential to recognise that Islamic Finance is not a monolithic entity; rather, it is a dynamic industry, flourishing under the overarching principles of Shari‘ah. Yet within this framework, there exists an intricate labyrinth of interpretations and implementations that varies across a spectrum.

Let’s start with the theoretical underpinnings. There is a commendable level of unity among the stakeholders—be it Shari‘ah scholars, practitioners, economists, or policy-makers—when it comes to the fundamental ideals that define Islamic Finance. Concepts such as the prohibition of *Ribā*, *Gharar* (excessive uncertainty in obligations), *Qimār* (gambling) and the like are universally agreed upon. This theoretical cohesion is vital, and much of the credit for it goes to the standard-setting bodies. Organisations like the Accounting and Auditing Organization for Islamic Financial

Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB) have provided invaluable frameworks that have served as a solid foundation for understanding and implementing Islamic financial principles globally.

However, even as these standard-setting bodies have unified the theoretical aspects, divergence starts to appear when you shift the lens from the realm of theory to that of practical application. One might argue that such variances are problematic, but I propose that these differences are not only inevitable but also desirable. This may sound paradoxical, so allow me to elaborate.

Islamic Finance operates within the broader contexts of various countries and regions, each with its distinct legal systems, economic conditions, and social norms. For instance, the Islamic Finance model in Malaysia, an economic powerhouse in Southeast Asia, might include financial instruments that cater to its diverse population and robust industrial sector. Further, it is more top-down in its evolution. Contrastingly, a Muslim-minority country like the UK, where there is no centralised body for Islamic Finance, has different challenges, and therefore it will necessarily have different strategies to grow Islamic Finance from the ground-up. These variations are essential because they allow Islamic Finance to adapt and serve the unique needs of each community, and each community is a socio-economic construct. Every economy of each society has its own needs, circumstances, and gaps. Standardising the industry globally would mean undermining the very ability, flexible and responsiveness that *Fiqh* offers.

Moreover, there is the significant role of *Fiqh* and '*Ijtihād*' in shaping Islamic Finance. Given the depth and breadth of Islamic teachings, scholars may have varying interpretations, particularly on ancillary and subsidiary matters. In different geographic regions, different schools of Islamic thought may predominate, thereby influencing the financial practices and products available. Considering the diverse regulatory, legal, tax, practical, and economic landscapes across different countries, Sharī'ah scholars offer tailored solutions and guidance for developing products and services that adhere to Sharī'ah principles within these varied contexts. This adaptability is inherent in the nature of *Fatwā*, which takes into account the specific circumstances and realities of people. This practice is undertaken by those trained in *Fatwā* (Islamic legal opinion), having studied, and honed their skills under the mentorship of senior, experienced Muftī scholars, thus mastering the nuanced art of *Fatwā* within real-world contexts. Ibn al-Qayyim (d.751 AH) has an entire section in his book on this matter, he writes: "This section discusses the variability of Islamic legal opinions (*Fatāwā*) according to changes in time, place, circumstances, intentions, and customs. It emphasises the significance of this principle and the potential errors due to ignorance of it. The Sharī'ah is built on wisdom and considers the welfare of people in both their worldly life and the Hereafter, asserting that it is entirely based on justice, mercy, and collective benefit" [I'lām al-Muwaqqi'in].

The above reality of *Fatwā* is clearly demonstrated by the Prophet ﷺ. In a narration recorded by Imam Ahmād (d.251 AH), the Prophet ﷺ was asked by a young man about kissing his wife whilst fasting. The Prophet ﷺ replied that he should not do so. A while later, an elderly man came asking the exact same question. The Prophet ﷺ replied that he may do so. [Musnad Ahmād]

Once, the Prophet ﷺ said, “Ā’ishah, if your people had not been new converts to Islam, I would have demolished the *Ka’bah*, and would have brought it to ground level, and would have constructed two doors, one facing the east and the other one to the west, and would have added to it six cubits of area from *Hijr*, for the Quraysh had reduced it when they rebuilt it” [Ṣaḥīḥ Muslim]. This also highlights how the Prophet ﷺ considered the state and condition of the people. In essence, the multiplicity in *Fiqh* and *Ijtihād* adds layers of richness to the industry, allowing it to evolve and cater to the spiritual and material needs of diverse populations.

To some extent, one could even say that the divergence in practice is a testament to the robustness of Islamic Finance. It's a proof that its principles are not rigid doctrines but are, in fact, dynamic guidelines that can adapt to various socio-economic and cultural contexts. The key is to maintain a "baseline conformity" to a core set of unalterable principles that every institution agrees upon, to ensure that the industry remains true to its foundations. These principles are the absolutes and universal matters stated in the Quran and *Sunnah*.

So, should we be concerned about the differences in practical implementations due to regulatory, legal, practical, economic, and social considerations? In my view, the answer is a resounding no. Instead of seeing these differences as stumbling blocks, we should embrace them as stepping stones that can lead the industry towards greater resilience, inclusivity, and adaptability. It is within this multitude of interpretations and practices that Islamic Finance finds its strength, enabling it to serve a global community while respecting local nuances. And that, in all honesty, should not just be accepted but celebrated.

As we assess the current landscape of Islamic Finance, it's crucial to situate our understanding within a broader historical context. A striking realisation is that Islamic Finance, in comparison to its conventional counterpart, is still in its nascent stages. While the ethical and moral principles underpinning the industry have existed since revelation descended, the formalisation of these principles into a structured financial system is relatively recent. The industry is still undergoing rapid evolution, and its iterative nature should not only be recognised but also embraced.

It's tempting, especially in a fast-paced world fixated on instant gratification, to yearn for immediate and measurable success. However, this is a counterproductive lens through which to view an industry as complex and nuanced as Islamic Finance. Any attempt to denigrate or dismiss previous efforts in this domain would not only be unjust but also impede future progress. Instead, we should

appreciate the journey that has been made so far, recognising that every step, whether perceived as forward or backward, adds value to the collective wisdom of the industry.

There's an inherent humility and wisdom in acknowledging that we are part of an ongoing journey, one that began long before us and will continue long after we're gone. The notion of "failure" in this context is not just misplaced, but fundamentally flawed. Failure implies an endpoint, a finality that is incongruent with the essence of Islamic Finance, which is a living, breathing entity that continuously adapts and grows. It's not a sprint to a predetermined finish line but a long, enriching journey designed to evolve and serve people, for as long as there is life on Earth.

Thus, instead of condemning, we should focus on adding, innovating, and pushing the boundaries of what is possible. This is especially vital when we consider the multitude of variables at play in shaping the industry—ranging from regulatory frameworks and geopolitical factors to technological advancements and societal needs. The complexity of the world we operate in cannot be overstated, and it's naive to expect a one-size-fits-all solution to emerge miraculously. In such a fluid and complex landscape, the best we can do is introspect, adapt, and continually strive for betterment. We just have to do *our* part.

Given the scope and diversity of challenges and opportunities, a culture of continuous improvement and iterative development is not just advisable—it's indispensable. Progress in Islamic Finance should be gauged not in terms of the absolutes of success or failure but in the nuances of ongoing efforts, adjustments, and refinements. We should cherish the trials, errors, and even the apparent setbacks, as they serve as fertile ground for innovation and growth. These are the building blocks that will enable Islamic Finance to mature over time, adapting and re-adapting to meet the evolving needs of a diverse global population.

Islamic Finance is still in its formative years, an industry moulded and remoulded with each passing day. Its character is not defined by the status quo but by its potential for change and growth. The journey is complex and fraught with challenges, yet it's precisely in navigating these intricacies that the industry finds its purpose and value. The road ahead is long and winding, but as long as we continue to tread thoughtfully and purposefully, respecting the contributions of those who came before us and nurturing the promise of what lies ahead, we are on the right path. And that, in and of itself, is a form of success that defies simple categorisation.

3. The State of Consumers

There is considerable confusion among consumers regarding Islamic Finance. Many lack understanding of how it differs from conventional finance: some outright reject it, while others are either in the process of learning about it or actively using Islamic financial services. This uncertainty

can be attributed to several factors, including insufficient education on the subject, negative customer experiences, subpar service quality, and occasional malpractice, all contributing to low adoption rates and scepticism. Additionally, some challenges are rooted in more unnecessary and unwarranted causes, such as individuals without Sharī‘ah expertise commenting on Sharī‘ah matters and a general lack of decorum and overzealous attitude in discussions surrounding Islamic Finance. We will look more closely at these.

1. Individuals without Sharī‘ah scholarship expressing views on Sharī‘ah-related issues despite lacking knowledge in Sharī‘ah.

Some of the confusion and lack of clarity in Islamic financial matters is when those who are not Sharī‘ah scholars by traditional training begin to speak on Sharī‘ah matters. This is exactly what has been warned against in the Quran and *Sunnah*, as it is precisely this that causes confusion, disputes, and errors. The Prophet ﷺ said, “Verily, Allah does not withhold knowledge by snatching it away from his servants, but rather he withholds knowledge by taking the souls of scholars, until no scholar remains and people follow ignorant leaders. They are asked and they issue judgments without knowledge. Thus, they are astray and lead others astray” [Ṣaḥīḥ al-Bukhārī].

In fact, the Prophet ﷺ objected on people speaking in matters that they are not qualified to. Sayyidunā ‘Abdullah Ibn ‘Abbās (*Rađiallāhu ‘anhumā*) reported that a man was wounded during the time of the Messenger of Allah ﷺ. The man had a nocturnal emission, so he was ordered to perform a ritual bath without a concession. The water seeped into his wound causing his death. When this news reached the Prophet ﷺ, he said, “They killed him! May Allah curse them! Is not the cure for ignorance to ask questions?” [Sunan Abū Dāwūd].

In another narration, the Prophet ﷺ said, “Whoever is given an opinion not based on knowledge, his sin falls upon the one who gave him the opinion” [Sunan Abū Dāwūd].

The companions and classical scholars were so cautious in speaking on matters do with Sharī‘ah. ‘Uqbah Ibn Muslim narrates, “I accompanied ‘Abdullah Ibn ‘Umar (*Rađiallāhu ‘anhumā*) for thirty-four months, on many occasions he would be asked a question to which he would say, ‘I do not know’. After this, he would turn to me and say, ‘Do you know what these people desire? They desire to make our backs a bridge [which they may stand on] for their journey towards the Hellfire’” [Jāmi‘ Bayān al-‘Ilm wa Faḍlihi].

Sufyān Ibn ‘Uyaynah (d.198 AH) reported that Ayyūb al-Sakhtiyānī (d.131 AH) said, “The most daring of people to issue religious verdicts are those with the least knowledge of the disagreements of scholars. The most restrained of people from issuing religious verdicts are those with the most knowledge of the disagreements of scholars” [Jāmi‘ Bayān al-‘Ilm wa Faḍlihi].

Imam al-Shāfi‘ī (d.204 AH) reported that Imam Abū Yūsuf (d.182 AH) said, “I know our elders among the scholars would dislike saying in their verdicts that this is lawful and this is unlawful, unless it was clearly found in the Book of Almighty Allah, without needing to be explained” [al-Umm].

The Ḥanafī jurist al-Tumurtāshī (d.1004 AH) explained that both the fraudulent scholar and the ignorant physician must be barred from practice. The Ḥanbalī scholar Ibn al-Najjār (d.972 AH) stated, “It is the responsibility of the legislative authorities to ban unknown and ignorant scholars from issuing religious edicts. If that is the case with scholars, imagine the reproach and severity for non-scholars speaking on matters of Sharī‘ah.

Imam Abū Ḥanīfah (d.150 AH) said, “Whoever speaks about a matter of knowledge while thinking that Allah will not question him about it, ‘How did you give a legal verdict in My religion?’ has made things easy for himself and his religion.”

Imam al-Shāfi‘ī (d.204 AH) said, “If one who speaks about matters pertaining to knowledge was to remain silent about some of what he speaks of, that would have been better for him and closer to safety for him in his religion and Hereafter. Not everyone who can read composed words or phrases is entitled to put himself in the position of an exemplar in the religion of Allah!”

Imam al-Mizzī (d.742 AH) quotes the companion Thābit Ibn al-Dahhāk al-Anṣārī in Tahdhīb al-Kamāl as saying, “If one who does not know would remain silent, he would rest and allow others rest, mistakes would be few and correctness abundant.”

Of course, this does not mean that non-scholars do not ask questions, probe, and engage in respectful discourse. That is always encouraged and worthwhile. When experts from different backgrounds come together, there is always something to learn. There *should* be questions regarding the direction of travel of the industry. However, when it comes to Sharī‘ah matters, and classifying things as lawful, unlawful, permissible, impermissible, then that is the domain of scholars alone.

As individuals, we should always think good of others, and leave the state of their hearts to Almighty Allah. We do not know what is in the heart, we simply go with the apparent, and leave the heart to Allah. This is the advice and guidance that Sayyidunā ‘Umar (*Radiallāhu ‘anhu*) taught us. He said, “Verily, people were judged by revelation in the time of the Messenger of Allah ﷺ and the revelation has ceased. We only judge now what is manifested outwardly of your deeds. Whoever shows us good, we will trust him and bring him close. It is not for us to judge anything of his inner secrets. Allah will hold him accountable for his inner secrets. Whoever shows us evil, we will never trust him or believe him even if it is said his intentions are good” [Ṣaḥīḥ al-Bukhārī]. In another statement, he said, “We judge by what’s apparent and we leave their inner secrets to Allah” [Ṣaḥīḥ al-Bukhārī].

Almighty Allah says in the Quran: “O you who have believed, avoid much [negative] assumption. Indeed, some assumption is sin” [Quran 49:12].

The Prophet ﷺ said, “Beware of suspicion, for it is the worst of false tales. Don’t look for the fault of others, don’t spy, and don’t hate each other” [Ṣahīḥ al-Bukhārī].

2. A lack of decorum and overzealousness

Another critical factor is the approach taken in disagreements and differing opinions, especially in those that challenge our own convictions. Islamic Finance is a matter of *Fiqh* and not a matter of ‘Aqīdah. Islamic Finance does not concern belief in Almighty Allah, the Revelation, the Messengers, the Angels, Resurrection, the Hereafter, Fate, and Destiny. Islamic Finance is a matter of practice and jurisprudence, and the way we exchange and trade in this worldly life.

There are bound to be differences of opinion in such matters. Differences in *Fiqh* have been present since the time of the noble companions. ‘Umar Ibn ‘Abd al-‘Azīz (d.101 AH) said: “I would have not liked it if the companions of the Prophet ﷺ did not differ, because if there had been one statement, the people would have been in distress (due to restriction). When the word *ikhtilāf* (differences) would be mentioned before Ṭalḥah Ibn al-Juhanī the *tābi’ī*, he would say: “Do not say *ikhtilāf*, say ease (*sa’ah*)” [‘Adab al-‘Ikhtilāf fī Masā’il al-‘Ilm wa al-Dīn].

The scholars are unanimous that the subject of ‘*Ijtihād*’ is any legal ruling for which there is no definitive proof. This has been narrated by Imam al-Ghazālī (d.505 AH) in al-Mustasfā, al-Rāzī (d.606 AH) in al-Mahṣūl, al-Isnawī (d.772 AH) in Nihāyat al-Sūl, ‘Ibn Amīr Ḥāj (d.879 AH) in al-Taqrīr wa al-Tahbīr. These matters are known to the scholars of Shari‘ah, and they are the ones who are most capable and worthy of understanding the details and nuances of these matters. For the rest of us who are not Shari‘ah scholars, the Quran has ordered and commanded us to go the people of knowledge.

This is important to understand and digest, as matters of *Fiqh*, for the most part, are based on ‘*Ijtihād*’ and scholarly reasoning. In legitimate differences of opinion, it is incorrect and wrong to attack, blame or even ridicule others or to frame the views of others as ‘wrong’. Just as we do not behave in this way when it comes to the differences in matters of *Ṣalāh*, Hajj, Zakat and performing *Wuḍū’*, it equally applies in transactions and finance. Tolerating the differences in *Fiqh* in this manner has always been the way of the scholars and it is what Shari‘ah teaches us.

Imam al-Kafawī (d.1094 AH) states: “(valid) Differences (*al-Ikhtilāf*) are those that are based on evidence, and disagreement (*al-Khilāf*) is what is not based on evidence. Differences are a form of mercy, whilst disagreement is from the manifestations of *Bid‘ah* and innovation” [al-Kulliyāt].

Shaykh Muhammad ‘Awwāmah writes that no intelligent person can be unaware of the permissibility and possibility of differences of opinion in matters of *Fiqh*, this is a logically sound and a Sharī‘ah-acceptable reality. Differences of opinion occurred among the best of generations, in the time of the *Šahābah* and in the generations thereafter. Nobody was rebuked among them for their difference of opinion” [‘Adab al-‘Ikhtilāf].

Imam al-Suyūtī (d.911 AH) states that differences of opinion in the schools of *Fiqh* is a huge blessing and of great merit, which has a wisdom which the scholars are aware of, and the laity are unaware of” [Jazīl al-Mawāhib].

Ibn Taymiyyah (d.728 AH) mentions that the consensus of the scholars (*‘Ijmā‘*) is firm evidence, whilst their differences is a vast mercy” [Majmū‘ al-Fatāwā]. The same sentiment was echoed by Ibn Qudāmah (d.620 AH).

The famous Tabī‘ī and senior scholar Yaḥyā ibn Sa‘īd (d.143 AH) said, “The *Muftī* scholars have continuously issued *Fatāwā*, some permitting particular matters, others prohibiting those same matters. However, the *Muftī* who prohibited did not deem the one who permitted to be in danger or destroyed. Nor did the *Muftī* of permissibility regard the *Muftī* of prohibition as being destroyed due to his *Fatwā* of impermissibility” [Jāmi‘ al-Bayān].

Imam al-Dhahabī (d.748 AH) narrates the same and has the words “Neither of these *Muftīs* would denounce or criticise the other, nor would the other *Muftī* reproach or disparage his counterpart” [al-Tadhkirah].

Of course, all of the above pertains to differences among scholars. It is not correct or appropriate for a person who is not regarded from the scholars to give *Fatwā* or voice opinions on Sharī‘ah matters, as that is *Fatwā*. Instead, the Quran teaches us to go the people of knowledge in Sharī‘ah for matters related to Sharī‘ah. Almighty Allah instructs us:

“[Prophet], all the messengers We sent before you were simply men to whom We had given the Revelation: you [people] can ask those who have knowledge if you do not know” [Quran 16:43]. Imam al-Qurṭubī (d.671 AH) mentions that the scholars agree that this verse refers to the need for laypeople (*al-‘āmmah*) to follow their *Ulamā‘*. In another verse, we are instructed to defer our Sharī‘ah understanding to those who have gone and acquired ‘*Fiqh*’ as follows:

“And it is not for the believers to go forth [to battle] all at once. For there should separate from every division of them a group [remaining] to obtain understanding in the religion and warn [i.e., advise] their people when they return to them that they might be cautious” [Quran 9:122].

For non-scholars, asking and referring to the '*Ulamā'* is not only necessary, in fact, it is rewarding and a form of obedience to Almighty Allah, as discussed by Imam al-Kalwadhānī (d.510 AH) in *al-Tamhīd*. This is probably the most instruction for non-scholars, that they are rewarded, and in fact, obeying Allah by simply accepting and listening to the guidance from the scholars.

Of course, lay Muslims are encouraged to deepen their understanding of Sharī'ah and study as much as they can. However, those who do not specialise and are not qualified for *Fatwā* must defer to the experts. Those who have not studied Sharī'ah in depth and are not trained as scholars, are not qualified to hold opinions on Sharī'ah matters. Imam Sufyān al-Thawrī (Raḥimahullāh) said:

'When you see a man practicing on something different to what you approve, and there does exist [legitimate] difference of opinion on that matter, then do not stop him' [al-Faqīh wa al-Mutafaqqih]. Ibn Taymiyyah (d.728 AH) said, "Nobody has the right to force others to follow him [in matters of difference of opinion]" [al-Majmū' al-Fatāwā].

One of the most critical aspects to understand about the evolving landscape of Islamic Finance is that it thrives on intellectual diversity. This diversity manifests in the form of various scholars, financial institutions, and countries each contributing their unique perspectives to the industry. While it may be natural to believe that one's own understanding or approach is the most authentic or effective, such a mindset can be damaging, not just for individual growth, but for the development of the Islamic Finance industry as a whole.

At the very core of Islamic Finance is the principle of ethical conduct and integrity, which includes showing respect for the differing views of others. In a sector that revolves around the intricate nuances of *Fiqh* and '*Ijtihād*', it is inevitable that various interpretations will co-exist. This is not a weakness but a strength, enriching the industry and allowing it to adapt to different cultural, economic, and social contexts. Every practice that exists within the boundaries of Islamic Finance has undergone a rigorous process of scholarly review. As long as these practices are rooted in *Fiqh* and have been vetted by qualified scholars, they carry a degree of validity and deserve to be respected, even if they differ from our own viewpoints.

This brings us to a critical issue: the act of pointing fingers at others, deeming them as "wrong" while asserting ourselves as "right." Such behaviour does more than create rifts within the Islamic Finance community; it sets a dangerous precedent. By criticising others within the same industry, we are not only undermining their efforts but also tarnishing the reputation of Islamic Finance as a whole. This divisive approach is antithetical to the spirit of collective growth and unity that should characterise our endeavours. Rather, it is not reflective of the scholarly tradition and teachings of Sharī'ah in matters of '*Ijtihād*'. In the worst-case scenario, it can serve as a deterrent for potential customers or

stakeholders who might interpret this internal discord as a sign of instability or lack of consensus within the industry.

Moreover, adopting a stance of judgment and derision is the worst form of marketing strategy one could employ to promote one's products or services. It fails to recognise a basic marketing tenet: consumers are drawn to positivity, inclusivity, and the promise of a product that can add value to their lives. When a firm or scholar in Islamic Finance takes a derogatory stance against others in the same field, it diminishes the appeal of their own offerings. Negativity seldom attracts, and it certainly doesn't retain a faithful customer base in the long run.

Therefore, instead of focusing on highlighting the perceived inadequacies of others, the focus should be on innovation, continual improvement, and collaboration. Islamic Finance is not a zero-sum game where one's gain is another's loss; rather, it is a dynamic ecosystem where varied practices can co-exist and flourish, each catering to different needs and contexts. We must remember that we are all contributing to the same grand narrative, each chapter of which adds a unique flavour and depth to the whole story.

When performing *Salāh*, you may have people who raise their hands at each movement and those who do not; you may have those who recite *Fātiḥah*, and those who do not, you may have those who say *Āmīn* aloud and those who do not, yet we all perform *Salāh* together behind one Imam. We may not all agree on the individual practices and feel one approach is stronger than the other, but our direction is one. We will still stand shoulder-to-shoulder, and still say *Salām* to one another. We will call towards the same *Salāh* and the same Masjid for prayers, and we will work to increase the same congregation. This is true for every practice in Islam, be it *Salāh*, Fasting, Hajj or Zakat. This is the same spirit and approach needed in Islamic Finance for it flourish.

To sum it up, as participants in the world of Islamic Finance, our objective should not be to sow discord by declaring ourselves right and others wrong. Such an approach not only fails to promote growth but risks compromising the very ethical foundation upon which Islamic Finance is built. The goal should always be to foster a climate of mutual respect, understanding, and unity. By doing so, we not only enrich ourselves but also contribute to the growth and robustness of an industry that has the potential to bring ethical financial solutions to people around the world. And in that collective elevation lies the true essence and future of Islamic Finance.

Concluding Thoughts

In closing, the current landscape of Islamic Finance is undoubtedly complex, characterised by diverse stakeholders, evolving real-world practices, and ongoing intellectual debates. While tensions occasionally emerge among groups with contrasting perspectives, these differences ought

not be viewed as insurmountable obstacles. In fact, they represent the growing pains of an industry still in its formative years - one that thrives on pluralism of thought and healthy discourse.

The path ahead lies not in negation but addition, not in finger-pointing but handholding. It lies not in the absolutism of proving oneself right but in the nuance of collective growth. The Islamic Finance fraternity must embrace open and respectful dialogue, empathetic listening, and celebrating successes rather than critiquing setbacks. Policymakers, regulators, and standard-setting bodies have a pivotal role to play in fostering greater cohesion through consultative initiatives. And consumers equally must approach the industry with patience and not premise judgments on outliers.

In essence, progress will arise from recognising that the growth process is gradual, iterative and at times messy. But brick by brick, with ethical integrity as the binding mortar, and purpose as the blueprint, the edifice of Islamic Finance will continue rising. The destination still lies far ahead, barely visible in the mist, but the trajectory is true. As long as we walk with wisdom as our guide and vision as our light, the path will slowly unravel itself. With concerted efforts, mutual understanding and unity of purpose, all stakeholders of Islamic Finance can traverse the distance from imagination to reality, catalysing profound financial access and inclusion for Muslims and beyond.

Action points from this Chapter

1. Standard-setting bodies such as AAOIFI and IFSB should articulate a clear vision for the industry, encompassing both moral and practical objectives. To realise this vision, they could institute departments dedicated to tracking, analysing, and reporting on normative outcomes in the Islamic Finance sector across various geographies.
2. Individual countries should convene working groups consisting of a diverse mix of experts - economists, academics, regulators, practitioners, and bankers. The mandate of these working groups would be twofold: to regularly review the state of the Islamic Finance industry locally, and measure progress across metrics such as financial inclusion, social impact, and ethics.
3. By benchmarking against the overarching vision set by international standard-setting bodies, these country-level working groups can precisely identify gaps. Accordingly, targeted task forces can be launched to devise data-driven strategies and policy interventions to bridge the identified gaps. Focus areas may include improving regulatory frameworks, increasing consumer awareness, and introducing financial instruments catering to specific economic segments. Robust action plans can thus be developed through consultative processes involving both private and public sector participation.

4. Conduct regular roundtable dialogues between key stakeholder groups - academics, scholars, and practitioners - to improve coordination, address challenges, and align on strategy. This can help bridge gaps and foster greater collaboration.
5. Launch consumer awareness campaigns, leveraging both traditional and social media, to educate the wider public on Islamic Finance principles and offerings. This can help address scepticism and improve adoption rates.
6. Institute codes of conduct emphasising ethical integrity, objective discourse, and mutual respect within Islamic Finance discussions. This can mitigate unproductive finger-pointing behaviours that undermine industry growth.
7. Sharī‘ah statements, *Fatwā*, opinions on the Sharī‘ah should be left to Sharī‘ah scholars. Those who are not Sharī‘ah scholars should avoid unprofessional and unqualified ‘*Ijtihād*. At the same time, there should be an economist, a practitioner, and other experts in an advisory panel to support the Sharī‘ah boards and give them economic, practical, legal and accounting insights which can be useful to them as they formulate a Sharī‘ah opinion.

Chapter 2: *Hiyal* – Engineering in Islamic Finance

Chapter Summary

- *Hiyal* refers to legal mechanisms, devices, or stratagems that seek to attain a permissible objective without violating the law. They provide lawful alternatives when the current option is prohibited.
- Linguistically, *Hilah* means movement in a cycle to go around something. Technically, it refers to sidestepping a prohibition through lawful means for a lawful outcome.
- The concept emerges from the Quran, which mentions examples of permitted *Hiyal* like the case of Prophet Ayyub ('alayhi al-Salām), and prohibited cases like that of the children of Isrā'il fishing on Saturdays.
- Understanding *Hiyal* is crucial for comprehending complex financial products in Islamic finance, such as Commodity Murabahah and Tawarruq.
- Types of *Hiyal*:
 - Lawful means to lawful ends.
 - Lawful means manipulated for prohibited outcomes.
 - Unlawful means to entitled outcomes.
 - Lawful means for genuine benefit or harm prevention.
- **Forms of *Hiyal*:** Distinguishes between absolute *Hiyal* (universal lawful alternatives) and contextual *Hiyal* (specific solutions for particular needs).
- The application of *Hiyal* must adhere to ethical principles that are embedded in each chapter of *Fiqh*, avoiding harm, deceit, and violation of rights.
- Many classical scholars across the schools of *Fiqh* like Imam al-Sarakhsī, Imam al-Shāṭibī, and Ibn al-Qayyim have discussed and provided examples of *Hiyal*.
- Macro level *Hiyal* require more caution as they impact entire economies. Widespread need brings concession but requires careful consideration of impacts.
- *Ratio legis* for the prohibition of *Bay' al-İnah* includes taking surplus through this unethical device, greed, combining two sales, resemblance of combining two prices.
- *Bay' al-Wafā'* and *Bay' al-Istighlāl* are historical examples of contextual *Hiyal* crafted for needs of the time.
- The *Muftī* advises on *Hiyal* while the *Qādī* judges based on apparent factors. *Muftīs* can consider contexts and craft tailored solutions.
- All lawful transactions are absolute *Hiyal* - alternatives to prohibited *Ribā*-based financing and are usable universally regardless of context.
- Contextual *Hiyal* involve modifications and structures crafted for specific situations that require review.
- Classical scholars proposed *Hiyal* for various legal and financial issues, which contemporary Islamic finance continues to develop, addressing modern economic realities while adhering to Shari'ah.

- Examples of contemporary *Hiyal* include the use of Commodity Murabahah, the use of Special Purpose Vehicles (SPVs), the use of *Wa'd*, the use of service agency agreements.
- The development and validation of *Hiyal* require the expertise of *Muftīs* and Islamic scholars, who assess both the legality and ethicality of financial products and strategies.

Introduction

After discussing the current confusion and landscape of Islamic Finance, it only makes sense to dive straight into the heart of the matter: *Hiyal*. Many Islamic financing products are structured using different modes and principles to create an overall financing facility. At times, different contracts are used at different times, but packaged as one product; in many instances, undertakings are used to ensure that customers follow through with their commitments; at other times, financing is provided through a series of commodity sales, with the commodity just being a device to manoeuvre around the prohibition of a direct cash-for-cash financing with a mark-up. Welcome to the world of *Hiyal*.

This chapter looks at the issues which are among the most controversial and debated in Islamic Finance. We will go through each topic, understand the practice in the industry, as well as review what the classical jurists and scholars have exactly written on the matter.

Perhaps the most contested matter in Islamic Finance is the issue of Commodity Murabahah and Tawarruq. The use of this product has increased across several markets. For instance, Tawarruq made up 46% of Malaysia's Islamic Finance instruments based on the Financial Stability Review 2019 published by Bank Negara Malaysia. Thus, this product always forms the starting point when voicing objections against Islamic Finance. For this reason, this product, as well as the use of Shari'ah wrappers, will be addressed thoroughly. However, before addressing this product, it is important to understand *Hiyal* in detail. Without understanding *Hiyal*, one cannot understand what Commodity Murabahah is. Commodity Murabahah is among the *Hiyal*.

Definition of *Hiyal*

Engineering, structuring, and product development all fall under the *Fiqhī* concept known as *Hiyal*, plural of *Hīlah*. *Hīlah* is translated as a legal device, ruse, and legal stratagem.

Linguistically, *Hīlah* is derived from the root letters *Hā*, *Wāw*, and *Lām*. Ibn Fāris (d.395 AH) explains the linguistic meaning as follows:

"It signifies movement in a cycle. So أَحْوَلُنْ refers to the year, and that's because it cycles, i.e., it turns. It is said : حَالَتِ الدَّارُ وَأَحْوَلَتْ وَأَحْوَلْتْ (أَحْوَلْتْ) in a place (أَحْلَتْ), a year has passed upon it. And I have stayed (أَحْلَتْ)"

meaning I have resided there for a year. It is said a man settles in the saddle of his horse, he leaps upon it, and he also initiates the leap. And a person moves (حال الشخص يحول) when he is active and moves, and so is every being that changes from one state to another. From this is the saying استخلتُ الشخصَ، meaning I observed whether he would move. And الحيلةُ (cunning), الْخَوْلَةُ (alternative), and المُخَالِفَةُ (attempt) come from a single way, and it is the measure that we mentioned; because it revolves around the thing to comprehend it" [Mu'jam Maqāyīs al-Lughah].

Considering the above, *Hilah* is all about movement in a manner to go around something.

Technically, *Hiyal* are legal mechanisms, devices, or stratagems. Permissible *Hiyal* are legal and law-abiding structures that seek to attain a permissible objective, without which you would have ended up violating the law. When the status-quo and norm is *Harām*, the *Hiyal* provide a law-abiding construct to fulfil your need and circumvent the *Harām*. The *Hiyal* are just a means to an end; if the end is something that is lawful and permissible in and of itself, then such *Hiyal* are generally acceptable.

Examples of Permissible *Hiyal* in the Quran

Hiyal are explored and mentioned directly in the Quran. The subsequent examples of *Hiyal* were lawful and permissible, as instructed by Almighty Allah.

1. Almighty Allah's guidance to 'Ayyūb ('alayhi al-Salām)

The Quran states:

"Take a small bunch of grass in your hand, and strike with that so as not to break your oath.' We found him patient in adversity, an excellent servant! He, too, always turned to God" [Quran 38:44].

In this episode, 'Ayyūb ('alayhi al-Salām) had made an oath of striking a hundred times, which he did not want to break. Not fulfilling one's oath would have been a violation of the law. However, he did not want to execute the oath either, considering the negative outcomes of it. Allah revealed to him a way to remain law abiding, whilst mitigating the negative outcomes of striking. This revelation was through the *Hilah* of simply gathering a hundred blades of grass in the hand and striking once. This would be equivalent to striking a hundred times in number, without the negative consequences.

This was a *Hilah* to operate within the law and achieve a permissible objective. The *Hilah* circumvented the direct violation of the law. If this *Hilah* was not practiced, and neither the striking was practiced, it would have been a violation of an oath, which is morally unethical and against the

sanctity of one's word. To uphold the sanctity of one's word and not directly break the law, the violation of the law was circumvented, by-passed, and evaded through the *Hilāh*.

A *Hilāh* is just that, it facilitates side-stepping, and by-passing a prohibition to reach your desired outcome without having to break the law. Prior to the *Hilāh*, to reach the objective, one would have had to break the law and go down the avenue of violating the law to reach the desired objective. A *Hilāh* is a detour and an alternative, a permissible route to the same destination. Breaking the law is unethical, and illegal. It makes one a 'criminal' from the lens of the law. At the same time, the law does not diminish your agency or overpower your utterances and intents. Instead, it acknowledges and respects an individual's capacity to make deliberate choices and actions. Thereby, it does not restrict you from making an oath.

2. *Yūsuf's ('alayhi al-Salām) strategy*

The Quran states:

"And, once he had given them their provisions, he placed the drinking-cup in his brother's pack. A man called out, 'People of the caravan! You are thieves!' and they turned and said, 'What have you lost?' They replied, 'The king's drinking-cup is missing,' and, 'Whoever returns it will get a camel-load [of grain],' and, 'I give you, my word.' They said, 'By God! You must know that we did not come to make mischief in your land: we are no thieves.' He asked them, 'And if we find that you are lying, what penalty shall we apply to you?' and they answered, 'The penalty will be [the enslavement of] the person in whose bag the cup is found: this is how we punish wrongdoers'" [Quran 12:70-75].

In this incident, Yūsuf ('alayhi al-Salām) wanted to keep his brother Binyāmīn with him, however, such a practice was against the law of the land he was in, whilst the law practiced by Ya'qūb ('alayhi al-Salām) was that the thief is handed over. As such, Yūsuf ('alayhi al-Salām) assigned the decision to his brothers, as they would naturally suggest the law that they are used to, the law of Ya'qūb ('alayhi al-Salām). In addition to this, Yūsuf ('alayhi al-Salām) also had the cup planted into the bag of his brother. These are examples of *Hilāh*, where the law would have been violated if he had proceeded to detain Binyāmīn. To prevent breaking the law and to achieve the desired outcome, a stratagem and legal device was adopted by Yūsuf ('alayhi al-Salām).

3. *Indirect proposal to women in Iddah (waiting period)*

The Quran states:

"You will not be blamed whether you give a hint that you wish to marry these women or keep it to yourselves- God knows that you intend to propose to them" [Quran 2:235].

This verse is based on the principle that it is not permissible to propose to women who are observing *Iddah*. Such women should be respected, and the relationship they were in should be honoured. As such, proposing and offering to marry should only occur once a woman has completely exited a *Nikāh*. That complete exit occurs after the completion of the *Iddah* period. However, if a man or his family were to come across a woman who is observing *Iddah* who they deemed as an ideal partner, and wanted to ensure that their interest is registered with this lady, Allah permits inferring to one's intention without explicitly proposing. This is a *Hilāh* which permits you to get your intention across without violating the law, without disrespecting the circumstance of the woman, and without dishonouring her relationship that is about to end.

Examples of Prohibited *Hiyal* in the Quran

Just as the Quran has mention and instruction to adopt permissible *Hiyal*, there is also admonition against unlawful and evil *Hiyal*. An example of an evil *Hiyal* is as follows:

1. The Sabbath Violators

“[Prophet], ask them about the town by the sea; how its people broke the Sabbath when their fish surfaced for them only on that day, never on weekdays- We tested them in this way: because of their disobedience” [Quran 7:163].

The Banū Isrā’īl referenced in the above verse lived in a coastal city, which Ibn Kathīr (d.774 AH) deems to be a city called *Ayla* historically. Ibn ‘Āshūr (d.1393 AH) was of the view that this is the contemporary port city of Aqaba in Jordan. Imam al-Rāzī (d.606 AH) explains this verse by stating that Almighty Allah had initially prescribed Friday as the sacred day of the week, however, the people rebelled and adopted Saturday instead. They had promised to observe the sanctity of Saturday, giving every assurance to uphold the same reverence that was prescribed for Friday. Since they made this challenge and contested Almighty Allah’s initial decision, Almighty Allah tested them to reveal the truth to them about themselves. As they lived in a coastal town with a marine-based economy, Allah commanded the fish to appear abundantly on Saturdays while decreasing supply on other days. Had they repented with humility, Allah would have blessed them further. However, they continued in arrogance and pride. To avoid economic loss, they concocted a ruse - installing fish weirs that would operate on Saturdays, justifying that the weirs, not them, were catching the fish. The prohibition was for them *to fish* and be involved in trade and business on Saturday. When they transgressed and continued, believing they have got away with it and nothing will happen, according to some narrations, they then physically started to fish themselves. It is at that moment a punishment struck them all.

This *Hilāh* was a blameworthy and evil practice. The *Hilāh* in this instance facilitated the very thing that was prohibited, namely, fishing on Saturdays. They developed an alternative method to fish through the use of fish weirs; however, they were still regarded as fishing as they were the ones who put all of this into motion. Fishing itself was unlawful, thus, any means which led to fishing on Saturdays was unlawful. It was a violation of the law.

Some people misquote this verse and try to apply this verse to Islamic Finance, implying that Islamic Finance is simply '*Halāl* dressing'. That is a gross error, a shallow understanding of the reality of matters, and a poor reading of what the verse is really about and actually saying.

Examples of Prohibited *Hiyal* in the *Sunnah*

Among the most famous examples of prohibited *Hiyal* in the *Sunnah* is the prohibition of *Bay' al-Īnah*. In *Bay' al-Īnah*, the seller sells an asset to a buyer on a deferred basis with a mark-up, and thereafter, the initial seller immediately repurchases the asset from the initial buyer at a lower price that is settled instantly. Following the sale and buy-back, the outcomes are as follows:

- The seller re-owns the asset.
- The buyers gets the funding he requires.
- The buyer owes a deferred obligation with a mark-up.

Generally, the intended borrower buys on a deferred basis at a higher price, and then resells the asset immediately for a cash payment at a lower price.

The *Fuqahā'* like Imam al-Marghīnānī (d.593 AH), Shaykhī Zāda (d.1078 AH) and others have also included another scenario within *Bay' al-Īnah*, which is a tripartite structure, as follows:

1. The lender sells an asset for £12 to the borrower.
2. The borrower sells the asset for £10 to a third party.
3. The third party sells the asset for £10 to the initial lender, then takes the cash from initial lender, and thereafter pays the borrower, who was the seller to him.

Ibn al-Humām (d.861 AH) states that as long as the commodity or asset does not return to the original seller in a structured product, it will not be *Bay' al-Īnah*. If the commodity or asset they sold was to be purchased spontaneously and not in a structured product, then it would not be deemed *Bay' al-Īnah*. However, if the commodity returns to the original seller in a structured fashion, then it falls under the prohibition of *Bay' al-Īnah* [Fath al-Qadīr].

Bay‘ al-‘Inah will manifest when the following conditions are met:

1. The transaction occurs between the same parties.
2. The transaction is executed on exactly the same asset, without it going through any change in form, substance, or economic value.
3. The transactions are back-to-back and immediate.
4. One transaction is a spot transaction where payment is made, whilst the other transaction is deferred and payable later. Typically, the deferred payment is always marked-up.
5. The payment on both sides is with money.

Bay‘ al-‘Inah will not manifest in the following circumstances:

1. If the first transaction is settled immediately. If this is the case, then the price of the first and the price of the second contract will not be equated to see if there is any excess.
2. If the price of the second contract is the same as the first contract. There will no possibility of *Ribā* as there is no excess.
3. If the price of the second contract is more than the first contract. In this instance, there will be no surplus either as the outstanding amount will be deducted. Secondly, the prohibition for this contract is known by *Nass* (revealed guidance), and therefore, the prohibition will only be applied in the scenario in which it was revealed.
4. If the payment is done with something other than money.
5. If the sale item changed due to defect or for any other reason whilst in the ownership and possession of the buyer in the first contract.
6. If the purchaser from the initial contract sells the item, and the original seller acquires it from a third party at a price lower than what it was sold for, before the payment has been made. This is because the change in ownership of the asset is considered to make it a different asset, thereby not constituting *Ribā*.

The *Aḥadīth* that prohibit *Bay‘ al-‘Inah* include:

The Prophet ﷺ said, “If people perform ‘*Inah* transactions, they bow to wealth, they leave striving in Allah’s cause, then Allah shall inflict them with a calamity” [Sunan Abū Dāwūd].

‘Ibn ‘Abbās (*Radiallāhu ‘anhumā*) was asked regarding a person who sold a bolt of silk for 100 dirhams on credit, then bought it back for 50 dirhams in cash payment. He said, “It is exchanging dirham with dirham in unequal quantities and the silk is merely a smokescreen” [I‘lām al-Muwaqqi‘īn].

Sayyidah ‘Ā’ishah (*Radiallāhu ‘anhā*) was asked about *Bay‘ al-‘Inah* when a woman said, ‘I bought from Zaid a slave at 800 [deferred price], and then, I sold it to Zaid at 600 [cash price]’. Sayyidah

‘Ā’ishah (*Radiallāhu ‘anhā*) responded, ‘What a bad person, you bought and sold! Tell Zaid that he has spoiled his striving with the Messenger of Allah unless he repents’ [al-Sunan al-Kubrā].

Why is *Bay’ al-‘Inah* Prohibited?

The Ḥanafī jurists have discussed *Bay’ al-‘Inah* explicitly, typically in the chapter of *Kafālah*, where a debtor asks his guarantor to facilitate *Bay’ al-‘Inah* for the debtor. However, the actual prohibition and more detailed discussion on *Bay’ al-‘Inah* is found in the chapter of corrupt sales (*al-Bay’ al-Fāsid*), under a different heading, *Bay’ mā Bā’ Bi Aqalla mimmā Bā’* - to repurchase something for less than the price in the first contract.

Among the most authoritative scholars in the Ḥanafī school, Qādī Khān (d.592 AH), in his commentary on the *Ziyādāt* which is among the most authoritative works in the Ḥanafī school and part of the *Zāhir al-Riwāyah*, states the following:

“To repurchase a commodity for less than what one sold it for prior to payment being made in the first transaction is *Fāsid* (a corrupt sale) according to us, due to *Istihsān*. However, according to the logic of the law and the principles of *Fiqh*, this ought to have been permissible. The reason for the *Istihsān* (and the view of impermissibility) is the *Hadīth* of Sayyidah ‘Ā’ishah...The consequences of a sin cannot be known except through revelation; hence, this is as good as being narrated directly from the Prophet ﷺ. The underlying rationale and reason for prohibition is the concept of profiting without bearing any risk (*Ribh Māl lam Yuḍman*); the seller repurchases the exact identical commodity in the manner he sold it without taking possession and risk of the payment. This is prohibited in our sacred texts” [Sharḥ al-Ziyādāt].

Shubhat al-Ribā is among the main causes for the prohibition of *Bay’ al-‘Inah*. *Shubhat al-Ribā* is established by the combination of the two contracts in *Bay’ al-‘Inah*. It is as though he is using the same credit, without ever taking the risk, to use it to purchase something from the debtor. The debtor did not deliver the money to him, so the money was never in his risk in the first place, it was merely a claim.

Imam Ibn Māzah al-Bukhari (d.616 AH) in his *al-Muhiṭ al-Burhānī* states:

“It should be known that purchasing what a man has sold himself, or what has been sold on his behalf by his agent for less than the price he sold it, whether from the same buyer or someone who stands in the place of the seller, like an heir, before the price is paid in full, is not permissible if the item is still in the same condition and has not diminished due to a defect. This is also the case if anything of its price, however small, remains unpaid. This is because, if he buys back what he sold himself, it is prohibited in the well-known *Hadīth*. Secondly, there exists the suspicion of *Ribā*

(*Shubhat al-Ribā*) since there is a valid interpretation of combining two contracts together, giving the plausibility to the prices in the first and second contract as being part of one contract. This is because the second contract, once executed, necessitates crystalising the first price (without the possibility of cancelling the first contract, hence, the second contract is connected to the first contract, almost connecting the two together). This is because the first payment could have potentially been cancelled by rejecting the transaction, and this option is nullified due to the second sale. The second sale necessitates crystalising the first price, and the affirmed has the ruling of the obligatory. When it is established that the second sale crystalises the first payment and price, and affirmation has the ruling of obligation, then the obligation of the first payment is attributed to the second contract, obligating the first payment in ruling (*Hukman*), and the second payment in reality (*Haqiqatan*). So, there is a resemblance of **combining and equating both contractual obligations to one contract in one instance**. If there was an actual equating, comparing, and contrasting between the two transactions, *Shubhat al-Ribā* would be established without a doubt. This scenario is different to when the price is fully paid; because there, the second contract does not crystalise and affirm the first payment, since the first price is already crystalised by possession and settlement, and there is no longer a possibility of cancellation before the second contract, so the second contract does not influence the payment of the first contract” [al-Muhibb al-Burhanī].

Some of the *Fuqahā'* opined on other causes behind the prohibition in *Bay' al-'Inah*, such as:

1. Imam al-Haskafi (d.1088 AH) states that the reason for the prohibition of *Bay' al-'Inah* is that one intentionally neglects giving an interest-free loan to someone that comes seeking a loan, and instead, they monetise the opportunity.
2. Imam al-Babirī (d.786 AH) states that *'Inah* is prohibited due to taking a surplus through an impermissible legal device [al-'Inayah].
3. Shaykhī Zāda (d.1078 AH) described the problem with *'Inah* as the overwhelming and apparent greed that manifests in such transactions.

Despite all of the above, the dislike of *Bay' al-'Inah* is not absolute among the classical scholars. Imam Ibn 'Abidin (d.1252 AH) records an opinion of Imam Abū Yūsuf (d.182 AH) quoting al-Hindīyyah which quotes Mukhtār al-Fatāwā, that *Bay' al-'Inah* was not prohibited, and in fact, it was permissible, and even rewarding (as it fulfilled the need of someone) [Hāshiyah Ibn 'Abidin]. This is further highlighted by what Ibn 'Abidin (d.1252 AH) writes whilst quoting Kamāl Ibn al-Humām (d.861 AH):

“They have condemned the current transactions taking place more severely than the *'Inah*. So much so that the scholars of Balkh, including Muhammad Ibn Salamah, said to the merchants: 'The *'Inah*

which is mentioned in the *Hadīth* is better than your transactions.' And this is true. For many transactions, like those involving oil, honey, and others, have become established based on their weight, packaged, and then a specific amount is reduced from the package. This makes the sale corrupt (*Fāsid*). And there is no doubt that a corrupt sale is considered like forbidden usurpation (*Ghaṣb*). So, where does it stand in comparison to the *Īnah*, which is correctly done? Even its dislike is disputable and a matter of disagreement" [Ḥāshiyah Ibn ‘Ābidīn].

An Example of Permitted *Hiyal* in the *Sunnah*

Sayyidunā Abū Hurayrah (Raḍiollāhu ‘anhu) reported that Allah's Messenger ﷺ delegated a person to collect the revenues from Khaybar. He brought fine-quality dates, whereupon Allah's Messenger ﷺ said, "Are all the dates of Khaybar like this?" He said: "No. We acquired one *Ṣā‘* (of fine dates) for two *Ṣā‘* (of inferior dates), and (similarly) two *Ṣā‘* for three *Ṣā‘*." Thereupon Allah's Messenger ﷺ said, "Don't do that, rather sell the inferior-quality dates for dirhams, and then buy the superior-quality with those dirhams" [Ṣaḥīḥ Muslim].

This person owned inferior dates and wanted to acquire superior dates. If he sold two *Ṣā‘* of them for one *Ṣā‘*, it would be the very essence of *Ribā*. However, if he sold it for dirhams, the sale becomes valid; because it satisfies the cornerstones of a sale, even though his intention from the very outset was to obtain superior dates. This intention does not invalidate the sale, provided that he bought the superior dates from another counterparty in another transaction, and not from the same party from whom he bought the inferior dates.

Shaykh Anwar Shāh Kashmīrī (d.1353 AH) states that in the above *Hadīth*, there is permission and evidence for *Hiyal*, despite there being evidence for it being prohibited. He thereafter reconciles and says that it is based on circumstances and contexts [Fayd al-Bārī].

Mullā ‘Alī al-Qārī (d.1014 AH) quotes Imam al-Ṭibī that this narration is a form of advice and instruction to save people from falling into *Ribā* by operationalising the transaction in a compliant manner. Mullā ‘Alī al-Qārī then states that this narration is a principle upon which many rulings are derived [Mirqāt al-Mafātiḥ].

Shaykh Nūr al-Dīn al-‘Itr (d.1442 AH) states that in this *Hadīth*, there is guidance of having two transactions with two separate contracts for two different assets, whereas *Bay‘ al-Īnah* involves selling the same identical asset in two contracts (that are combined)" [I‘lām al-‘Anām].

Shaykh Zakariyyā al-Anṣārī (d.926 AH) also states that this teaches the lawful way of transacting, in what would have been otherwise, a *Ribā* transaction [Fath al-‘Allām].

Ibn al-Qayyim (d.751 AH) said, "This indicates that there should be a separate transaction that occurs after the first transaction. Whenever it is pre-agreed to a sale and buyback, then they have agreed to combine two contracts into one. Therefore, the second transaction will not be independent. Rather, it will be a completion of the first according to their own understanding and agreement. The *Hadīth* shows that the Prophet ﷺ ordered for two separate contracts, where they are not combined" [I'lām al-Muwaqqi'īn].

Scholars that have Discussed *Hiyal*

Hiyal have been discussed by scholars from all the different schools of *Fiqh*. In fact, all schools of *Fiqh* have proposed *Hiyal* as solutions to problems. Some examples of such writings include:

1. The Ḥanafī school - Imam al-Sarakhsī (d.483 AH) has authored a commentary on the book of *Hiyal* attributed to Imam Muhammad. This book has approximately one hundred *Hiyal* for problems in marriage, leasing, trade, Mudarabah, and more.
2. The Mālikī school – Imam al-Shāṭibī (d.790 AH) has quoted dozens of examples of *Hiyal* in his al-Muwāfaqāt.
3. The Shāfi'i school - Imam Abū Ḥātim al-Qazwīnī (d.440 AH) has penned more than seventy lawful *Hiyal* as solutions to problems across different chapters of *Fiqh* in his book *Kitāb al-Hiyal*.
4. The Ḥanbalī school - Imam Ibn al-Qayyim (d.751 AH) has penned approximately one hundred and sixteen *Hiyal* as solutions to various problems in transacting and other areas of law.

The Essence of *Hiyal*

Ibn al-Qayyim (d.751 AH) states that a sale (*Bay'*) transaction, Ijarah or any other permissible transaction, are actually all forms of *Hiyal*. *Hiyal* are just that; permissible ways to achieve outcomes that otherwise, could have been acquired through unlawful means.

Imam al-Sarakhsī (d.483 AH) writes that whoever reflects on the rulings of the Shari'ah will find that all transactions are characterised in this manner (with *Hiyal*). For instance, if a man loves a woman and asks, 'What stratagem (*Hilah*) can I use to be with her?' he is told to marry her. If he dislikes the companionship of his wife and asks, 'What stratagem can I use to be free of her?' he is told to divorce her. After divorcing her, if he regrets it and asks for a stratagem, he is told to remarry her. Therefore, those who dislike stratagems in rulings are, in reality, disliking the Shari'ah's rulings. Such confusion arises from a lack of reflection. Any stratagem a man uses to escape from the prohibited or to reach the permissible, is good. What is disliked is using stratagems to nullify someone's rightful claim, to make the false appear true, or to introduce doubt into a rightful claim. Anything on this approach

is disliked, but what is on the aforementioned method is not objectionable, because Allah the Almighty said: 'And cooperate in righteousness and piety, and do not cooperate in sin and aggression.' In the first type, there is the meaning of cooperation in righteousness and piety, and in the second type, the meaning of cooperation in sin and aggression [Kitāb al-Hiyal].

We all have identical outcomes and objectives in transactions and in financing; the Muslim and non-Muslim both want to acquire a property, acquire assets for business or need financing for their companies. Those outcomes can be acquired through either unlawful or lawful means. When a person adopts a *Halāl* means to acquire a desired outcome, they have used a *Hilah*, and taken a detour around the prohibition to achieve the same outcome.

Ribā-based financing and Islamic financing are both means to an end, being the acquisition of something; one's means is unlawful, whilst the other is lawful. The end goal of wanting and seeking financing is permissible in and of itself. Islamic financing involves simply sidestepping and moving away from one route and taking another route to the same destination. That is *Hiyal* – manoeuvres and detours.

The different types of *Hiyal*

Ibn al-Qayyim (d.751 AH) states that there are four types of unlawful and impermissible *Hiyal*:

1. Prohibited Means + Prohibited Outcome = Impermissible *Hilah*

The action that is a *Hilah*, and the intended outcome, are both prohibited; that is, the means and the end are both prohibited activities. Since the very *Hilah* activity is a prohibited action in the Sharī'ah, regardless of the objective, the overall *Hilah* will not be permitted. For instance, lying and misrepresenting in order to usurp (*Ghaṣb*) someone's property is a prohibited *Hilah*.

2. Lawful Multi-Purpose Means + Prohibited Outcome = Impermissible *Hilah*

An action is a permissible activity in and of itself; however, it is practiced to reach a forbidden outcome, making the means impermissible. An example of this is travelling to commit highway robbery or to kill an innocent person. In this category, the activity typically has multiple use cases and options, however an unlawful objective is designated by the actor. Hence, one could have travelled for multiple reasons, but the traveller intended and perpetrated an impermissible reason for travel.

3. Lawful Means (Manipulated) + Prohibited Outcome = Impermissible *Hilah*

The action is permissible in and of itself and does not naturally lead to something prohibited, rather it naturally leads to something lawful and permissible, meaning, the action typically has one lawful result and consequence, however, it is manipulated from its natural course to lead to something unnatural and prohibited. For instance, lawful activities like confession, sales, marriage, gifting, and the like are all permissible that naturally lead to known, lawful outcomes. However, a person uses these activities as a means to contrive something prohibited. For example, a woman seeks to cunningly annul her marriage with her husband by adopting means that are generally used in lawful ways. For instance, witnesses are there to ensure a *Nikāh* is valid and sound, they are there to support the *Nikāh*. However, she manipulates the use of witnesses and makes the implication of the testimony and witness to demolish the *Nikāh*. Hence, she claims that the marriage is invalid because the witnesses were seated on a silk bed or leaned against a silk cushion at the time of the contract (these can impact the integrity of the witnesses and thereby weakening the strength of their testimony). This same activity of raising objections on the morality and integrity of the witnesses is also wrongly adopted when a husband divorces his wife three times and wants to save the marriage without *Tahlīl* (a practice to make a divorced woman lawful for her former husband by marrying another man). In this manner, he contrives to save the marriage without *Tahlīl*. Similarly, a seller may contrive a legal device to annul a sale by claiming that he was not of legal age at the time of the contract, or was not of sound mind, or was under legal restraint, or that the sold item was not his property, nor was he authorised to sell it.

4. Unlawful Means + Entitled Outcome = Impermissible *Hilah*

An unlawful activity is performed to gain a right and objective that one is entitled to. For example, a person holds a right against another, but the other party denies it, and does not acknowledge it. So, the rightful claimant sets up two false witnesses to testify, even though they do not know the right is established. Another example of this is that a man divorces his wife three times, then denies the divorce, and does not make it clear to her, so she sets up two false witnesses to testify that he divorced her, even though they did not hear the divorce from him. Or, for instance, a person has a debt on another who has a deposit with him, and he denies the deposit, so the debtor denies the debt, or vice versa, and swears that he has no right over him, or has not entrusted him with anything. Another example of this is that a person wants to bequeath something for his inheritor, so he falsely gives oath and confesses to owing something to that person. This false confession becomes the means for the inheritor to receive the bequest. In all such instances, the person will be sinful for adopting an unlawful means and legal device.

There are three types of permissible *Hiyal*:

1. Lawful Means + Lawful Outcome = Permissible *Hilah*

The activity is permissible, and the natural outcome and effect of that activity is also permissible. All lawful actions prescribed in Sharī‘ah are examples of this, such as selling, buying, leasing with Sharī‘ah-compliant contracts and the like. These are all means to obtain permissible outcomes, such as the transfer of ownership, or the lawful use of an asset.

2. Lawful Means + Genuine Benefit/Harm Prevention = Permissible *Hilah*

A lawful action is practiced to acquire something genuinely beneficial, or to ward off harm. Although this is generic, it actually captures scenarios where the outcome is not an activity or legal ruling as such, but more of a facilitation or prevention. Hence, this type overlaps with the *Rasm al-Muftī* (the protocols of *Fatwā*), where a cost-benefit analysis is considered. This category is often deployed in Islamic Finance.

3. Lawful Means (novel use) + Lawful Outcome = Permissible *Hilah*

A permissible activity is practiced to develop an outcome that is not the natural course of the initial activity, in that the activity was not originally designed or intended for that particular outcome at the outset. This includes scenarios where a person undertakes lawful activities to achieve a right or to ward off injustice which were not established for that purpose but for something else. For example, it is not valid to lease land that is occupied with crops. If one wants to do that, there are two permissible stratagems: He first sell the crops to the intended lessee, and then leases the land to him. Thus, the land is leased, and at the same time, it is occupied by the property of the lessee, which does not affect the validity of the lease. In this example, the sale was used not entirely for the purpose of sale, rather it is used to permit the lease and facilitate the lease. A permissible lease is not the natural outcome of a permissible and independent sale. If he is unable to employ this stratagem because the crop is not yet strong or that the crops belong to someone else, the land owner could practice a second stratagem, which is to lease the land out for a period after the crop is harvested, and this is valid based on the validity of a forward lease. In this example, the forward lease is not deployed because they genuinely want a forward lease, but it is practiced to ensure that the lease itself does not become prohibited because of the crops. More contemporary examples of this include the manner in which *Wa‘d* and *Tabarru‘* are used in Islamic Finance. Their natural use cases are something else, but they are deployed in a novel manner.

Another example of this type of legal device is the scenario where a person wants to lease a house or a shop, but does not know the duration of his stay, for if he leases it for a year, he may need to

move before that. The legal device to resolve this issue is to lease the house on a monthly rolling contract, so the lease is valid and binding in the first month and becomes permissible in the subsequent months, so each of them has the right to terminate the lease at the end of each month. So, if the lessee fears that he may move before the end of the second month and thus be liable for its rent, the stratagem is to lease it every week for a certain amount. If he fears moving before the week, he leases it every day for a certain amount, and it is valid, and the ruling of the day is like the ruling of the month. This category of *Hiyal* is used extensively in Islamic Finance.

To summarise, the permissible *Hiyal* are actions, activities and means practiced to:

- A. Avoid and circumvent sinful actions by choosing a legitimate path leading to an allowable result.
- B. Seek or create a permissible option as an alternative to an existing forbidden method.
- C. Prevent or mitigate harm and safeguard oneself and others from potential loss.
- D. Seek a genuine benefit through an action.
- E. Seek a permissible solution through novel and unconventional methods which are permissible.

Forbidden *Hiyal* entail engaging in practices to:

- A. Utilise impermissible methods and actions to achieve prohibited results.
- B. Use permissible activities and methods to attain outcomes that are forbidden.
- C. Infringe upon or violate the rights of others.
- D. Cause or intend harm towards others.

Contemporary bodies in Islamic Finance have also explored the concept of *Hiyal*. For example, the AAOIFI Shariah Standards differentiate between two categories - prohibited tricks (*Hilah*) undertaken to bypass restrictions and achieve forbidden objectives, and permissible alternatives (*Makhraj*) devised to avoid sin, attain something beneficial, or realise a lawful interest. The standards caution against exploits aimed at deceiving people or permitting prohibited matters, while validating structures crafted to fulfil legitimate needs or prevent violation of religious principles. Just as classical jurists analysed the application of legal stratagems, modern experts continue to contemplate the ethics and pragmatism of financial mechanisms according to their given contexts and purposes. The AAOIFI Standards state:

“Shari’ah-Banned Tricks (*Hilah*): It refers to those permissible contractual arrangements and other practices, which may be used to achieve prohibited goals like permitting what Shari’ah has prohibited, like escaping duties, deceiving people and performing other Shari’ah-banned practices.

Shari'ah Exit (Shari'ah-Acceptable Trick) (*Makhrāj*): A Shari'ah exit is an act that is performed for the sake of avoiding commitment of sins, or achieving a permissible objective, or refraining from prohibited acts, or realising a Shari'ah-acceptable interest.”

Examples of *Hiyal* in the books of *Fiqh*

To fully understand *Hiyal* and how classical scholars offered legal workarounds for genuine problems, it is instructive to explore some examples found in traditional *Fiqh* literature. These instances demonstrate how jurists of the past carefully constructed permissible alternatives to provide lawful channels for meeting valid needs while upholding Sharī'ah injunctions. Their meticulous guidance on navigating prohibitions through ethical means continues to inspire modern solutions that both fulfil individual requirements and honour the greater good. Analysing their approach grants insight into the flexibility and pragmatism within *Fiqh* alongside its unwavering principles. Most of the following examples fall into the third type of permissible *Hilah*, in that a permissible action is used in a novel way to arrive at a permissible solution.

1. **Donning ‘Ihrām When There is Insufficient Time to Make it for Hajj:** If a person was unsure whether they would make it to Makkah in time for Hajj, to prevent the penalties of *Qadā’* (repeating Hajj when performed deficiently) and *Damm* (compensation by animal sacrifice), one can enter into the state of ‘Ihrām without a specific intention of Hajj. If one arrives in Makkah in time for Hajj, then the intention of Hajj can be set; if not, the intention can be shifted to ‘Umrah. This *Hilah* assists in fulfilling a lawful outcome of worship and ensures that the means is lawful when donning ‘Ihrām, whilst side-stepping the penalties and unlawful violations.
2. **Forming a Partnership with Assets in Kind:** According to the majority, forming a partnership directly with assets-in-kind and capital goods is not allowed. To achieve the lawful outcome of forming a partnership in a scenario where you only have capital goods to form a partnership, the Hanafi jurists advise that each partner can sell a 50% share in their assets to the other, thereby forming a valid partnership with these assets. This method and *Hilah* lawfully circumvents the prohibition of direct in-kind partnership formation. The *Hilah* itself is permissible as a transaction, and the outcome is also permissible in and of itself. The *Hilah* has prevented a head-on clash with the prohibition through a detour.
3. **Leasing a Property for an Indeterminate Term:** A lease should have a defined term and maturity, as that brings definition and clarity to the services (*Manfa‘ah*), which is something invisible and needs quantifying and clarifying to ward off ambiguity (*Jahālah*). Instead of committing to a long-term lease when the duration of stay is uncertain, a *Hilah* is to engage in multiple, consecutive short-term leases with the property owner. This *Hilah* assists in

fulfilling a lawful goal and objective, that being the lease of property, whilst adopting a lawful means of short-term leases, whilst side-stepping and avoiding a head-on clash with the prohibition of not having a defined lease term in the lease.

5. **Selling Crops That Are Yet to Grow:** The sale of non-existent or unknown items, like crops that have yet to grow, is a form of *Gharar* (major uncertain) and hence impermissible. To achieve the lawful outcome of benefiting from future crops without directly purchasing them, a lawful approach is to lease the land itself. In this scenario, the lessee leases the land with an understanding, witnessed and testified by others, that the crops grown during the lease period belong to the lessee. This *Hilah* avoids the sale of non-existing crops by leasing the land which is known and tangible. It ensures the lawful acquisition of the crops upon their growth from the land, thereby fulfilling the contract's rights lawfully and avoiding the prohibited sale of unknown items.
6. **Extending a Cooling-Off Period Beyond Three Days:** Traditionally, a cooling-off period in a contract is limited to three days. To extend this period while adhering to the principles of *Fiqh*, one can employ a continuous renewal strategy. This involves renewing the cooling-off agreement every three days, thereby extending the period in a legally permissible way. This *Hilah* provides a solution to extend the cooling-off period beyond the standard limitation, fulfilling the contract's terms within the boundaries of lawful practice.
7. **Paying a Broker a Salary:** Normally, a broker is remunerated through commissions and cannot receive a fixed salary for brokerage services before any trade. That is because the service of the broker is not a fixed time or a fixed duration like standard employees, rather it is a particular activity, that being trades. If no trades are executed by the broker, the broker has not performed any services to demand a pay. To circumvent this while adhering to Islamic financial principles, one can employ the broker for general services unrelated to trade commissions. Subsequently, brokerage tasks are assigned as part of these general services. This approach, a *Hilah*, allows for the payment of a fixed salary to the broker while ensuring that the compensation is linked to lawful services rendered, rather than speculative trade outcomes. This method ensures compliance with *Fiqh* principles, where the payment is tied to actual service rather than uncertain future trades.
8. **Mudarabah and the Capital Treatment:** In a Mudarabah arrangement, the investor (*Rabb al-Māl*) cannot have their capital guaranteed, as it goes against the risk-sharing principle inherent in Mudarabah. If the investor wants to have some of their capital guaranteed, they cannot do so via a Mudarabah. Imam al-Sarakhsī (d.483 AH) writes that on the principles of Imam Abū Ḥanīfah, Imam Abū Yūsuf and Imam Muhammad, the parties can arrange this in a different manner; the investor can lend an amount to the *Mudarib* through a *Qard*

(loan), that would guarantee the amount transferred. Separately, the investor can invest a lesser amount as a *Musharakah*, with the *Mudarib* now using the capital he received in the *Qard* as his capital contribution. They can agree whatever profit-sharing arrangement they want. This will ensure that the capital provided in the *Musharakah* is at risk and it follows the laws of *Musharakah*, the capital given as a loan in a *Qard* will follow the laws of *Qard*. This is a *Hilah* which circumvents the prohibition of guaranteeing capital through a *Mudarabah* structure. In this example, the contracts (*Hiyal*) are lawful in and of themselves, and the outcomes are also lawful in and of themselves. The *Halal* outcomes flow naturally and independently from the two respective contracts. Two contracts are working in parallel and independently between the same two counterparties. The consequences of each contract are ascribed to the correct contract. It would be impermissible if the *Mudarabah* contract itself led to that outcome, as then, the *Hilah* would be impermissible as it is structured incorrectly.

Forms of *Hiyal*

Hiyal can be divided into two forms:

1. Absolute *Hiyal* – These are lawful alternatives to prohibited activities, applicable universally for achieving permissible outcomes. They provide a lawful substitute for all forms of prohibited means and actions. This category encompasses all permissible contracts and recognised forms of Islamic financing, such as *Ijarah*, *Murabahah*, *Musharakah*, *Mudarabah*, etc.
2. Contextual *Hiyal* – these are structures and suggestions that are specifically tailored for certain situations to achieve lawful outcomes. This can involve moving away from a lawful means to another lawful means that has seemingly more situational benefit than the other *Halal* option, or it facilitates something that the other *Halal* alternative cannot facilitate. An example of contextual *Hiyal* includes *Bay' al-Wafā'* (sale with commitment) and *Bay' al-Istighlāl*. A more contemporary example is that of Commodity *Murabahah*. We will look at these in the next chapter.

Absolute *Hiyal* are simply alternatives, and not necessarily a ruse, stratagem, or device in the way these terms are understood. The contextual *Hiyal* are stratagems, and solutions to problems, and alternative actions in circumstances that prevail in a particular context and situation.

What does this all mean for Islamic Finance?

As previously discussed, all lawful and permissible structures are *Hiyal*. Anything which is an alternative to *Harām* is a *Hilah*; that is the essence of a *Hilah*, an alternative to the prohibited. Therefore, standard financing structures such as *Murabahah*, *Ijarah al-Muntahiyah*, *Musharakah*,

Mudarabah, Wakalah are just alternatives to *Ribā*-based financing. These structures offer Muslims a *Halal* means for financing. Further, financing is a lawful objective that even Muslims seek, so even developing *Hiyal* for it would be acceptable and encouraged. Such *Hiyal* are universally applicable and provide morally acceptable solutions across various contexts. They are not tailored for specific situations but are general, ethical substitutes for prohibited financial transactions. These are examples of what I would call absolute *Hiyal*, as they are standard alternatives for *Harām* financing. They are not developed as alternatives to particular contexts, rather, they are context-free alternatives to *Harām* financial transactions. When implemented, these original structures are not only permissible but are indeed the recommended method of financing within Islamic financial principles.

In addition to these standard alternatives, the notion of contextual *Hiyal* comes into play. These represent adapted versions of the original structures or legal arrangements, specifically designed to address particular needs or scenarios. Examples of such adaptations include:

- Modified Musharakah arrangements that incorporate a preference-like element, involving either a *Tanāzul* (voluntary gifting mechanism) or the allocation of the majority of profits to one partner up to a specified threshold to create a waterfall-like effect.
- Modified Mudarabah frameworks featuring an initial profit-sharing ratio skewed heavily in favour of one party, such as 99.9:0.01, until reaching a predetermined financial goal or hurdle.
- Modified Ijarah structures where a master lease and sub lease are used to prevent a Muslim being exposed to and being a party to unlawful financing on a property, especially when one of the partners is a non-Muslim and engaged in leveraging.
- Implementation of financial screening measures, notably employing specific ratios like 30% for interest-bearing receivables and debts and limiting non-*Halal* income to a maximum of 5% of total revenue.

Contextual *Hiyal* have applications in specific products and legal aspects of Islamic Finance. These include:

- A range of treasury, financing, investment, and hedging products based on Commodity Murabahah.
- The use of Commodity Murabahah and reverse Musawamah contracts to generate a variable rate of return like effect.
- Agents providing voluntary guarantees in a different capacity.
- Employing undertakings, known as *Wa'd*, to ensure customer commitment to financing agreements and the ability to enforce specified outcomes.
- The use of additional rent and service agency agreements in Diminishing Musharakah products to shift the initial cost of maintenance to the customer.

- Frequent use of SPVs (Special Purpose Vehicles) and Orphan Trust SPVs for diverse purposes like avoiding dilution of board control, adhering to foreign ownership limits, managing risks and liabilities, legal safeguarding, tax considerations, maintaining confidentiality, and enhancing efficiency in complex, cross-border financial transactions, including off-balance sheet arrangements.
- Crafting contractual language that suggests certain actions, such as the use of the word 'may', to imply a course of action while keeping it non-binding and discretionary, thereby aligning with Shari'ah requirements.

These types of *Hiyal* are not standard practices but are specifically developed and utilised for particular needs. They require periodic review and methodical application, depending on the context. These are not proactive solutions but are reactive in nature, designed to navigate complex situations. This forms a part of what is known as *Rasm al-Muftī*, the established protocols and principles a *Muftī* follows in issuing *Fatwā* and guiding transactions ethically and effectively. Understanding the ethics of applying *Hiyal* is, therefore, crucial.

Ethics of *Hiyal*

Questions often arise regarding the ethical nature of *Hiyal*. *Fiqh* inherently incorporates ethical considerations, guiding us on what is permissible, desirable, disliked, and prohibited. The *Hiyal* are discussed in almost every chapter of *Fiqh*, and it is the *Hiyal* that provide a window into the moral framework of a chapter of *Fiqh*. The *Hiyal* clarify the moral parameters of any activity and discern the ethical from the unethical. Thus, the *Hiyal* are actually legal cases embedded within each chapter of *Fiqh* that teach the moral implementation of that practice.

Fiqh is replete with ways to attain lawful outcomes. Ethical breaches occur when the *Fiqh* is either violated through structured means or manipulated to achieve unlawful ends. Furthermore, unethical practices arise when *Fiqh* is misinterpreted in ways that harm individuals, society, the economy, or the environment. *Fiqh* is intrinsically linked to the Quran and *Sunnah*, serving as a detailed interpretation of their principles and rulings. Thus, *Fiqh* reflects the moral and ethical framework of the Quran and *Sunnah*.

Fiqh also dictates that *Hiyal* must adhere to certain moral principles, which are alluded to by Imam al-Sarakhsī (d.483 AH):

1. *Hiyal* should not result in direct, tangible, and significant harm to individuals, property, society, or the economy.
2. The intent and objective behind the use of *Hiyal* should not be to inflict harm on anyone.
3. Utilising *Hiyal* should not involve the violation of trusts or agreements.

4. The application of *Hiyal* must avoid deceit or dishonesty.

The ethical application of *Hiyal* requires careful consideration of its impact on broader societal and economic factors, ensuring that it aligns with *Fiqh*.

Ibn Nujaym (d.970 AH), Imam al-Tahtāwī (d.1231 AH), among other scholars, have explored the application and ethical considerations of certain *Hiyal* by commenting on the effective causes and reasonings in the different applications of *Hiyal*. Under different *Masā'il* (legal cases), they list the differences between the Imams of the Ḥanafi Madhhab in understanding the *Hiyal*. We can summarise their writings in the following:

1. Utilising a *Hilah* to meet legitimate needs while complying with the protocols of *Fatwā* (*Rasm al-Muftī*) is universally accepted.
2. Employing a *Hilah* to circumvent an obligatory duty (*Wājib*) once it is binding is universally objectionable.
3. The use of a *Hilah* motivated by lowly desires and impermissible traits like greed are universally frowned upon.
4. A *Hilah* that serves to protect an individual from committing sins is deemed acceptable and even commendable.
5. The use of a *Hilah* to secure a lawful entitlement is acceptable.

Ethical considerations have always been integral to classical discussions on *Hiyal*. For example, Imam Abū Yusūf (d.182 AH) allowed the use of a *Hilah* to circumvent paying Zakat by temporarily transferring wealth before the Zakat year-end, then reclaiming it later. He argued that if the intention was to genuinely utilise the wealth for personal needs, this approach was ethical. However, if the same *Hilah* was employed merely out of stinginess, it was considered unethical [Ḥāshiyah al-Tahtāwī].

Similarly, Imam Abū Yusūf permitted a *Hilah* to avert the right of pre-emption (*Shuf'ah*), arguing that exercising such a *Hilah* prior to the right becoming binding did not infringe on anyone's rights but rather pre-empted a future obligation.

The realm and practice of *Hiyal* is the office of the *Muftī*, not the *Qādī* (judge). The *Muftī* is a personal advisor and has a wider mandate than that of a *Qādī* in Islamic law. The *Qādī* is required to go with whatever is apparent and apply the law as it is. The *Qādī* is concerned with maintaining social order and works according to a set protocol and framework. The court of the *Qādī* aims to bring justice on Earth. However, the reality is, this can be wrong and there can be errors. The Prophet ﷺ said, "Verily, I am only a human, and the claimants bring to me (their disputes); perhaps some of them are more articulate than others. I judge according to what I hear from them. So, he, whom I, by my judgment,

(give the undue share) out of the right of another Muslim, I have in fact given him a portion of (Hell) Fire" [Ṣahīḥ al-Bukhārī].

The above *Hadīth* clearly shows that the most just of people, the Prophet ﷺ, acknowledged that a judgement on Earth can be rendered inaccurately. Erroneous judgements are witnessed even today; There are numerous instances where prisoners have been exonerated and released after years of imprisonment, following the emergence of new evidence establishing their innocence.

The *Qādī*'s role is to implement Sharī'ah, governing human activities with their complex nuances, in an imperfect world filled with uncertainties and conflicting situations. On the other hand, the office of the *Muftī* delves into matters concerning the court of Allah, operating within the realm of *Diyānah*. This realm focuses on probing the depths of issues, considering the words and intentions of individuals. The *Muftī* is principally concerned with ensuring justice in the Afterlife, in the ultimate tribunal with Almighty Allah. In this capacity, the *Muftī* offers advice and rulings based on what is presented as reality, assuming it is the same truth one is prepared to present in the divine court of Allah.

To make sense of the above difference, let us look at an example. A person issues a divorce to his wife by saying "I give you *Talāq*, *Talāq*, and *Talāq*." If there is a dispute on the number of divorces issued and the case is taken to the court of the *Qādī*, the *Qādī* will rule that three *Talāq* have been issued based on the apparent text and phrasing. If the same case was taken to the office of the *Muftī*, the *Muftī* would query and question, "what did you actually intend?", "did you know that when you issue *Talāq* three times it can mean three issuances?" If the person in question responds saying he is unaware of the rules, and that the only reason why he repeated the word *Talāq* three times was simply to emphasise that he was giving *Talāq* once, then the *Muftī* will tell him, based on his intention and Allah as his witness, that only one *Talāq* has been issued.

From Classical *Hiyal* to Contemporary Islamic Financial *Hiyal*

In Islamic Finance, *Hiyal* are often utilised to address a variety of needs. These needs span legal, regulatory, economic, commercial, and market considerations, as well as concerns for efficiency, expediency, and wealth protection. However, each application of a *Hilah* must meet ethical standards. This is why a *Muftī* often acts more as a personal advisor or counsel, taking into account the broader impact and specific details of each case.

In Islamic Finance, *Hiyal* are often employed as alternative solutions to navigate various challenges. These alternatives are designed to achieve lawful outcomes and objectives. The *Fiqh* literature typically showcases *Hiyal* involving interactions between a small number of parties, focusing on micro-level solutions. More expansive *Hiyal*, affecting entire economies, are rarer. *Bay' al-Wafā'*, which will be explored soon, is one such example. Generally, individuals seek guidance from *Muftīs*

for bespoke solutions to their specific issues. These *Hiyal* are crafted to ensure fairness and benefit for all parties involved, with a clear alignment of needs and mutual understanding. However, when *Hiyal* are formulated for broader, macro-level application, careful consideration of their wider effects is crucial due to their potential significant impact. Often, Sharī‘ah provides greater leniency in macro matters. Hence, a widespread need (*Hājah*) escalates to a level of necessity (*Darūrah*), allowing for more extensive concessions. This principle, along with the concept of *Umūm al-Balwā* – dealing with widespread challenges – underscores the importance of accommodating broader communal needs in Islamic Finance. *Umūm al-Balwā* is about an unavoidable matter impacting many, thereby bringing concession. Imam al-Kāsānī (d.587 AH) and others have stated a principle underpinning this:

إِذَا عَمِّتْ بِلَيْلَتِهِ خَفَّتْ قَضَيْتِهِ

The more widespread the challenge, the lighter its impact and rulings.

On the other hand, when dealing with issues that have widespread implications across various facets of society and the economy, it becomes imperative to exercise increased caution, thoughtfulness, and thoroughness in the adoption of *Hiyal* and in the approval of products and practices. As much as there is concession, there must be caution in application.

How Ethics are Embedded in the *Fiqh*

The Sharī‘ah has a spectrum of value judgements such as *Hurmah* (unlawful), *Makrūh* (disliked), *Khilāfal-‘Awlā* (contrary to what’s preferable), *Khilāfal-‘Adab* (contrary to proper etiquette), *Mubāh* (permissible), *Mustaḥabb* (desirable), *Sunnah*, *Wājib* (binding) and *Fard* (obligatory). These value judgements stem from the moral framework and worldview of Sharī‘ah. They are assigned to actions depending on the ethical nature of the actions. When developing *Hiyal*, they must be developed in light of these values and their corresponding actions. As mentioned earlier, each chapter of *Fiqh* already has a framework for what is ethical in that particular practice. The *Hiyal* of that chapter, along with the principles of the chapter, govern the ethical application of any practice.

There are two spheres and dimensions for ethics when discussing Sharī‘ah compliance: The text and secondly, a specific circumstance or context.

1. The text: the transaction flows and contracts

When Sharī‘ah scholars review transactional structures and contracts – what we can call ‘text’ - for Islamic financial institutions, it is generally in the absence of a context. The core transaction and its flows are reviewed in light of Sharī‘ah principles as they have been presented in writing. If a structure is deemed Sharī‘ah compliant at this level and dimension, it necessarily means that the structure meets the criteria the Sharī‘ah considers for a contract to be morally right and ethical.

Scholars use words such as *Halāl* (lawful) and *Ṣaḥīḥ* (valid) to state that this transaction has incorporated all the ethical considerations Sharī‘ah has placed at this level and dimension. These terms are value-laden statements. The Sharī‘ah would not consider something to be *Halāl* if it is intrinsically wrong or morally problematic. Likewise, something cannot be *Ṣaḥīḥ* if the contractual nature was unethical. In fact, the opposite of *Ṣaḥīḥ* is *Bāṭil* (void) which means there is something severely wrong with the core contractual elements from an ethical and legal perspective. Something legally invalid is something that is unethical. Sharī‘ah deems something as illegal due to an ethical breach. Whenever something is *Fāsid* (corrupt) or *Bāṭil* (void), there is an underlying evil and unethical element. These terms are tied to underlying means. These meanings form the worldview and values-based framework rooted in Sharī‘ah guidance that deems what is ethical and unethical for mankind.

In Sharī‘ah, a transaction's validity implies its fairness concerning the rights and obligations of the involved parties. Unethical or unfair contract terms render a transaction *Fāsid* (corrupt). The term "Sharī‘ah-compliant" in Islamic Finance is typically used in this regard, indicating the transaction's adherence to ethical and legal standards.

For instance, pre-Islamic contractual practices like *Mulāmasah* (sale by mutual touch) and *Munābadhah* (sale by throws) were deemed unethical and prohibited by the Prophet ﷺ, failing to meet the ethical standards of Sharī‘ah in contractual conduct and transactional morality.

2. The context

Another dimension which the Sharī‘ah also considers is the context. Due to the unethical nature of a context or situation, there can be a specific ruling for that context. This results in a contextual and conditional *Fatwā*. For example, a product structure might meet all the ethical considerations for Islamic contract law making it *Ṣaḥīḥ*, however, due to an extrinsic consideration beyond the contracting parties and their rights, it violates macro and extrinsic ethical considerations in Sharī‘ah. The Sharī‘ah then assigns negative values such as *Ḥarām*, *Makrūh* and *Khilāf al-‘Awlā*. Such a violation would not mean that the contractual structure is intrinsically invalid or problematic, rather in *this* given circumstance and in light of wider considerations, an overall negative value is assigned. This is anchored to the Islamic legal maxim, "Preventing harm is given priority to gaining benefits." Similarly, there may be a context in which a structure is assigned a positive value such as *Mustahabb*, *Sunnah* and *Wājib*. Examples of this include:

1. Transacting at the time of *Jumu‘ah* (Friday prayer)

It is not permitted for a person upon whom *Jumu‘ah* prayer is obligatory to engage in trading at the expense of going to *Jumu‘ah*. This is impermissible even if the transaction intrinsically met all the

Shari‘ah principles and was ethical at a micro, contractual level. Since this transaction is preventing a person from fulfilling their duty to Almighty Allah - which is unethical and morally wrong in Islam - a negative value is assigned to this context. Hence, even though the contract was executed correctly, the wider unethical implication overpowers.

2. *Talaqqī al-Jalab* (intercepting a delivery of goods to the market)

Another example which is mentioned in the Prophetic traditions is the prohibition of intercepting a delivery of goods designated for the market. This was a commercial practice in early Arabia. Traders would, on hearing of a merchandise caravan, proceed out of the city to meet the caravan on the way for buying the entire merchandise. They would then sell these goods in the city market at a higher price.

This practice is only disliked and discouraged if it will economically harm the people in the city market and does not add any value in the supply chain. If this practice is not economically harmful but brings benefit, then such a practice is not disliked. Again, the Shari‘ah has a contextual ruling and deems it unethical and morally wrong, giving the negative value of *Makrūh* when harm is perceived.

3. Making an offer after two parties have agreed in principle

The Prophet ﷺ prohibited making an offer to purchase something after two parties have come to an agreement in principle. Making an offer is independently lawful and ethical when made according to the Shari‘ah principles. However, the context here is unethical due to the wider consideration of harming another party.

Concluding Thoughts

The discourse on *Hiyal* is extensive and multidimensional. As we have seen, *Hiyal* have been an integral part of Islamic jurisprudence since its inception, validated by textual sources, expounded upon by classical jurists across schools of thought, and continue to have relevance in contemporary Islamic Finance.

Fundamentally, *Hiyal* represent pathways, or structured alternatives and ethical exits allowing pursuit of lawful objectives without transgressing sacred boundaries. They manifest the inherent pragmatism within *Fiqh*. However, as Ibn al-Qayyim aptly notes, whilst *Hiyal* facilitate circumventing prohibitions, they are not blanket permissions to validate all means to all ends. Contexts and ethical frameworks matter. This is why the realm of *Hiyal* lies in the office of the *Muftī* rather than the *Qādī*'s court.

In evaluating *Hiyal*, intentions, means and ends must align with the moral matrix embedded in *Fiqh*. Outcomes cannot engender harm. Rights cannot be infringed. Trusts cannot be violated. Deceit has no place. Within these parameters, *Hiyal* enable fulfilling genuine needs through lawfulness.

Islamic financial products respond to complex financial realities unimaginable during earlier times. They represent meticulously constructed alternatives enabling participation in modern economic systems whilst avoiding *Ribā*, not schemes for subverting divine commands. Product intentions, features and effects require analysis from both micro and macro perspectives, scoping potential harm. Responsible Shari‘ah governance is paramount. Competent specialised jurists must craft carefully calibrated guidance. Whilst classical *Hiyal* demonstrate principles of lawful alternatives remain pragmatically valid, their application in Islamic Finance requires heightened meticulousness today given vast reach. Besides formal validity, continually evaluating ethical soundness remains imperative, ensuring the industry’s backbone and heart align with the wholesome guidance in Shari‘ah.

Chapter 3: The Protocols of a *Muftī*

Chapter Summary

- *Rasm al-Muftī* refers to the protocols and principles a *Muftī* applies when issuing *Fatwā*, involving considerations like necessity (*Darūrah*), need (*Hājah*), widespread affliction (*Umūm al-Balwā*), hardship removal (*Raf' al-Haraj*) and custom (*Urf*).
- These facilitate applying *Fiqh* rulings to real-life contexts using concepts like *Istihṣān* to deviate from the logic of the law and address genuine needs.
- *Darūrah* temporarily permits that which is prohibited explicitly when there is a real risk to life, limb, property, or faith. Consuming a small amount of alcohol is overlooked when on the brink of death due to starvation.
- *Hājah* permits deviating from the strongest opinion in a *Madhab* (school of *Fiqh*) to other opinions. This includes enabling business needs. *Muzāra'ah* and *Musāqāt* are permitted this way. Boar bristles were temporarily allowed for shoe-making.
- Widespread affliction (*Umūm al-Balwā*) grants concessions for unavoidable matters, and makes the impacts of such matters inconsequential.
- Facilitation (*Taysīr*) and hardship removal (*Raf' al-Haraj*) discard or simplify too difficult practices. Travel permits shortened prayers.
- Custom (*Urf*) refers to prevalent market norms indicating whether causes behind rulings exist. *Urf* does not change the rulings, it simply indicates to the presence or absence of the underlying legal cause. *Urf* cannot change or permit the prohibited.

The *Rasm al-Muftī* (protocols of a *Muftī*)

Before discussing Commodity Murabahah and Shari‘ah wrappers, it is worthwhile to briefly address some of the *Rasm al-Muftī* (*Fatwā* protocols) that are applied by a *Muftī* when giving *Fatwā*. These protocols play a huge role in product engineering and the application of *Hiyal*. In Islamic Finance, many *Muftīs* are regularly applying these protocols and principles when looking at different products, services, and specific issues. The key protocols applied by a *Muftī* are captured in the *Rasm al-Muftī*. These include:

1. *Darūrah* (necessity)
2. *Hājah* (need)
3. *Umūm al-Balwā* (widespread hazard)
4. *Raf'u al-Haraj* (removal of hardship)
5. *Urf* (market practice)

The Shari‘ah rules are composed of the logic of the law (*Qiyās*) and exceptions (*Istihsān*). *Istihsān* involves shifting from an expected ruling to a more appropriate one, guided by stronger and more contextually relevant evidence or *Fiqhī* principles. According to Imam al-Sarakhsī (d.483 AH), this amounts to “giving preference to acting on the stronger of two evidences.” Since the legal argument (*dalīl*) that overrides the logic of the law is not a single, fixed, type of evidence, Hanafi jurists collectively refer to all such types of arguments as *Istihsān*.

Fiqh is both a process and a journey. It started with the extraction of meanings from the Quran and *Sunnah* by the expert minds of *Mujtahid* jurists in the earliest generations, who then encapsulated these deductions into principles. These principles formed the basis of subsidiary rulings (*Furū'*), acting as conduits for transmitting the valid interpretations of the Quran and *Sunnah*. Hence, the legal cases (*Masā'il*) and subsidiary rulings (*Furū'*) that were coded into the books of *Fiqh* were in reality, the vehicles by which the valid and coherent understanding and interpretation of the Quran and *Sunnah* have been transcribed and transmitted to us. Thereafter, the *Fiqh* is delivered from text to the context by contemporary jurists in light of the methodology of classical scholars. This involves a grasp of expertise and deep understanding of the thought process of the *Fuqahā'*. This gives life to accurate and meaningful applications of *Fiqh* to real life, in real terms.

Based on the above process, the scholars mention that there are three types of *Uṣūl* (principles) when dealing with *Fiqh* as follows:

1. *Uṣūl al-Istinbāt* - These are the principles used to derive rulings directly from the Quran and *Sunnah*. Historically employed by early *Mujtahid* scholars and jurists, this method is rarely ever used by contemporary scholars, as the qualifications and requirements for this are almost non-existent.
2. *Uṣūl al-Binā'* – These principles were formulated by *Mujtahid* scholars through in-depth analysis of the Quran, *Sunnah*, *Ijmā'*, and the practice of the earliest generations. The entire structure of *Fiqh* is founded on these principles.
3. *Uṣūl al-Taṭbīq*- These principles focus on the practical implementation of the law. They involve assessing the appropriateness of a ruling to its intended application. Deviations from standard rulings are not arbitrary but follow the established protocols of *Rasm al-Muftī*, requiring a rigorous and systematic process for any exceptions.

It is in the *Uṣūl al-Taṭbīq* that *Muftīs* and Shari‘ah scholars practice regularly in Islamic Finance in applying rulings and issuing *Fatwā*. *Uṣūl al-Taṭbīq* involves a deviation from the logic of the law to another outcome, that is underpinned by factors such as *Darūrah* (necessity), *Hājrah* (need), *Umūm al-Balwā* (widespread hazard), *Raf'u al-Haraj* (removal of hardship) and *'Urf* (market practice). A *Muftī* will always consider these tools and protocols before giving a *Fatwā*. In fact, products are

developed on some of these very principles, and allowance is granted to particular activities and structures due to them.

Darūrah

The concept of *Darūrah* in *Fiqh* signifies the necessity for preservation and survival, permitting normally unlawful actions in the absence of lawful alternatives to prevent certain loss of life, limb, property, or faith. This principle of necessity is derived directly from the Quran and is highlighted in various verses.

“But whoever is compelled by necessity, neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful” [Quran 2:173].

“But whoever is forced by severe hunger with no inclination to sin - then indeed, Allah is Forgiving and Merciful” [Quran 5:3].

“He has explained to you in detail what is forbidden to you, except under compulsion of necessity” [Quran 6:119].

“But if one is forced by necessity, without wilful disobedience, nor transgressing due limits, then is he guiltless. For Allah is Oft-Forgiving Most Merciful” [Quran 6:145].

The application of *Darūrah* results in a temporary allowance of otherwise prohibited actions due to extraordinary or abnormal circumstances. However, this concession does not extend to unjust physical harm to others or violation of their integrity and dignity.

For example, the general prohibition of consuming alcohol and swine is temporarily lifted in a survival situation where these are the only available sustenance options. In such cases, only the minimum amount necessary to prevent death is overlooked. Similarly, while wearing silk is usually prohibited for men, its use was allowed in warfare due to its unique properties. Silk was historically valued as armour due to its unique properties. Silk is lightweight yet strong, making it a practical option for protective clothing. When layered, silk can effectively slow and even stop arrows, a feature particularly useful in ancient times. Its strength and durability, coupled with its ability to distribute the force of a blow, made it an effective component of armour. Additionally, silk's lightweight nature allowed for greater mobility compared to heavier armour materials. These characteristics made silk a highly sought-after material for body armour in various historical periods. Another instance of *Darūrah* is the permissibility of interrupting *Salāh* (prayer) to prevent theft of one's property. While breaking *Salāh* is normally prohibited, in the event of property theft, there is a concession to interrupt the prayer to protect one's belongings.

Hājah

Hājah represents the necessities that individuals require, and without addressing these necessities, people would face significant hardship in their daily activities. *Hājah* is not about the threat to life or financial loss; instead, it concerns the basic ability to sustain oneself and manage one's resources in everyday life. *Hājah* typically involves needs to maintain and advance one's welfare, property or wealth. If a circumstance is overwhelming and preventing the parties from an obvious benefit, the *Rasm al-Muftī* would permit finding an alternative narration in the books of *Fiqh* to support an alternative course of action.

The application of this principle is more common than *Darūrah* in Islamic Finance. Unlike *Darūrah*, *Hājah* does not grant concession in doing that which is explicitly prohibited in the Quran and *Sunnah*. Instead, *Hājah* permits adopting an opinion that is narrated in lower tiers and less authoritative *Fiqh* corpuses. For instance, in the Ḥanafi tradition, the first and most authoritative corpus is *Zāhir al-Riwayah*, which captures the legal opinions of Imam Abū Ḥanīfah (d.150 AH), Imam Abū Yūsuf (d.182 AH), and Imam Muhammad Ibn al-Ḥasan al-Shaybānī (d.189 AH). These are treated by latter jurists as first-order precedent when it came to rule-determination (*tarjīh*) due to their being widely transmitted (*mutawātir/mashhūr*) from the Ḥanafi masters.

Similarly, *Hājah* has different forms; some business practices had been recognised and accepted due to *Hājah* that were approved in the era of the Prophet ﷺ and remained, despite them being against the logic of the law. These practices are typically upheld when the *Hājah* is widespread or impacts many, leading to their perpetual application.

An example of this is Ijarah (leasing). It was approved and accepted in the era of the Prophet ﷺ. However, the contract of Ijarah does not follow the principles and logic of the law of transacting; you are effectively trading and contracting something that does not exist. The sale of something non-existent (*Bay' al-Ma'dūm*) is not permitted, and this principle is from among the principles ('*Uṣūl al-Binā'*) coded by the Ḥanafi jurists in light of the Quran and *Sunnah*. Hence, according to the Ḥanafi tradition, services (*Manfa'ah*) are not wealth proper, as it is something that is not existing in the real sense. Ijarah ought to be prohibited, but it is permitted as a deviation from the logic of the law (*Khilāf al-Qiyās*) due to *Hājah*. Ijarah is permitted due to the significant need it addresses, facilitating access to assets for those who cannot afford outright purchase and allowing others to benefit from their surplus assets. Hence, Ijarah facilitates a genuine need for all parties in the economy.

Similarly, contracts like *Bay' al-Salam* and *al-Istisna'*, which involve the sale of non-existent goods, diverge from standard legal logic (*Qiyās*). Although theoretically, they should be prohibited, the prevalent necessity and practice of these contracts have led to their acceptance. People effectively

treat the non-existent goods as existing for the purposes of the contract. Further, the reason why the sale of non-existent goods is prohibited is due to the high probability of *Nizā‘* (discord). That is the underpinning reason. When the sale of something non-existent became so dominant as though it was in existence, and it did not lead to any dispute, the effective cause for the prohibition was no longer existent. As a result, the corresponding ruling of prohibition could not be applied. Therefore, the underlying legal reason (*‘illah*) is deemed inapplicable, as it is not considered in actual practice by the people. This flexibility reflects the dynamic and pragmatic approach of *Fiqh* to meet the evolving needs of society.

Another application of *Hājrah* can be found in the *Fiqh* corpuses where classical jurists adopted secondary precedents and superseded views (*Murajjah*) to facilitate and permit business needs. For instance, the most authoritative view in the Ḥanafī school regarding *Muzāra‘ah* and *Musāqāt* contracts is that they are improper contractual forms and voidable (*Fāsid*). This was the view of Imam Abū Ḥanīfah. *Muzāra‘ah* involves giving seeds or standing crops to another to cultivate and to share the produce. *Musāqāt* involves giving one’s fruit-bearing tree to another to cultivate and to share in the produce. Imam Abū Ḥanīfah viewed these contracts as inconsistent with the Quranic and Sunnah-based principles of transactions, arguing that compensation for services should be fixed and guaranteed, not contingent or dependent on the labourer’s efforts, which could introduce excessive uncertainty (*Gharar*) into the delivery of obligations. However, his students, Imam Abū Yusūf and Imam Muhammad, considered *Muzāra‘ah* and *Musāqāt* permissible, similar to Mudarabah and other such practices. This latter view is what the jurists give *Fatwā* on. It is a deviation to facilitate business.

Scholars frequently take business customs and necessities into account when deliberating matters and providing *Fatwā*. This approach, deeply rooted in the scholarly tradition, aims to ease worldly transactions, enabling individuals to meet their needs and focus on more significant issues. An example of this is the principle of *Taḥarri lī al-Jawāz*, highlighted by Imam al-Marghīnānī (d.593 AH), which seeks interpretations that validate transactions. For example, in transactions occurring in locations where multiple currencies are used for payment, not defining the currency of the contract could render the deal voidable (*Fāsid*). Nevertheless, the jurists have stipulated that in such a circumstance, the most common and obvious currency will be the default. This ruling facilitates transactional ease and continuity.

To further illustrate the facilitation of business needs, there was a temporary allowance for using boar bristles in hand-sewing shoes, despite the general impurity and prohibition of boars. This concession was due to the bristles’ unique thinness, strength, and flexibility, particularly beneficial in sewing the curved sections of shoes. They were sourced primarily from the mane of larger male boars.

When the *Hājah* is widespread and impacts an entire industry or group of people, it gains the same legal strength as *Darūrah*. A ruling determined by *Hājah* is typically permanent, as it addresses specific operational realities or states of the world, especially concerning how certain activities are conducted in our imperfect world. This permanence stems from the fact that the conditions permitted by *Hājah* are often regularly needed for these activities. In contrast, *Darūrah* creates a temporary and restricted allowance in its rulings, establishing permissibility for a limited duration under specific circumstances.

Umūm al-Balwā (widespread hazard)

This principle pertains to situations where people cannot reasonably abstain from something impure or improper. In such cases, concessions are granted. For example, the saliva of a cat was initially deemed impure, but due to its unavoidable nature in daily life, the Prophet ﷺ stated, "It is not impure; it is one of the [creatures] that coexist with you" [Sunan al-Tirmidhī].

Another instance is the overlooking of potential impurities mixed with mud on roads and paths in ancient times, largely due to the movement of animals [Hashiyah Ibn 'Ābidīn].

Likewise, the principle applies to the inhalation of fumes, dust, and similar particles, which are often unavoidable in the air. Even though the strict interpretation of the law might suggest that such inhalation breaks a fast, concessions are made due to these being widespread and unavoidable hazards.

In contrast to *Darūrah* and *Hājah*, *Umūm al-Balwā* is invoked less frequently, primarily focusing on scenarios beyond the control of those affected. Scholars of Shari'ah typically apply this principle to situations where the circumstances are inescapable, and the source of those challenges are external and extrinsic. Perhaps, a contemporary example of this is contractual terms that are standardised and cannot be re-negotiated, especially when consumers do not have the identical bargaining and negotiating power (*Musāwāt*) in the transaction to effect change.

Raf'u al-Haraj (removal of hardship)

Raf'u al-Haraj, or the removal of hardship, involves eliminating and preventing intolerable and burdensome circumstances. On the other hand, *Taysīr*, or facilitation, entails simplifying actions and practices to make them practical. *Raf'u al-Haraj* typically leads to the reduction, concession, or discontinuation of essential elements (*Arkān*), conditions (*Sharā'iṭ*), and the like in Islamic practices. In both *Raf'u al-Haraj* and *Taysīr*, the nature of the action itself changes, either transitioning from one form to another, or being discontinued, waived, or discarded altogether.

Taysīr is a general characteristic of the Sharī‘ah, signifying that all actions are inherently feasible and within the scope and capacity of humans. Almighty Allah states,

“He has chosen you and placed no hardship in your religion.” [Quran 22:78]

Every practice in Sharī‘ah will fall under one of the following three categories:

1. The practice itself has no recognisable hardship within it, and therefore has *Taysīr* embedded within it. An example of this is the regular performance of *Salāh*.
2. The practice has a minor degree of hardship, but it is tolerable and does not cause undue convenience and difficulty. For instance, performing *Salāh* while fatigued; this causes a minor degree of hardship but is well within scope of people.
3. The practice has extraordinary hardship and warrants a change in the action to make it tolerable, doable, and practical. For example, performing *Salāh* on a ship whilst it is moving causes dizziness and difficulty. In such a scenario, performing *Salāh* sitting is permitted.

Taysīr does not imply that actions are entirely devoid of difficulty; rather, it denotes that the difficulty is tolerable and within human capacity. This hardship is present to fulfil religious obligations, discipline the self, reform, and submission.

There are some abnormal states which typically trigger *Taysīr* as these states are extraordinary, such as travel, illness, coercion, forgetfulness, ignorance, and deficiency. Hence, *Fiqh* manuals have several exceptions in these matters.

The hardship that necessitates *Taysīr* must meet the following conditions:

1. The hardship must be genuine and overwhelming. Normal hardship, such as the hardship of work and earning a living, does not prevent the fulfilment of religious obligations.
2. The hardship must not be an inseparable part of worship, such as the hardship of cold during ablution, bathing, fasting in extreme heat, or traveling during the Hajj.
3. The hardship must not be an inseparable part of practices, such as the hardship borne by criminals due to improper behaviour. Such hardships have no impact on the facilitation or lightening, as doing so would entail neglecting and disregarding the Sharī‘ah.

Hājajah typically involves needs that maintain, grow, or advance life, welfare, property, wealth, income, or faith. In contrast, *Raf‘u al-Haraj* addresses all activities and practices in the Sharī‘ah. *Hājajah* is more common in *Mu‘āmalat*, due to its generic nature, while *Raf‘u al-Haraj* is found across chapters, but is primarily featured in *Ibādāt*. *Raf‘u al-Haraj* and *Taysīr* do not permit the prohibited, whereas *Darūrah* does.

'Urf(market practice)

'Urf, often cited yet perhaps the least understood among Islamic legal principles, refers to customary practice or prevailing norms, particularly relevant in Islamic Finance for market practices or industry standards. Unlike *Darūrah*, which can alter rulings from prohibited to permissible under certain conditions, *'Urf* aids in determining the presence of a specific legal rationale or effective cause (*'illah*). It is important to note that *'Urf* only applies to matters with legal consequences - those that can be claimed or contested in courts. Social customs or manners without legal implications do not fall under *'Urf*.

'Urf is generally described as the norm and traditional practices that are considered logical and reasonable by individuals of sound judgment, and which are legally recognised when resolving disputes. *'Urf* inherently involves widespread repetition and implicit recognition of certain practices as the norm. It is for this very reason that contracts incorporate the *'Urf*, as *'Urf* is the unwritten language and implicitly part of the contractual terms even without expressly mentioning them. Hence, jurists write that one must negate such matters explicitly if the parties wish to follow a particular practice that deviates from the *'Urf*.

The essence of *'Urf* is that Shari'ah considers reality (*al-Wāqi'*) and the dynamic nature of the world and various variables at play in non-ritual matters. Hence, *Fiqh* rulings are based on *ratio legis* and effective causes (*'ilal*), and it is necessary to consider the existence of these effective causes before giving a legal ruling or issuing a *Fatwā*. These effective causes are tied to the real world and the practice of the people. The existence of these effective causes is known through real life. The existence of an effective cause validates a ruling, and its absence negates it. Thus, *'Urf*, while not creating laws itself, acts as an indicator of the presence or absence of these causes, upon which legal rulings pivot. In essence, *'Urf* is a guide, reflecting reality in legal considerations.

Since *'Urf* does not change rulings on its own, and instead only indicates to the existence of the effective cause, *'Urf* has no bearing or consequence in matters that are expressly prohibited and not based on an intelligible meaning. For instance, if all the people practiced *Ribā*, and it was widespread as it is today, no person can make the argument that *Ribā* ought to be permitted due to *'Urf*. In this case, the *'Urf* is corrupt, that is undermining a ruling of Shari'ah. The very prohibition of *Ribā* was not based on an effective cause that is variable and susceptible to change due to *'Urf*. Rather, the *form* (*sūrah*) of *Ribā* is the effective cause, without any other underpinning legal cause. When the form is found, *Ribā* is found. No other variable will be considered.

To better comprehend the application of *'Urf* in contracts, terms and conditions (*Shurūt*) are of two distinct types:

1. Non-negotiable terms – These terms are fundamental to the contract and cannot be altered without rendering the contract irregular or corrupt (*Fāsid*). These essential terms define the very nature of the contract. For instance, in a Musharakah contract, the profit-sharing must be a percentage of the profits, and not a predetermined amount for any partner. Even if such a practice becomes commonplace, it remains unacceptable in Sharī‘ah. Similarly, a Mudarabah agreement that assigns all profit to one partner, or a loan contract including *Ribā*, regardless of its commonality, would be deemed corrupt. These terms directly impact the contract's core, and transform it into a form not sanctioned by Sharī‘ah. These terms fulfil the rights of Allah (*Haqq al-Shar‘*), hence the counterparties have no right in changing this, and no *Urf* can impact these laws, no matter how prevalent. All the examples above are in reality examples of *Ribā*. In all these scenarios, the contracts become prohibited because of *Ribā*. Hence, altering non-negotiable terms results in something that is expressly prohibited. *Ribā* is prohibited wherever *Ribā* is found. It is not underpinned by another factor (*‘illah*) that can be switched on and off. *Ribā* is the prohibited objective in and of itself.

2. Negotiable terms – these are terms that pertain to the rights of the counterparties, and they do not alter or manipulate the essence of any contract; rather, they are ancillary and supplementary aspects that do not define the core integrals of a contract. Since these terms are there to fulfil the rights of the counterparties (*Haqq al-‘abd*), they can mutually agree a different course of action. The books of *Fiqh* typically mention a course of action in such matters too, but they are all usually based on an effective cause (*‘illah*), such as *Jahālah* (ambiguity) and *Nizā‘* (discord). These effective causes are dependent on the counterparties and people. The absence of the *‘illah* will permit a different course of action, and the absence can be known by indicators such as *Urf*, or express mutual consent. In fact, even *Urf* in this scenario is simply indicating to consent. In reality, matters that are negotiable are underpinned by effective causes, like *Jahālah* (ambiguity) and *Nizā‘* (possibility of discord). For instance, combining contracts within one contract and agreement, like selling shoes with another service agreement included in the sale contract with one price, is usually a point of potential discord (*Nizā‘*). However, if the underlying cause of discord is absent, as indicated by *Urf*, the ruling does not apply. In these cases, *Urf* helps ascertain the absence of the underpinning cause, validating the contractual arrangement. The Hanafi *Fuqahā‘* state that the underlying meaning in contract combination is *Nizā‘*; when this *‘illah* is no longer present, the ruling will no longer apply. *Urf* will define and clarify that the underlying *‘illah* is no longer present.

Thus, *Urf* is commonly used in Islamic financial practices in understanding whether the logic of the law (*Qiyās*) should apply in a particular product, service, and ruling, or whether there should be a deviation to another ruling due to *Urf* indicating that the issue at hand does not have the

underpinning effective cause anymore. *'Urf* rarely ever has an impact in matters of *Ibādāt*, as such matters are not contextual or dependent on variables; they are universal and timeless.

The *'Urf* of sectors and industries is also meaningful. Ibn 'Ābidīn (d.1252 AH) cites an example where the practice of a particular market will be meaningful in formulating an *'Urf*. For example, Ibn 'Ābidīn (d.1252 AH) writes that if it is customary in a market that all trades are partially settled every Friday, this practice would be inherently assumed in all trades within that market, even if not explicitly mentioned in the contract terms. Therefore, the prevailing customs or *'Urf* of a market can be instrumental in shaping contractual expectations and practices.

Another example of how *'Urf* impacts financial transactions is the debate between the Islamic jurists regarding the six *Ribā* commodities identified in the *Hadīth*, namely, gold, silver, wheat, barley, dates, and salt. According to Imam Abū Ḥanīfah and Imam Muhammad, to prevent *Ribā* in an exchange, the commodities identified as measured by volume in the *Hadīth* should always be traded in equal volume. This holds true even if the common practice of measuring these items by volume has ceased. Likewise, for those commodities identified as weighable, their exchange should always involve equal weight, irrespective of whether or not these items are commonly weighed in contemporary times. They believed that the explicit mention of weight and volume in the *Hadīth* was deliberate, serving as the primary purpose of the prohibition. According to them, the text was prescriptive, without being influenced by any underlying factors.

In contrast, Imam Abū Yūsuf viewed the references to weight and volume as not being the main focus, but rather the emphasis was on ensuring equality in the exchange. He argued that the instruments or methods for measuring equality could evolve over time. The reason weight and volume were specified for these items in the *Hadīth*, according to him, was because they represented the customary methods of measurement during the Prophet's ﷺ time. This divergence in views essentially reflects the *Mujtahid* scholars' differing interpretations of the Quran and *Sunnah*: whether the text was *Mu'allalah* (underpinned by an effective cause) or *Ghayr Mu'allalah* (not underpinned by an effective cause).

Concluding Thoughts

The above breakdown provides insights on how Shari‘ah takes real life into consideration and how jurists are trained to consider the implications of rulings. In addition to the rulings and principles in the books of *Fiqh*, Shari‘ah scholars use the above tools to consider real life challenges. Such principles are regularly invoked in engaging with different products and services in the Islamic Finance industry. Every issue is analysed on a case-by-case basis, and the Shari‘ah board is responsible for the correct *Fiqh* being applied in each case.

Chapter 4: Commodity Murabahah and Shari‘ah Wrappers

Chapter Summary

- *Bay‘ al-Wafā’* translates as ‘a sale with a commitment’. It involves an initial sale and a commitment to buy back the item at the same price, with immediate payment in both transactions. The buyer enjoys full ownership and benefits of the item during the interim period. The Majallah defines it as a sale with a condition for asset return upon price repayment.
- *Bay‘ al-Wafā’* evolved over time with varying interpretations and rulings from different scholars and regions, reflecting its adaptability to economic and contextual changes. There are varied perspectives from scholars like Imam al-Sughdī, Mullā ‘Alī al-Qārī, Qādī Khān, Imam al-Atqānī, and others, depicting a range of views from valid sale to corrupt or coerced sale. Contemporary bodies like the Securities Commission of Malaysia and OIC International Islamic Fiqh Academy have also issued resolutions in this regard.
- *Bay‘ al-Wafā’* was created as a solution to specific economic needs, highlighting its controversial nature yet acceptance due to genuine need.
- Commodity Murabahah is an extension of the standard Murabahah involving additional steps for cash acquisition for the customer, focusing on the exchange value of assets rather than utility. There is a focus on the cash value over physical assets, with the use of metals, and the process of book entry transfers without physical movement.
- Commodity Murabahah produces economic concerns including the potential proliferation of non-productive debt, asset value inflation, financialisation of physical assets, inflationary impact, and systemic instability. It has potential overlaps with debt creation dynamics but with different economic engagements and implications.
- Shari‘ah focuses on the importance of increasing productive assets and investments in balancing the economy.
- Shari‘ah wrappers are structures to shield investments from direct involvement in non-compliant activities, typically used in feeder funds and the like.
- Shari‘ah wrappers can be used in times of genuine need, however, they can also be misused and adopted for unethical transactions.
- Combination of education, innovation, regulatory measures, and ethical practices to transition away from Commodity Murabahah and promote authentic Islamic Finance must be considered.
- To wean off Commodity Murabahah, the industry must focus on developing a roadmap for Islamic Finance, seeking a level playing field, setting thresholds for use of such products in scenarios of necessity, encouraging innovation, and imposing regulatory oversight on such products.

Introduction

After understanding how *Hiyal* operate, and the different *Fiqh* protocols used by Shari‘ah scholars, this chapter discusses a manifestation of *Hiyal*, and potentially the most controversial product used in the Islamic Finance industry: Commodity Murabahah. In this chapter, we will initially look at the classical macro *Hiyal* that has classical precedent and were discussed by senior *Fuqahā’* as a precursor to the discussion on Commodity Murabahah. Thereafter, we will discuss what is Commodity Murabahah, how it works in practice, its impact and use cases. Thereafter, we will dwell upon Shari‘ah wrappers and their use in the Islamic Finance industry. Then we will propose some ideas on how to wean off Commodity Murabahah.

What is *Bay‘ al-Wafā’*?

Before discussing Commodity Murabahah and Shari‘ah wrappers, we will study *Bay‘ al-Wafā’*, which is often translated as ‘a sale with a commitment’. *Bay‘ al-Wafā’* involves an initial sale transaction, and a commitment to buyback the sale item at a later time if presented, with the price in both sale contracts the same, with immediate settlements. In the interim, the buyer is at liberty to benefit and use the sale item as he is the owner of the item. The aim here was to provide a benefit to the capital provider until the other party returns the funds. Had this been arranged as a loan, the lender it would not have been permissible for the lender to benefit from the collateral. Instead, by organising it through two sales transactions, the capital provider acquires an asset for temporary use as a benefit and then sells the asset back once the other party returns the capital.

The *Majallah* defines this contract as “a sale of asset with the condition that if the seller pays back the price of the asset, the buyer shall return the asset to the seller.”

A *Bay‘ al-Wafā’* contract must follow all the requirements of a sale contract, such as:

- The existence of two parties that have the legal capacity to contract.
- The existence of a subject matter of sale at the time of the transaction.
- The price must be known at the time of executing the contract.
- A valid offer and acceptance.

There are some further controls on *Bay‘ al-Wafā’* that must be adhered to in order for it to remain as a *Bay‘ al-Wafā’*:

- The buyer should not sell the sale item to anyone else during the *Wafā’* period.
- The price in both contracts must be identical.
- The settlement of the contracts must take place immediately.

- If a *Wa'd* (undertaking) is used, it will be binding to buy back the sale item if the *Wa'd* is exercised.

A step-by-step transaction of *Bay' al-Wafā'* looks like the following:

1. Party A sells the asset to Party B for a spot price of £100,000.
2. The ownership of the asset is transferred to Party B. Party B can enjoy the usufruct of the asset, place it as collateral to a third party to obtain financing, or simply keep the asset in custody.
3. At some point in the future, Party A pays Party B £100,000 and buys the asset back from Party B.
4. Party B is required to return the asset to Party A and recover the purchase price of £100,000.

One of the key features of *Bay' al-Wafā'* is that the price in both contracts must be equal in value, and it is paid immediately. This is what makes it different to *Bay' al-'Inah*.

The context for *Bay' al-Wafā'*

In the discussion on *Bay' al-Wafā'* in the Islamic Fiqh Academy, Mufti Rafi Uthmānī Rahimahullah presented a detailed research paper, and outlined the context and cause for the development of this product. He writes that *Bay' al-Wafā'* was developed for three contextual reasons:

1. Individuals were seeking loans and were willing to use their land as collateral. However, the scarcity of lenders, for various reasons, led to people seeking alternative means to gain material benefits from the financing they provided. Since Shari'ah forbids creditors from profiting from a loan (as any profit-generating loan is considered *Ribā*) and also bars a mortgage holder from benefiting from mortgaged property (deemed *Ribā* as well), individuals turned to *Bay' al-Wafā'*. This arrangement allowed the mortgage holder to become a purchaser, granting them the right to benefit from their property as desired, under the promise of returning the property to the original owner upon repayment.
2. Ibn Nujaym (d.970 AH) notes another scenario where people in Balkh would loan money in exchange for leasing a vineyard to the creditor, with an agreement that the grapes would belong to the lessee. However, this type of conditional vineyard rental is not permissible. Thus, people opted for *Bay' al-Wafā'* as an alternative, aligning the contract with acceptable Islamic principles.
3. Similarly, in Bukhara, loans were exchanged for the rental of garden trees, with the stipulation that the fruits would belong to the lessee. As this type of conditional tree rental is also impermissible, *Bay' al-Wafā'* was utilised to create a compliant structure.

The Historical Development of *Bay‘ al-Wafā’*

Bay‘ al-Wafā’ went through several phases, and different scholars from different eras had different opinions on the permissibility and nature (*Takyif*) of *Bay‘ al-Wafā’*. This highlights the contextual nature of this product, as the scholars came from different perspectives, backgrounds, and were addressing different economic conditions. Some of the major opinions that can be found among the Ḥanafī jurists are as follows:

1. Imam al-Sughdī (d.461 AH) states that *Bay‘ al-Wafā’* is simply a pledge (*Rahn*), and not a sale. Therefore, all the rulings of a pledge will apply. According to this view, the payment was merely a loan. This was the view early on in Samarqand & Bukhara. This is what is reported by Imam al-Nasafī (d.537 AH) regarding this transaction in Samarqand.
2. Mullā ‘Alī al-Qārī (d.1014 AH) relays another option from Imam al-Nasafī (d.537 AH), which seems to have gained currency later on in Samarqand, that scholars recognised the legitimacy of *Bay‘ al-Wafā’*. They considered it a valid sale for certain rulings, but not for others. This development occurred due to the widespread liquidity need, as well as the prevalence of this transaction in their society. The author of *al-Nihāyah* confirms that this understanding aligns with the predominant *Fatwā* in the school, illustrating that exceptions in principles can be made due to prevalent societal practices (*Ta‘āmul*) and the practical needs of the people.
3. Qādī Khān (d.592 AH) states that *Bay‘ al-Wafā’* is a valid sale if the condition to return the asset is contracted separately through a *Wa‘d*. This is a complete change from the earlier position narrated by Imam al-Sughdī. Interestingly, Imam al-Sughdī was also from Transoxiana as was Qādī Khān. This reflects a development in the acceptance of the product as time passed.
4. Imam al-Atqānī (d.758 AH) was of the view that this transaction is a corrupt sale.
5. Imam al-Zaylāī (d.743 AH) writes regarding some of the scholars of Bukhara that they considered it to be a coerced sale. However, he writes that this transaction was now practiced in Northeast Africa.
6. Sirāj al-Dīn Ibn Nujaym (d.1005 AH) describes the practice in Northeast Africa as it being on the view of Imam al-Zaylāī.
7. The Ottoman code of transactions, *Majallat al-Aḥkām al-‘Adlīyyah* describe *Bay‘ al-Wafā’* as a composite transaction, and it being multifaceted. It describes it as a conditional sale agreement, where the item is returned to the seller upon repayment of the price. This transaction is deemed a permissible sale due to the benefits accruing to the buyer. However, it's also viewed as a voidable (*Fāsid*) sale because of the ongoing mutual option for both parties to cancel it, which does not give it *luzūm* (bindingness). Furthermore, it is likened to a pledge (*Rahn*), considering the buyer's restriction from selling the item to others.

8. Alī Ḥaidar (d.1353 AH) writes that the Majallat al-Āḥkām al-‘Adlīyyah mentioned in its section on *Bay‘ al-Wafā’* 'the sold item' in an absolute manner. However, in the Turkish text, '*Māl'* (wealth) was used instead of 'the sold item', noting that while the jurists agreed on the permissibility of *Bay‘ al-Wafā’* in real estate, they differed in its permissibility in movable property. Some said it is permissible, while others did not permit it.
9. The Shari‘ah Advisory Council of the Securities Commission of Malaysia resolved the following regarding *Bay‘ al-Wafā’*: "At its 11th meeting on 26 November 1997, the SAC passed a resolution that *Bay‘ al-Wafā’* is permissible under Islamic jurisprudence and can be developed as a principle for formulating products in an Islamic capital market."
10. The OIC International Islamic Fiqh Academy resolved: "This type of sale is in fact "a loan which generates a benefit"; therefore, it is a fraudulent practice of *Ribā*, and is considered invalid by the majority of scholars. Second: This contract is not permissible in Shari‘ah."
11. Mufti Taqī Uthmānī writes: "The Mālikī and Ḥanafī jurists have allowed *Bay‘ al-Wafā’* on the basis of binding promise. *Bay‘ al-Wafā’* is a special kind of sale whereby the purchaser of an immovable property undertakes that whenever the seller will give him the price back, he will resell the house to him" [an Introduction to Islamic Finance].
12. In another place, Mufti Taqī Uthmānī writes, "Some Mālikī and Ḥanafī jurists can be cited, in particular, who have declared that the promises can be enforced through courts of law in cases of need. The Ḥanafī jurists have adopted this view with regard to a particular sale called '*Bay‘ al-Wafā’*'. This *Bay‘ al-Wafā’* is a special arrangement of sale of a house whereby the buyer promises to the seller that whenever the latter gives him back the price of the house, he will resell the house to him. This arrangement was in vogue in countries of central Asia, and the Ḥanafī jurists have opined that if the resale of the house to the original seller is made a condition for the initial sale, it is not allowed. However, if the first sale is effected without any condition, but after effecting the sale, the buyer promises to resell the house whenever the seller offers to him the same price, this promise is acceptable and it creates not only a moral obligation, but also an enforceable right of the original seller. The Muslim jurists allowing this arrangement have based their view on the principle that "the promise can be made enforceable at the time of need" [an Introduction to Islamic Finance].

Shaykh Muṣṭafā al-Zarqā (d.1420 AH) summarised the evolution of *Bay‘ al-Wafā’* as follows:

"The reality of the matter is that opinions among jurists initially differed on *Bay‘ al-Wafā’* when it became customary in Bukhara and Balkh in the fifth *Hijrī* century. Some considered it a pledge in every aspect, some considered it a corrupt sale due to the stipulation that the sale item must be returned if the money is presented, and others regarded it as a valid sale, where the condition of return is binding since conditional promises are binding according to Ḥanafī scholars. This difference of opinion was at the beginning and in earlier times when this contract with this condition became known. However, as its practice spread rapidly in regions due to people's needs,

the later jurists' opinion settled on a final ruling according to its intended purpose, taking into account three main requirements and controls:

1. Transferring the use of the asset to the buyer by virtue of the contract.
2. The right to return or cancel.
3. The buyer being liable for the pledge if it is destroyed even without negligence or misconduct.

This was named the comprehensive opinion and was preferred for issuing *Fatwā*, see Radd al-Muhtār and the Majallah. Any opinion seen in some books contrary to this is based on one of the initial differing opinions when *Bay‘ al-Wafā’* first became known, before the comprehensive opinion on which the *Fatwā* was settled.

Based on this, it is not correct to assert that *Bay‘ al-Wafā’*, according to Hanafi scholars, is like a pledge in all aspects, nor to say that the benefits and fruits of the sold item are for the seller, and nor is it correct to say that nothing of it is permissible for the buyer without the seller's permission [Majallat Majma‘ al-Fiqh al-Islāmī].

Shaykh Muṣṭafā al-Zarqā (d.1420 AH) further writes that the similarities between *Bay‘ al-Wafā’* and a pledge are strikingly close to the extent that when *Bay‘ al-Wafā’* first appeared and people started practicing it in the 5th century Hijri in the city of Balkh, some people used to call it “*Rahn*”. The jurists of that time had different views on it - some of them considered it a pledge from all aspects and applied all the provisions of a pledge to it, while others considered it an invalid sale contract due to stipulating a corrupt condition which is that when the seller pays back the price to the buyer, the buyer is obliged to return the sold item back to the seller. In fact, this condition is the essence of *Bay‘ al-Wafā’*, without this condition the contract would simply be an outright sale. With this condition, it becomes very similar to a pledge to the extent that people called it a *Rahn*. This condition is the basis of distinction between *Bay‘ al-Wafā’* and a valid sale contract, and it is the basis of resemblance between *Bay‘ al-Wafā’* and *Rahn*.

It is also the basis based on which the Hanafi jurists finally settled after a period of disagreement that it is a new type of contract which is neither a completely valid sale, nor a completely invalid sale, nor exactly a *Rahn*. Rather, it has some resemblance of a valid sale, invalid sale and *Rahn*.

Thus, they decided to give it a combined, composite ruling taking some provisions from each of these three contracts:

- It takes from the rules of a valid sale that the buyer has the right to utilise and benefit from the item without needing permission from the seller by virtue of the contract.

- It takes from the rules of an invalid sale that each party has the right to terminate it whenever they want and ask for their payment back, even before the end of the term if they had agreed on a term.
- It takes from the rules of *Rahn* that the buyer cannot sell the item because the condition of returning it to the seller when he pays back the price.

This view that the Ḥanafi jurists settled upon (after a period of disagreement over the classification of this contract) is what has been called “the reconciliatory position”, and it became the basis for issuing *Fatwā* in the *Madhab*.

This view was adopted by the Majallat al-Aḥkām al-‘Adlīyyah that was issued under Ottoman imperial order, and it became the general civil law in the Ottoman state, and thereafter in the Arab countries that followed, until modern civil laws were legislated in them. [Majallat Majma‘ al-Fiqh al-Islāmī]

Understanding *Bay‘ al-Wafā’*

It becomes clear from the above that *Bay‘ al-Wafā’* was from the contextual *Hiyal*; it was created to address a particular problem. It was a highly controversial product when it was first launched, but so long as a genuine need remained, and that *Bay‘ al-Wafā’* facilitated the need of people, it was accepted by different authorities and scholars in different regions. The need may be transitory, or it may be continuous. This requires evaluation and review of the economic reality on the ground, and the presence of alternatives. However, any solution must work within the confines of Sharī‘ah principles.

Commodity Murabahah

Following on from *Bay‘ al-Wafā’*, a more contemporary structured product is Commodity Murabahah or Tawarruq. This is from the macro *Hiyal*. The intention behind it is clear: to provide financiers with a return from financing where the customer needs cash. Commodity Murabahah or Tawarruq are an extension to the standard Murabahah, whereby all the normal Murabahah processes take place, however, there is an additional step wherein the customer or their agent resells the purchased commodity to a third party, which allow them to receive cash from the transaction. The customer in a Commodity Murabahah is more concerned with the cash value of the commodities than the nature of the commodities. This is because the customer simply wants cash and liquidity, not the use of the commodities themselves. The focus here is purely on the exchange value of the assets, and not the experiential value and utility of the asset.

The conceptual process is typically as follows:

1. The customer seeks financing from an IFI (Islamic Financial Institution) for £10 million sterling for working capital finance.
2. The IFI already has a Commodity Murabahah facilitator such as a broker or metals trader, and therefore, it is already setup to execute this financing through these third-party facilitators.
3. The master agreement that is signed by the parties outlines all the requirements and terms.
4. On or before the trade date, the IFI purchases the commodities for a purchase price from the metals' broker on the London Metals Exchange. This purchase will be a spot purchase, with immediate payment made by the IFI in exchange for immediate delivery of the commodities.
5. Depending on the specific arrangement, either the IFI will notify the customer that the purchase has occurred, at which time the customer will offer to purchase the commodities, or the IFI will offer to sell the commodities to the customer. In either case, the deferred price paid by the customer for the commodities will equal the purchase price paid by the IFI to the broker (£10m) plus an agreed profit. The payment date or dates for payment of the deferred price to the IFI will be fixed.
6. In exchange for the customer's agreement to pay the deferred price to the IFI on the payment date, the IFI immediately delivers ownership and constructive possession of the commodities to the customer. All of this is done online without any physical transfer of any commodity. There is just an allocation of title to the commodities in the name of each party in a ledger.
7. The customer then sells the commodities it has obtained from the IFI to a third party for a spot purchase, with immediate payment made to the customer in exchange for immediate delivery of the commodities to such third party. The customer is not involved in this, rather, the industry practice is that the customer appoints an agent to conduct these trades on its behalf.
8. As a result of the above transactions, the customer receives the £10m in cash that it can use as working capital (or any other purpose), and will have an obligation to pay the deferred price to the IFI on the payment date or dates.

The key things to remember in a Commodity Murabahah are the following:

- A customer does not obtain a physical asset for their own use, but to engage in a series of purchase and sales transactions that result in them obtaining cash.
- Rather than use the commodities in its business, the customer sells the commodities to a third party for cash.

- Metals (other than gold or silver) traded on the London Metal Exchange usually constitute the commodities subject to such a transaction. The metals are generally purchased by IFIs at market value for spot delivery and payment and then immediately sold to the customer at an agreed mark-up price on a spot delivery and deferred payment basis. The customer then immediately sells the assets to a third party for spot delivery and payment. The result of this series of trades is that the customer receives cash and has a deferred payment obligation to the IFI.
- The IFIs themselves are not generally equipped to take delivery of tons of palladium or copper; rather, they use the services of brokers & custodians. These same custodians can potentially make all necessary changes of title in milliseconds before the price of the underlying can actually change and either the IFI or customer might take much in the way of market risk.
- Due to the purpose of the transaction, the customer will be more concerned about the cash value of the assets than their nature.
- Brokers execute such transactions in exchange for payment of a small fee. The trades are usually by a book entry transfer from a seller's account to a buyer's account. The actual metals are kept in warehouses and do not physically move.
- Many a time, the series of transactions are executed in quick succession, eliminating the risk of price fluctuation.
- Holding certificates are issued to the transacting parties which evidence the allocation, identification, and location of the commodities. Those metals which are traded in the non-LME market i.e. platinum, palladium and rhodium are allocated directly through holding certificates.
- In regard to physical delivery of the commodities, they are generally fully deliverable. Customers usually need to write a delivery request.
- Commodities are priced in line with daily market prices.

The Practical Implementation of Commodity Murabahah

The above is the Sharī'ah description and theory of the contracts and conception of how Commodity Murabahah all works. When it comes to the practical implementation, it is not so simple as the conception. The following is one such practical implementation, which may differ in different jurisdictions and with different brokers:

1. The brokers maintain a commodity account for the IFI involved, which typically records the commodities owned by the IFI and its customer. A commodity account is also held for the second broker.
2. The IFI has a ledger (cash) account for the first broker and a ledger (cash) account for the second broker.

3. Upon purchasing the commodities from the broker, the IFI credits the broker's ledger account with the purchase price.
4. The broker then credits the IFI's commodity account.
5. In practice, there is no movement of money between the different parties involved. What happens is that there is a settlement arrangement between the first broker, the IFI and the second broker, which sit in a side letter or an addendum to the master agreement.
6. Upon the sale of the commodity to the second broker, the IFI debits the sale price from the second broker's ledger account, and credits the same amount to the IFI's customer cash account.
7. The first broker then debits the customer's commodity account and credits the second broker's commodity account.

In the series of transactions, the open credit-debit positions of the parties will be closed in the subsequent transaction via netting off between the sale price and the purchase price on the same day if no physical delivery was demanded. The netting process between both the prices shall lead to a situation where the IFI's payment obligation towards the first broker is limited to transferring the brokerage fees only.

On the settlement date of each sale transaction, the IFI carries out the appropriate debits and credits to the various accounts so as to ensure that the net result is that financed party will be credited with the final credit amount.

The cash flow process in this scenario involves only physical cash transfer from the IFI to the customer. This is because the subsequent payments are simply accounting entries, which are offset through netting agreements. The debts owed between the parties are as follows:

1. The IFI has a financial obligation to Broker 1.
2. Broker 2 is indebted to the Customer.
3. Broker 1 has an outstanding debt to Broker 2 from previous transactions or unsettled accounts. Alternatively, Broker 1 and Broker 2 enter into a transaction in the open market, which creates an identical obligation.

To simplify the process and avoid multiple cash transfers and administrative complexities, Broker 2 instructs the IFI to make the payment directly to the customer on its behalf. This action discharges Broker 2's obligation to the customer. Simultaneously, it also resolves the debt Broker 1 owes to Broker 2, as the IFI was in debt to Broker 1. When the IFI makes the payment to the customer, it effectively clears the debt of Broker 1 to Broker 2, and in turn, the IFI's debt to Broker 1 is also settled through this consolidated payment mechanism.

The Shari‘ah Requirements in Commodity Murabahah

A Commodity Murabahah transaction has the following Shari‘ah requirements:

1. **Different brokers:** To avoid *Bay‘ al-‘Inah*, different brokers must be used. This facilitates transactions being in an open market, preventing a closed loop by involving different brokers in the buy and sell side.
2. **Real assets:** The trades must involve a real asset. A fictitious product cannot be sold. The asset transaction must impact the inventory of the seller and the eventual buyer.
3. **Real trades:** All the Shari‘ah requirements for trading must be met in terms of valid offer, acceptance, legal capacities of the parties, agreement on the commodity, agreement on price etc.
4. **True ownership:** The traders should assume true ownership through true sales of the underlying commodity. The parties cannot be trading warrants or derivatives.
5. **Possession:** The traders must assume possession; either physically, constructively, or digitally. This possession must allow them to dispose of the asset or redeem the asset. The ledger entries and ability to take delivery is a form of constructive possession (*Takhliyah*).
6. **Correct Sequence:** The Commodity Murabahah must be performed in the correct sequence to ensure that no party sells something that they do not own or do not possess.
7. **Discretion to not sell:** The traders should have the option to take delivery of the commodities. This ensures that the trade is not fictitious.
8. **Different agents:** The IFI should not be the sole agent for all the parties involved in the Commodity Murabahah. This is not a key requirement if the agent is merely acting as an intermediary and broker. It is only a concern when the documentation and legal responsibilities are borne by the agent for both parties, the IFI and the customer. This will then create a conflict of interest and lack of clarity on possession and risk.

The Reasons for Using Commodity Murabahah

Commodity Murabahah is used for many reasons, some genuine, and some just out of ease and laziness. For instance:

1. **Tax efficiency:** Debt is cheaper than equity from a borrower’s perspective because of the different corporate tax treatment of interest and dividends. In the profit and loss account,

interest is subtracted before the tax is calculated; thus, companies get tax relief on interest. However, dividends are subtracted after the tax is calculated; therefore, companies do not get any tax relief on dividends. The cost of borrowing money will normally be deductible in calculating a company's profits (i.e. it is 'above the line')—by contrast, dividends and other distributions, broadly payable on equity instruments, will not be deductible (i.e. they are paid out of the company's net profit and so are 'below the line'). The tax treatment of Commodity Murabahah is similar to interest debt, therefore, customers using Commodity Murabahah benefit from tax relief. Most corporate income tax systems deem the cost of debt deductible as an expenditure when calculating taxable profits.

2. **Need for Cash:** When customers require cash rather than a specific asset, direct lending is neither feasible nor permissible in Islamic Finance if the bank seeks a profit margin. Commodity Murabahah offers an accessible solution for customers to obtain cash.
3. **Security and low risk:** Since Commodity Murabahah is debt financing, there is greater scope of managing risk. The IFI can have various types of guarantees in place, charges, pledges, promissory notes and more to secure the outstanding debt.
4. **Structuring challenge:** Sometimes, due to the complexity of structuring transactions involving different contexts and parties, Commodity Murabahah offers a straightforward approach to launching a product.
5. **Nascent market:** In new Islamic Finance markets, where stakeholders, regulators, and participants are less familiar with Islamic Finance principles, Commodity Murabahah serves as an introductory model; Its hands-off, familiar financial profile makes it an ideal entry point for new markets.
6. **Involvement of conventional financial institutions:** At times, conventional institutions want to be involved in the Islamic Finance industry and are happy to put capital into a transaction. However, they often seek a product that has a similar economic profile to what they are accustomed to. Commodity Murabahah facilitates that. It is better to facilitate their capital in *Halāl* transactions than *Harām*. It is simply better to have conventional funds being deployed in Shari‘ah-acceptable industries than not. If Commodity Murabahah facilitates this in the short term and builds familiarity and opens the way, then that is a valid contextual reason to use the product.

Economic Implications of Commodity Murabahah

Despite all of the above, there are many potential and plausible economic negatives and unproductive impacts that may follow with the long-term use of Commodity Murabahah as it gains

dominance in an economy. To accurately assess the impacts of the Commodity Murabahah approach, it necessitates thorough empirical research. Such analysis must isolate Commodity Murabahah from other influencing economic factors, including quantitative easing, currency issuance, inflation, non-compliant debt, and *Ribā*. Understanding the genuine effects and relationships within the Commodity Murabahah framework becomes possible only by excluding these external variables, allowing for a clear analysis of its cause and effect.

- 1. Non-productive Debt Creation:** Commodity Murabahah raises concerns about the creation of non-productive debt. Unlike its counterparts like Ijarah and traditional Murabahah, which are intrinsically linked to tangible assets or services, Commodity Murabahah often lacks a direct connection to real economic activities. Since genuine credit sales are tied to actual goods or services, they are more likely to contribute directly to economic productivity. The risk of speculative bubbles is lower with credit sales as the credit is linked to real economic activities. Commodity Murabahah involves the sale and repurchase of commodities, creating debt that doesn't correspond to actual consumption or production. The critical issue here is that this mechanism can lead to an accumulation of debt that is not backed by real economic output. Over time, the repeated use of the same commodities for these transactions merely circulates financial capital without contributing to genuine economic growth or productivity. Commodity Murabahah's debt doesn't correspond to real consumption or production in the economy over the long term. It's more about financial manoeuvring than facilitating real economic activities. This situation creates a financial facade where the apparent growth and liquidity in the market are not underpinned by tangible assets or services, leading to a potential economic imbalance.
- 2. Concerns Around the Lack of Real Economic Activity:** In traditional Murabahah transactions, the mechanism operates effectively within the open market, where the sale price and the asset itself are integral to economic activities. Upon executing a Murabahah agreement, the seller reinvests the proceeds into the economy by purchasing raw materials or sourcing goods anew. This cycle not only ensures the continuous flow of capital but also enhances asset turnover from suppliers, thereby injecting liquidity upstream towards manufacturers and wholesalers. Such transactions enrich the market by facilitating the spread of wealth and resources across different economic layers.

Downstream, the buyer leverages the acquired asset in various productive ways: utilising it to offer services, thereby generating income; employing it for personal gain, which translates to direct utility; or reselling it, which not only extends the asset's utility to others but also enables profit realisation. These diverse uses of assets underscore the multifaceted economic benefits stemming from traditional Murabahah transactions, marked by an

active movement of money and goods that foster market vitality and contribute to the broader economic fabric.

Conversely, Commodity Murabahah transactions exhibit a starkly different economic dynamic. Here, the flow of goods becomes cyclical, essentially revolving within a closed loop without contributing tangible value to the economy. In such arrangements, assets do not effectively transition through the market nor facilitate value addition upstream or downstream. The primary economic activity is confined to financial gains accrued by the financier, which, although beneficial to the financier, does not equate to real economic input or output. This lack of substantive asset movement or liquidity injection into the market sidelines the potential for broader economic benefits, contrasting sharply with the value-added processes inherent in traditional Murabahah transactions.

In essence, while traditional Murabahah transactions catalyse economic vitality through active asset circulation and liquidity distribution, Commodity Murabahah transactions fall short of delivering similar economic contributions. The former underscores a robust model of Islamic Finance that promotes economic growth and wealth distribution, whereas the latter presents limitations in fostering genuine economic development and market dynamism.

3. **Concerns Regarding Multiplication of Receivables and Asset Value Inflation:** A fundamental issue with Commodity Murabahah is its potential to inflate the financial value of assets beyond their real economic worth. Commodity Murabahah can, in theory, be repeated through the use of a single asset to generate multiple financial transactions, creating a web of receivables that far exceeds the actual value of the asset itself. This situation mirrors a critical flaw in conventional financial systems, where the reliance on debt financing can lead to a disproportionate relationship between the real asset base and the financial obligations it supports. The result is an economic environment where debt and financial obligations become dominant, overshadowing the real economy, and potentially lead to financial instability and market distortions. This creates a situation where a relatively small asset base is pressured with a disproportionately large amount of financing and debt. This is the identical state of the current conventional financial system, and it gives dominance to debt in the economy. If all the assets were to be sold to repay debt, there still would not be enough money to pay off the debt.
4. **The Risk of Financialisation of Physical Assets:** Commodity Murabahah tends to treat physical assets more as financial instruments than for their inherent utility or productive capacity. In this arrangement, the focus shifts from the actual use and experiential value of the asset to its role in financial transactions. This financialisation of physical assets can lead

to a misallocation of resources, where assets are used primarily for creating financial leverage rather than for their intended productive purposes. This approach can distort the value and utility of these assets in the real economy, potentially leading to inefficiencies and a misrepresentation of the actual economic strength.

5. **Potential Inflationary Impact from Increased Money Supply:** The practice of Commodity Murabahah, by facilitating the creation of debt without a corresponding increase in real goods and services, can contribute to inflationary pressures in the economy. This inflationary risk arises from the disparity between the amount of money circulating in the economy and the availability of goods and services. When the money supply increases without a proportional increase in real economic output, it can lead to a general rise in prices, diluting the purchasing power of money and potentially leading to economic instability.
6. **Risks of a Debt-based Economy and Systemic Instability:** An economy that heavily relies on debt-creation methods like Commodity Murabahah can become excessively dependent on debt, carrying significant systemic risks. This over-reliance on debt can lead to economic fragility, where the proliferation of debt outpaces the growth of the real economy. Such a scenario can result in financial bubbles, increased vulnerability to economic shocks, and potential long-term instability. The systemic risk is exacerbated when the economy lacks sufficient diversification in its financial practices, making it more susceptible to fluctuations in the debt market and the potential for a debt-driven economic crisis.

The comparison of Commodity Murabahah with conventional financing reveals several overlapping characteristics, particularly in terms of the effects and systemic risks they pose. Both forms of financing essentially create debt, but in the case of Commodity Murabahah, this is achieved through transactions involving commodities that often hold no real purpose to the buyer. These commodities serve more as instruments for facilitating financial transactions rather than for their intrinsic utility. This approach renders Commodity Murabahah synthetic in nature, at least in the macroeconomic perspective. While individual transactions (at the micro level) involve actual commodities, the overarching objective is financial facilitation, not commodity trade.

Despite these similarities, Commodity Murabahah has unique attributes that differentiate it from conventional debt financing. One of the key distinctions is its non-compounding cost structure. The debt from a Commodity Murabahah cannot be compounded. This feature stands in contrast to the compounding interest model prevalent in conventional loans, which can lead to significant financial burdens on borrowers. Additionally, Commodity Murabahah transactions are subject to specific restrictions and controls, such as the prohibition of trading debt receivables in secondary markets, a practice commonly observed in conventional finance. This control prevents speculative

trading of debt, and maintains a direct link between the financing and the underlying transaction and asset.

The manner of debt creation in Commodity Murabahah draws parallels with conventional financing and may contribute to similar systemic risks. These risks include potential market imbalances, an over-reliance on debt, and vulnerability to economic downturns. Therefore, while Commodity Murabahah avoids some pitfalls of conventional financing, it still shares certain fundamental risks. In some respects, Commodity Murabahah has similar implications to Quantitative Easing (QE); You're not actually buying a productive asset; you're just creating debt. This comparison primarily stems from the nature of both processes, which fundamentally revolve around the creation of debt rather than the generation of productive assets. While standard Murabahah involves a deferred payment for an actual commodity, contributing to consumption and economic activity, Commodity Murabahah diverges significantly. In a typical Murabahah transaction, the seller realises a profit from the sale, which can then be reinvested into the business for growth, or used for further consumption or saving. This process is directly tied to economic activities of production and consumption, stimulating growth in a tangible manner. In a Murabahah, you're partaking in consumption in the economy, and the seller has generated money/wealth, which can then be used to sell more and grow his business or for further consumption or saving. However, Commodity Murabahah operates differently. It resembles QE in that it primarily focuses on debt creation without an immediate, direct link to productive economic activity. This debt creation, while potentially powerful for growth, can also fuel inflation, particularly since it does not directly contribute to wealth generation or economic expansion in the same way as traditional transactions do. Commodity Murabahah has similarities with QE in that you're just creating debt itself. That debt creation can fuel inflation as nobody is directly getting richer and growing the economy simultaneously. Although the influx of capital from debt can indirectly stimulate growth, the immediate impact is not on increasing wealth or expanding economic activity. The power of debt as a tool for growth is significant, but in the context of Commodity Murabahah, it lacks the direct economic engagement that typically accompanies wealth accumulation and economic development.

The use of Commodity Murabahah for growth is plausible, but it also carries the baggage of potential negative consequences, especially in the event of an economic downturn. Commodity Murabahah's detachment from direct economic activities like production or consumption means that it could contribute to systemic problems. Unlike other transactions where the creation of goods and services balances the financial aspects, Commodity Murabahah creates financial obligations without a corresponding increase in tangible assets or services. This disconnect can lead to imbalances in the economy, potentially distorting the supply and demand scales. In every other transaction, debt is created with production of goods and services. Debt in Commodity Murabahah is being created without being balanced by the creation of goods and services. This creates an imbalance and can

distort the supply and demand scale. This, when expanded, can bring inflationary pressure, and grow debt disproportionately to the assets in the economy.

Professor Nejatullah Siddiqi in his paper titled "Tawarruq: A Methodological Issue in Sharī'ah compliant Finance" examined the impact of the Tawarruq on the economy. As he mentions, every Tawarruq based transaction would create debts which is larger than the cash transferred to the liquidity managing party such as Islamic banks. In both the Islamic Tawarruq and conventional forms, debt paper resulted to repeated financial speculative transactions. Though the Tawarruq transactions are supposed to be based on real assets at the start, the link with real assets would be severed without creating any wealth but debt. This process gives rise to an inverted pyramid of financial instrument underpinned by a small asset base. The Tawarruq moves a transaction from real economy to a money (debt) market where the equilibrating mechanism is no longer linked to the real economy. Then, he scrutinised the consequences of this very creation of debt which is larger than the cash generated and counts the harms and benefits of the Tawarruq as:

1. It gives rise to creation of debt which tends to accelerate;
 2. It emerges as exchange of money with money which is deemed to be unfair in the context of risk and uncertainty involved;
 3. It leads to speculation from gambling through debt proliferation;
 4. As it is debt financing, the practice seeds instability in an economy. In a debt-based economy money supply is linked to debt which gives rise to inflationary expansion;
 5. This practice is likely to deteriorate income distribution and inefficiently allocate resources.
- [Siddiqi, N. (1992). Impacts of Islamic Modes of Finance on Monetary Expansion.]

Wealth Creation Through Productivity and Innovation

Wealth creation is fundamentally tied to enhancing productivity through innovation and production. Consider a scenario where a craftsman, initially capable of making one shoe per hour, develops a machine that can produce ten shoes in the same time frame. This innovation leads to multiple benefits:

- **Cost Reduction:** The cost of producing each shoe decreases due to the efficiency brought by the machine, making shoes more affordable to a broader audience.
- **Increased Sales and Revenue:** As shoes become cheaper, demand increases, leading to higher sales and revenue for the producer.
- **Employment Opportunities:** With increased revenue, the producer can afford to hire more workers, contributing to job creation and further economic activity.
- **Reinvestment and Growth:** The increased profits can be reinvested in the business, further fuelling innovation, productivity, and economic growth.

- **Wealth Accumulation:** Over time, this cycle of innovation, increased production, and reinvestment leads to substantial wealth accumulation for the business owner, demonstrating how innovation drives real economic wealth.

This is the real way to create wealth; that is to increase productivity through innovation and productive assets. While debt can sometimes facilitate wealth creation, it often poses significant risks; debt can be useful for funding innovation and increasing productivity. However, debt itself does not generate wealth. Debt is a gamble on productivity and wealth creation. Taking on debt is a speculative activity. It is only the effective utilisation of borrowed funds towards productive means that drives wealth creation. Excessive reliance on debt without corresponding increases in productivity can lead to financial instability. If the borrowed money is not used effectively to generate additional income or improve productivity, it becomes a liability rather than an asset, leading to financial strain and potentially bankruptcy.

Increasing productive assets, innovation, and investment can create a balance between demand and supply. Enhanced productivity leads to more goods and services in the market, increasing supply. This can meet rising consumer demand without causing inflationary pressures. Investments in better capital and infrastructure improve the quality and quantity of output, thereby increasing supply.

The role of debt in this equation is nuanced: If debt is used to finance investments that improve productivity, it can support economic growth by simultaneously increasing both demand (through spending) and supply (through enhanced production capabilities). Conversely, if debt is used for purposes that do not enhance productivity (like excessive consumer spending or speculative investments), it can create an imbalance. This scenario leads to increased demand without a corresponding increase in supply, potentially causing inflation and economic instability. Thus, the real pathway to wealth creation in an economy lies not in accumulating debt, but in fostering innovation and productivity. This approach ensures a sustainable balance between supply and demand, underpinning long-term economic growth and stability.

Greater reliance on equity does not necessarily mean that debt financing is ruled out. This is because all financial needs of individuals, firms, or governments cannot be made amenable to equity and profit-and-loss sharing alone. Debt is, therefore, indispensable, but should not be promoted for inessential and wasteful consumption and unproductive speculation. For this purpose, the Islamic financial system does not allow the creation of surplus debt through direct lending and borrowing, that is *Ribā*. It rather requires the creation of debt through the sale or lease of real assets through sales or lease-based modes of financing. The purpose is to enable an individual or firm to buy now the urgently needed real goods and services in conformity with his ability to make the payment later. These assets are then used to generate production or consumption

necessarily, thereby adding to economic output with much more probability. To control debt spiralling out of control, Islam has laid down certain conditions that would help prevent excessive expansion of debt. Some of these are:

1. The asset, which is being sold or leased, must be real, and not imaginary or notional.
2. The seller must own and possess the goods being sold or leased.
3. The transaction must be a genuine trade transaction.
4. The debt cannot be sold, and thus the risk associated with it cannot be transferred to someone else. It must be borne by the creditor himself.

These conditions help eliminate speculative and derivative transactions, and also prevents the debt from rising far above the size of the real economy.

Modern Money Theory teaches that there are no spending constraints on a government that is monetarily sovereign (one that produces its own credible fiat currency). This simply isn't true. In fact, there are always economic constraints – even if indirect. This is because an economy cannot consume and invest more than it produces and imports, and any ex-ante imbalance between the two must be resolved by implicit or explicit transfers that reduce the purchasing power of some sector of the economy by enough to bring the two back into balance. Spending, that increases demand without directly or indirectly increasing supply by the same amount, creates an imbalance in ex ante supply and ex ante demand, an imbalance that must be resolved by implicit or explicit transfers. These transfers must reduce the purchasing power of one or more sectors of the economy by enough so that the ex-ante gap between demand and supply is reduced to zero. Demand and supply must always balance at all times.

When debt leads to an increase in the supply of goods and services, matching the demand it creates, it can be considered as self-liquidating. In such scenarios, the debt growth is proportional to the real debt-servicing capacity of the economy, often measured by GDP. This type of debt can be beneficial as it supports economic growth, facilitates investments in infrastructure, research, and development, and stimulates productive activities. However, even self-liquidating debt isn't without its concerns. It may cause shifts in the distribution of income, benefiting certain sectors of the economy more than others. This can lead to issues of income inequality, where the wealth and benefits generated by the debt are not evenly distributed across the economy. Thus, while the debt itself may not be problematic from a macroeconomic stability perspective, it could raise important questions regarding socio-economic equity.

The situation becomes more problematic when the growth of debt outpaces the economy's real debt-servicing capacity. This scenario typically unfolds when debt primarily boosts consumption demand without a corresponding increase in the production of goods and services. Under such

circumstances, the economy may face inflationary pressures, as the increased demand is not balanced by an equivalent rise in supply. Furthermore, this type of debt is less likely to be self-liquidating, as it does not generate the necessary economic growth to offset the debt incurred. This mismatch can lead to a precarious economic situation where debt levels become unsustainable, potentially culminating in a financial crisis.

Another concern with rapidly expanding debt is its potential to fuel speculative bubbles in various asset markets, such as real estate or the stock market. As debt increases, it can enhance the wealth effect, where consumers feel wealthier due to the increased value of their assets and thus spend more. This increased spending can inflate asset prices beyond their intrinsic value, creating bubbles. When these bubbles eventually burst, they can cause significant economic disruptions, as witnessed in various financial crises throughout history. The burst not only corrects the inflated asset prices but also leads to a decrease in consumer wealth and spending, potentially triggering economic recessions.

Considering Economic Implications of *Ribā*

As we look at the potential economic implications of Commodity Murabahah, it is important to consider the economic implications of *Ribā*. *Ribā* is not only prohibited because of a legal irregularity, it also prohibited because of the harms it has on the counterparties, people, and the economy as a whole. The objective of finance in general is to promote growth and fair distribution of real resources. Prosperity and welfare are determined ultimately by real wealth. Accordingly, the financial sector works to serve the real sector. *Ribā* separates finance from real transactions. Since the two counter-values of a loan are identical, it follows that interest becomes purely the cost of time, or the cost of pure finance. Pure debt creation is less constrained than real wealth creation; it takes only the agreement of the two parties to postpone a due debt for additional interest. Consequently, growth of debt tends to exceed that of the real economy. With compounded interest, debt services grow much faster than real income, and will take an increasingly dominant share of it. For example, debt services in 2003 took more than 80% of exports of Lebanon, 63% for Burundi, and in 2001 it was 82% for Sierra Leone (World Bank, 2005). Thus, the real sector will be servicing the financial sector, instead of the other way around. The economy obviously cannot normally continue to grow, since interest-based debt, if not checked, threatens to absorb economic wealth through its unlimited growing services [al-Suwailem, S. (2006). Hedging in Islamic Finance. Islamic Development Bank].

The devastating consequences of interest-based debt make it necessary to regulate financing from the beginning to avoid uncontrollable results. Islamic principles therefore make finance an inseparable part of real activities. That is why there is no "pure financing" instrument in Shari'ah. Islamic instruments have debt finance as an integrated component of real transactions, as in

deferred sales. As long as debt is integrated with real activities, there is no issue in taking its costs into account. Such costs are controlled by real transactions, and thus debt cannot grow on its own. This points to the difference between interest on lending and mark-up in credit sale. Interest is a self-replicating mechanism that makes debt grow and multiply independently of the real economy. This eventually drains real resources, obviously to the benefit of lenders. Mark-up, on the other hand, is time value integrated into the real transaction. This eliminates the possibility of self-replication of debt. Time value as such is not the issue; rather it is the growth of debt independent of real wealth that threatens social welfare. By integrating time value with real transactions, this replicating mechanism is eliminated. The difference between integrated and separated debt is very much like the difference between a normal and a cancerous cell. A cancerous cell grows and multiplies in a disorderly and uncontrollable way. It escapes the control mechanism that keeps cells growing in their normal and orderly way. When debt evades control mechanisms, it grows on its own, just as cancerous cells do. The control mechanism is what keeps cells synchronised and integrated to perform normal body functions. Islamic regulations of debt represent the necessary control mechanism that keeps debt synchronised with the real economy. Interest makes debt evade control, and thus become a threat to the economy. [al-Suwailem, S. (2006). Hedging in Islamic Finance. Islamic Development Bank]

Both *Ribā* and *Gharar* work to sever subjective preferences from objective wealth. *Ribā* applies to time, while *Gharar* applies to risk. Time and risk are in fact two sides of the same coin. Separating one implies separating the other. It is not surprising therefore that Shari‘ah prohibits both. The separation of time and risk from real activities leads to divergence of the financial sector from the real sector. However, the separation is inconsistent with the nature of economic relations, and thus is not sustainable. This makes it increasingly costly to keep the two sectors apart. The rising costs of separation defeat its original purpose, namely efficiency and reduced transaction costs. Eventually, the real sector will pay much more for separation than it costs to keep the two sectors integrated. Shari‘ah, therefore, insists on the integration between two sectors to achieve balanced and sustained economic growth. This is an essential principle in developing Islamic financial products.

Shari‘ah upholds the integrity of economic systems by protecting supply and demand dynamics from manipulation. These principles are rooted in a holistic view that considers not only the financial but also the ethical, social, and economic implications of financial transactions. The prohibition of *Ribā* is a cornerstone of these principles, and it has significant implications at the macroeconomic level. Some of the implications of *Ribā* which concern our discussion on Commodity Murabahah include:

- 1. Fuelling a Debt-Based Economy:** *Ribā*, by its very nature, encourages a debt-based economy. When interest is the core of financial transactions, it incentivises borrowing and leads to the proliferation of debt within the economy. Over time, this creates an economic structure heavily

reliant on debt. Such reliance can be detrimental in the long run, as it can lead to increased financial vulnerability and instability. Businesses and individuals may find themselves in a cycle of perpetual debt, where they borrow not for productive investment but to service existing debts. This cycle can stifle economic growth and innovation, as resources are diverted from productive uses to debt servicing.

2. Corrosion of the Monetary System: The prevalence of *Ribā* has the potential to corrode the monetary system. *Ribā* is effectively money creation through debt. Every time *Ribā* is charged, that is new money that has been created in the form of a claim. As the accumulation of *Ribā* becomes a primary motive for lending, the distribution of money within the economy can become skewed. This skewness can lead to a concentration of wealth in the hands of lenders, exacerbating economic inequalities. Additionally, an interest-based system can distort investment priorities, favouring short-term gains over long-term stability and productivity. The focus on interest can also lead to speculative financial practices, further destabilising the monetary system.

3. Polarisation of Society: Perhaps one of the most profound impacts of *Ribā* at a macro level is the polarisation of society. By creating and exacerbating economic inequalities, a system based on interest can lead to social stratification. Those with capital to lend benefit from the accumulation of interest, while borrowers, especially those from lower economic strata, may find themselves in a worsening cycle of debt. This dynamic can deepen the divide between the wealthy and the poor, leading to social tensions and reduced social cohesion. In contrast, Sharī‘ah-compliant financial practices aim to promote equitable distribution of wealth and social justice, thereby fostering a more harmonious society.

The Sharī‘ah guidelines, particularly the prohibition of *Ribā*, are designed to create a more equitable, stable, and sustainable economic system. These guidelines recognise the interconnectedness of ethical, social, and economic factors in financial dealings. By steering clear of practices like *Ribā*, Islamic Finance seeks to build an economic environment that benefits society as a whole, avoiding the pitfalls of debt dependency, monetary system corrosion, and societal polarisation. This approach underlines the importance of ethical considerations in financial practices, advocating for a system where financial success is aligned with social and economic welfare.

The Reasonable Approach

Commodity Murabahah is from the contextual *Hiyal*, and being true to the *Fiqh*, the deployment of such a product is context specific. The Islamic Finance industry, whilst generalised and painted with one brush, and treated as monolithic across the world, the truth is, it is far from it. Every practice of Islamic Finance is different due to different laws, regulation, tax implications, ‘*Ijtihād*, socio-

economic circumstances, and more. Although there is baseline adherence to the key principles in Islamic Finance, the actual implementation can vary from country to country.

Given the above, my personal approach and recommendation for Commodity Murabahah is as follows:

1. In markets where there are no *Halāl* products or *Halāl* financing available at all, and the most feasible, efficient, and quickest way to bring a *Halāl* product is Commodity Murabahah, then this should be entertained as a step into the right direction. This is where the *Hilah* should be considered and deployed. This saves people from *Harām* and *Ribā*. The most important thing in such a market is for the stakeholders to remember that Commodity Murabahah is simply a stepping stone, and not the end-all-and-be-all.
2. In Muslim-minority countries, there should be greater flexibility in deploying this *Hilah*, as *Hiyal* are for contextual challenges.
3. When conventional banks and conventional financial institutions want to deploy capital in Islamic financing transactions, the use of Commodity Murabahah can be entertained if nothing else works. Ideally, all participants should be invited to participate through wholesome and better products; we need to show why Islamic financing is the better, more ethical, and the value-adding method. If there is insistence for something more relatable, then a Commodity Murabahah transaction can be used.
4. Those companies that use Commodity Murabahah should continuously and regularly challenge themselves to develop alternative structures with their Shari‘ah boards, even if those structures are deployed gradually or concurrently with Commodity Murabahah.
5. In Muslim-majority countries, regulators should phase out Commodity Murabahah altogether, and implement other structures in its place. Only when there is a contextual or genuine reason should Commodity Murabahah be permitted.
6. Companies and financial institutions that are using Commodity Murabahah should not be blamed or reproached; this behaviour incorrect from a Shari‘ah perspective as discussed previously. Of course, a discussion and query with the financial institution into its direction of travel can be beneficial for all, and a form of constructive advice. If this product is something that does not suit one’s personal piety, they should refrain from using it, whilst safeguarding their tongues and mouths from piercing the integrity of others.

Shari‘ah Wrappers

Shari‘ah wrappers take their name from wrappers that are used in finance. Wrappers are essentially a method of structuring investment portfolios in the most tax efficient way. When an investment has a tax wrapper, it simply means that the money is in a structure that ‘wraps’ around the investments or savings to offer some protection from tax, as long as the money stays within these

wrappers. Drawing inspiration from that idea, a Shari‘ah wrapper is a structure that shields the invested capital funds from directly being invested in non-compliant companies, or non-compliant transactions by a wrapper that is wrapped around the entire investment.

For instance, there may be an investment whose business activity is lawful, such as real estate development. However, it has breached the leverage ratio, and has non-compliant debt-to-asset at 40%. In such an instance, a Shari‘ah wrapper may be advised, to prevent direct exposure to the non-compliant cap table that has failed the financial screening.

Shari‘ah wrappers are commonly utilised in feeder funds designed exclusively for Shari‘ah-compliant investors. These structures typically involve creating an investment vehicle that channels its funds into the primary conventional fund through Commodity Murabahah transactions. This strategy ensures that returns generated for the Shari‘ah-compliant feeder fund are on par with those accrued by conventional investors. Importantly, the application of Commodity Murabahah effectively shields the Shari‘ah-compliant feeder fund from any non-Shari‘ah compliant activities potentially undertaken by the conventional fund. In this arrangement, the Shari‘ah-compliant feeder fund deploys its capital into the conventional fund using a 'wrapper', which aligns the investment with Shari‘ah principles.

Hence, a Shari‘ah wrapper typically uses a Commodity Murabahah to invest into a structure without gaining equity in the underlying fund or investment vehicle. By avoiding an equity exposure, the investors are not accountable or responsible for the actual business activity or the financials of the company. The use of debt financing makes the underlying non-compliant fund merely a counterparty.

Expanding upon the previously discussed concept, engineering techniques are applied to further develop a product that mimics equity and offers a variable rate of return. This is achieved through the implementation of a reverse Musawamah. To illustrate this, consider the following example:

1. The investors make \$5,000,000 available to SPV 1 under a Wakalah agreement for the purposes of a capital call.
2. After receiving the funds from the investors, SPV 1 enters into a Commodity Murabahah transaction.
3. SPV 1 purchases commodities from broker 1 that are equal in value to \$5,000,000, with the cash received from the investors.
4. SPV 1 sells the commodities that it has purchased from broker 1 to SPV 2 on a deferred-sale basis with a mark-up.
5. SPV 2 sells the commodities received from the SPV 1 to broker 2 and receives \$5,000,000.

6. SPV 2 now has \$5,000,000 to fund the relevant capital contribution as a limited partner of the relevant fund and is under an obligation to pay SPV 1 \$5,000,000 (plus profit) at a later date.

Repayments by SPV 2 (up until the \$5,000,000 capital investment) can simply be made as an early repayment by SPV 2 to SPV 1 with no need for further commodity trades.

If the fund generates \$1,000,000 profit (over and above the \$5,000,000 capital investment which we have assumed has been repaid), the fund would distribute \$1,000,000 of profit to SPV 2 as a limited partner in the fund. As the amount of profit to be distributed is profit that is over and above the capital investment in the Murabahah transaction (i.e. \$5,000,000) described above, the parties must enter into a Musawamah transaction in the manner described below.

1. SPV 1 purchases commodities from broker 1 for a nominal amount (e.g. \$100).
2. SPV 1 sells the commodities that it has purchased from Broker 1 to SPV 2 for the nominal amount plus the profit amount, which means that SPV 2 will be required to pay SPV 1 the cost of the commodity which is a nominal amount (e.g. \$100) and profit that is equal to the amount generated by the fund (\$1,000,000). Musawamah transactions are normally completed on a spot basis, which means that SPV 2, will be required to pay SPV 1 the cost amount and the profit on the same day. The nominal cost amount is netted off, so that SPV 1 receives the net profit amount of \$1,000,000. The netting arrangements apply in relation to the nominal cost amount only.
3. SPV 2 sells the commodities received from the SPV 1 to broker 2.
4. Simultaneously with the completion of the Musawamah transaction, SPV 2 pays SPV 1 the \$1,000,000 profit and SPV 1 in turns provides the \$1,000,000 to the investors.

If the fund incurred \$1,000,000 loss (by reference to the \$5,000,000 capital investment so only \$4,000,000 is achieved), the fund makes a loss of \$1,000,000 in reference to the limited partner in the fund. As there has been a loss to the \$5,000,000 capital investment, the parties would enter into a Musawamah contract to net off the obligations that SPV 2 has to pay SPV 1 \$5,000,000 which was created by the Murabahah transaction described previously. This is performed as follows:

1. SPV 2 purchases commodities from Broker 1 for a nominal amount (e.g. \$100).
2. SPV 2 sells the commodities that it has purchased from Broker 1 to SPV 1, which means that SPV 1 will be required to pay SPV 2 the cost price of the commodity which is a nominal amount (e.g. \$100) and the \$1,000,000 as a profit (reflects the amount of the loss). Musawamah transactions are normally completed on a spot basis, which means that SPV 1, will be required to pay SPV 2 the cost amount and the profit on the same day. The nominal

cost amount is netted off so that SPV 2 receives the net loss amount of \$1,000,000. The netting arrangements apply in relation to the nominal cost amount only.

3. SPV 1 then sells the commodities received from broker 2.
4. Following the completion of the Musawamah transaction, SPV 1 owes SPV 2 the \$1,000,000 loss amount. This amount can be set off against the obligations in the Murabahah transaction, so that the net result is that SPV 2 is required to pay SPV 1 \$4,000,000 in total and not US\$5,000,000.
5. SPV 1 as agent for SPV 2 in turn provides the \$4,000,000 to the relevant investors.

Shari‘ah wrappers can be designed in a more intricate manner by employing multiple orphan trust SPVs. These SPVs are established specifically for targeted financing and investment activities. In this structure, the legal ownership of the SPV shares are held in trust by a legal trustee, typically for the benefit of selected charities, instead of being owned by a parent company. Often, the trustee is an independent third-party trust company, which also appoints independent directors to the SPV. This arrangement with orphan trust SPVs ensures a clear separation between the parties involved and the underlying assets and transactions. Furthermore, the orphan structure ensures that the SPV remains outside the asset portfolio of the investor and makes it an off-balance sheet transaction.

The Use of Shari‘ah Wrappers

Shari‘ah wrappers are a form of *Hiyal*. As such, they must be gauged based on the framework of *Hiyal*. If the wrappers are used for a genuine reason such as regulatory, tax, legal or financial screening volatility, then the use of wrappers have a justification. In some jurisdictions, the regulatory and legal systems do not favour Islamic financing models and structures, necessitating the use of Shari‘ah wrappers in navigating these waters. Further, the interconnectedness of global finance often means that Muslim investors and institutions must engage with the conventional financial system, which may require the use of wrappers. However, wrappers should never be used in the following scenarios:

- A. To invest in companies whose core business activity is not Shari‘ah compliant.
- B. To indirectly be involved in non-compliant financial instruments like collateralised debt obligations or derivatives.
- C. To finance conventional banks, conventional financial institutions, or the like.
- D. To invest in a transaction which will be supporting something non-compliant.

The employment of Shari‘ah wrappers is occasionally perceived as a matter of expediency rather than a fundamental requirement, raising ethical concerns. When their use is driven primarily by the desire to engage in profitable investments that fit a specific risk/return profile, while skirting around Islamic principles, it will be morally questionable. This can be regarded as a manipulation of the

rules of *Hiyal*, rather than a sincere effort to adhere to Sharī‘ah compliance, and thereby reprehensible.

Moreover, the reliance on Sharī‘ah wrappers prompts critical questions about the underlying circumstances that necessitate their use. It raises concerns about the broader macroeconomic imbalances, systemic flaws, and structural challenges in the financial system that lead to the adoption of such mechanisms. Whilst Sharī‘ah wrappers may be used in challenging circumstances, the more pertinent question is: what are the underlying reasons behind these challenging circumstances? What effort is being undertaken to bring a change in the circumstances as a whole? And what is being done to remedy the macro imbalance, systemic and structural issues which lead people to use such wrappers?

Ideally, the focus should shift towards resolving these systemic and structural challenges within the financial landscape. This includes advocating for more inclusive regulatory frameworks, developing comprehensive Islamic financial systems, and cultivating an understanding and commitment to Islamic Finance principles among investors. There is a pressing need for collective action to establish a robust Islamic financial infrastructure, offering a diverse range of authentically Sharī‘ah-compliant products. This would reduce the dependency on conventional financial systems and, by extension, the need for Sharī‘ah wrappers.

Promoting awareness and education about Islamic Finance principles among both financial service providers and consumers is crucial for creating inherently compliant products. Achieving a supportive macro-economic environment, coupled with fostering the right mindset among economic participants at the micro-level, would significantly decrease the necessity to resort to these types of *Hiyal*. If we get a conducive macro-economic framework in place as well as developing the right mindset in economic participants at a micro level, the need to use *Hiyal* would diminish drastically.

Moving forward from Commodity Murabahah

I believe that a multi-pronged effort must be taken to reduce the use of Commodity Murabahah as follows:

- i. Islamic Finance roadmap*

Developing a comprehensive roadmap for the growth of the Islamic economy is essential. This would involve identifying key sectors for development, fostering a conducive environment for investment, and implementing policies that encourage sustainable economic expansion. The roadmap should identify gaps and include a strategy for phasing out Tawarruq transactions,

maintaining transparency, and educating consumers. In the interim, Commodity Murabahah can be used as a temporary alternative to *Ribā*-based financing, but with a clear plan for its eventual replacement with more robust products.

2. Level-playing field for Islamic Finance

Seeking a level playing field in Islamic Finance is essential for the industry's diversification and evolution. The Islamic Finance sector's reliance on products like Commodity Murabahah and similar debt-like instruments is often a consequence of the regulatory, legal, and tax environments that are not fully accommodating of Islamic Finance's unique principles. Addressing these challenges through dedicated lobbying efforts can significantly benefit the industry.

One of the key issues lies in the regulatory frameworks that are predominantly tailored for conventional finance, often neglecting the specific needs of Islamic Finance. This mismatch leads to Islamic financial products being forced into existing frameworks, which can be inadequate. Products such as Commodity Murabahah become popular as they can easily fit within these frameworks. Advocacy for regulatory changes that recognise the unique characteristics of Islamic Finance products is crucial. It would allow for greater flexibility and innovation, enabling the development of a broader range of Islamic financial instruments beyond the current focus on debt-like structures.

The legal aspect also presents hurdles. Many jurisdictions lack specific recognition or understanding of Islamic Finance contracts, leading to legal ambiguities and potential challenges. Lobbying for legal reforms to harmonise Islamic Finance contracts with existing laws is imperative to ensure these contracts are as enforceable and legally sound as their conventional counterparts.

Taxation is another critical area. Islamic Finance products often face unintended tax burdens due to their unique structures. For instance, a Murabahah transaction might incur double taxation. Advocating for tax reforms to achieve tax neutrality for Islamic financial products is vital. This would remove the tax disadvantages that currently push institutions towards products like Commodity Murabahah.

With a more accommodating environment in terms of regulation, law, and taxation, Islamic Finance institutions can innovate and diversify their product offerings. Addressing these foundational issues enables the development of more diverse products.

3. Thresholds for Commodity Murabahah use in the interim

Another prudent measure that can be introduced is a threshold and cap on debt-financing products. This would help in maintaining a balance in the financial market, preventing over-leverage, and ensuring that debt levels remain within manageable limits. Such measures are vital for the stability and health of the economy.

Tawarruq should be used restrictively, reserved only for necessities or in remote structures where no other viable alternatives exist. These use cases should be highlighted and acknowledged, whilst all other use cases should be dismissed.

4. Innovation, entrepreneurship, and development

To move on from Commodity Murabahah, innovation is key. Similarly, innovation is transformative for the growth and resilience of the economy. Encouraging the establishment of incubators and accelerators can spur innovation in various sectors. Moreover, fostering collaboration between different stakeholders, including financial institutions, technology companies, and educational establishments, can lead to more innovative solutions and diversified economic growth.

Promoting the diversification of investment portfolios among individuals is crucial for risk management. Diversified portfolios can protect individual investors from market volatility and provide them with a range of investment opportunities, leading to more stable and secure financial growth.

To shift away from Commodity Murabahah, the dynamic Islamic financial sector requires continuous innovation in product development and strong support for entrepreneurship. Providing subsidies, funding, and incentives for new initiatives in Islamic Finance can stimulate innovation. This support could come from governments, Islamic financial institutions, or private investors. Further, creating a range of equity-based and asset-backed products with varying risk/return profiles is crucial. These products should align with Islamic principles while catering to different investor needs and preferences.

5. Education: Elevating Financial Literacy and Awareness

The foundation of a robust Islamic financial system lies in education. Increasing financial literacy and awareness of personal finance among the masses is imperative. This education should not only cover the basics of financial management but also the unique aspects of Islamic Finance, such as cooperative and participatory financing and investing, the multiple faces of *Ribā* and the harms of a *Ribā* mindset, and ethical investment principles.

Integrating Islamic Finance in educational curricula could involve introducing Islamic Finance concepts at various educational levels, ensuring that young people grow up with an understanding of Shari‘ah-compliant financial practices. Community-based financial education programmes can reach a wider audience, ensuring that the principles of Islamic Finance are understood and applied by the broader community. Leveraging digital media and online platforms to disseminate information on Islamic Finance can help in reaching a global audience.

In the dynamic world of finance, the mindset of investors and financiers plays a pivotal role in shaping market stability and integrity. Managing and directing this appetite appropriately is crucial for a balanced and ethical financial ecosystem.

6. Regulatory oversight and regulatory encouragement

Perhaps one of the fastest ways to move away from Commodity Murabahah is an outright ban of Commodity Murabahah. The banning of a permissible structure is within the capacity and right of the regulators and authorities. This will enforce market participants to adopt other structures in place of Commodity Murabahah.

Diversification of the banking sector by promoting models like investment banks, trade banks, Waqf (endowment) banks, and non-profit banks can provide a more balanced risk landscape. These models often focus on equity-based financing rather than debt, inherently carrying different risk profiles and promoting risk-sharing rather than risk-transfer.

Regulatory bodies should enforce the use of certain financial products while banning others, especially those known for their high-risk and speculative nature. This could involve promoting products with clear, tangible assets or services at their core and prohibiting complex derivatives that are prone to high volatility and systemic risk. The enforcement of products should also focus on transparency and consumer protection. Products that are complex and difficult for the average consumer to understand should be scrutinised or limited to ensure that they do not lead to misinformed financial decisions. Similarly, regulators should promote and incentivise the use of other products, bringing in further innovation and development in the economy.

Concluding Thoughts

In the chapter, we delved into the complexities of Commodity Murabahah, a product at the forefront of contemporary debates in the Islamic Finance industry. Our exploration began with an in-depth examination of classical macro *Hiyal*, particularly *Bay’ al-Wafā’*, a historical financial instrument that was discussed by the senior *Fuqahā’* in the ‘Ummah. The chapter then transitioned

to unravel the complexities of Commodity Murabahah, scrutinising its operational mechanisms, real-world applications, and broader implications in the financial landscape.

Bay‘ al-Wafā’ involved a two-fold process: an initial sale and a subsequent commitment to repurchase the sold item, both transactions mirroring each other in price and immediate payment terms. This mechanism, historically rooted, evolved in its application and interpretation, reflecting the dynamism and adaptability of Islamic financial jurisprudence. The journey through the historical development of *Bay‘ al-Wafā’* is a testament to the fluid and responsive nature of Islamic Finance. It showcased how scholars and jurists navigated the complexities of evolving economic landscapes, adapting, and reinterpreting financial instruments to meet contemporary needs while upholding the foundational principles of Shari‘ah. This dynamic process reflected the ongoing dialogue between tradition and modernity within the sphere of Islamic Finance.

Commodity Murabahah has emerged as a prevalent structured financing product in contemporary Islamic Finance. It facilitates liquidity for institutions and individuals seeking cash rather than specific assets, bypassing complexities of constructing alternative structures. At its core, it depends on purchasing commodities with deferred payment obligations before reselling these assets for spot cash.

However, at a systemic level, Commodity Murabahah raises concerns regarding the creation of excessive non-productive debt, disproportionate multiplication of financial claims relative to real economic activities, potential misallocation of resources treating assets as financial instruments rather than productive capital and an over-reliance on debt financing, weakening economies to crises.

The influx of short-term liquidity can undoubtedly catalyse growth by financing infrastructure, working capital or consumption. But if debt consistently outpaces real output capacity over the long run, it risks fuelling harmful financialisation and instability. Hence prudence demands sparing utilisation only in contexts lacking viable alternatives after factoring wider impacts. An excessive dependence on debt without corresponding supply expansion causes imbalances eroding sustainability.

Therefore, while individual Commodity Murabahah contracts may fulfil legal validity, collective overuse risks replicating issues found in conventional speculation-oriented systems. The appropriate jurisprudential approach entails gradual replacement focusing innovation on equity modes benefitting real economies. Ultimately lasting prosperity aligns to the enrichment of people, not capital.

This nuanced orientation upholding economic interests over myopic corporate interests distinguishes Islamic Finance's heritage from modern shareholder supremacy doctrines. If financial engineering is to serve higher moral purposes instead of maximising greed, solutions elevating collective welfare can emerge within constraints. But subverting regulatory guidelines for opportunistic motive risks corruption. Only the light of wisdom differentiates constructive ingenuity from deceitful pursuit of self-interest alone.

In addressing Shari'ah wrappers, these wrappers act as protective layers, shielding investments from direct involvement in non-compliant activities, and are particularly significant in contexts where the Islamic Finance industry intersects with conventional financial systems. The chapter advocated for a phased approach to ending Commodity Murabahah, emphasising the development of alternative financial structures that were more in harmony with the spirit of Islamic Finance. This transition is critical for fostering a more ethically aligned and robust financial ecosystem within the Islamic world.

Chapter 5: The Purpose of Wealth

Chapter Summary

- Before exploring ideal standards for Islamic Finance, understanding the purpose of wealth in Islam is essential.
- Wealth in Islam should align with Islamic principles and focus on its purpose in all Islamic Finance endeavours.
- Purpose is key in any concept or practice, especially in Islamic Finance, to ensure effective implementation and growth.
- Wealth is a multi-dimensional concept, encompassing tangible, intangible, and financial assets, including resources and goods.
- Wealth in Islamic terms includes *Ginā*, *Wafrah*, *Tharwah*, *Yasār*, *Māl*, and signifies any valuable asset.
- The purpose of wealth is to benefit humans, as explained by Islamic scholars and indicated in the Quran (Quran 4:5).
- Shari‘ah views the acquisition of wealth as obligatory for necessities and encouraged for exceeding necessities.
- Wealth should be used for fulfilling obligations, needs, and good causes, and can be used for lawful worldly enjoyment.
- Wealth is not inherently evil; it's a blessing from Allah but can be a test and is subject to human action.
- Financial *Ihsān* involves efficient and impactful use of wealth, aiming for a balance between obligations and generosity.
- Earning *Halāl* wealth is the first step towards financial *Ihsān*, as commanded in the Quran and *Hadīth*.
- Preserving wealth involves avoiding waste and investing wisely, as guided by Islamic teachings.
- Growing wealth through investment and reinvestment is encouraged in Shari‘ah to create surplus for social impact.
- Distribution of wealth for social impact and philanthropy is a key aspect of financial *Ihsān*.
- Efficient and impactful use of resources is vital for financial *Ihsān*, serving Allah's cause and helping others.
- Wealth is a means, not an end; the focus should be on its use for achieving good in this world and the Hereafter.
- Wealth and resources are from Allah and should be managed as a trust, focusing on charity and lasting legacy.
- The love of wealth is warned against in Islam; true wealth is that which is used for charity and righteous deeds.

- Financial *Ihsān* is about having the right mindset towards wealth, viewing it as a means to serve Allah's purpose.

Introduction

In the previous chapters, we discussed the current landscape of Islamic Finance, the use of *Hiyal* and Commodity Murabahah. The purpose of this book is to shift the mindset towards a Prophetic way of doing financing. Before delving into the ideal standards for Islamic Finance and exploring the concept of a "Shari'ah-powered model", it's crucial for all stakeholders in Islamic Finance to have a clear understanding of the purpose of wealth in Islam. If financing is Islamic, the financing must necessarily embrace Islam's worldview and guidance on the purpose of wealth. Ensuring that financing aligns with the Islamic philosophy of wealth is fundamental to Islamic Finance. This means that the purpose of wealth in Islam should be a constant focal point and an integral part of all endeavours within the realm of Islamic Finance.

In order to put things into perspective, it is necessary to understand the purpose of things at the outset. Purpose gives direction and gives us the ability to analyse whether or not something is heading in the right direction. Understanding the purpose behind any concept or practice is critical to ensuring its effective implementation and growth. This is particularly true for Islamic Finance, a system rooted in moral and ethical principles. To enhance Islamic Finance and ensure it aligns with its core values, we must first delve into the purpose behind it. In order to enhance Islamic Finance from where it currently is, we need to dwell on the purpose of wealth, as Islamic Finance revolves around enabling the circulation of money and providing capital to those in need of capital to generate wealth. In this chapter, we will work systematically and methodically through the following questions:

1. What is wealth?
2. What is the purpose of wealth?
3. What is the Shari'ah position on the acquisition of wealth?
4. What should we be ultimately be using wealth for?
5. Is wealth evil?
6. How do we attain financial *Ihsān*?

1. What is wealth?

'Wealth' is a multi-dimensional concept with diverse interpretations across different fields such as economics, sociology, philosophy, and psychology. Wealth refers to the overall value of assets, including tangible, intangible, and financial, accumulated by an individual, business, organisation, or nation. It includes possession of scarce economic resources, goods, money, or anything of value

at any given point in time while excluding debts or liabilities. Wealth, in economics, is the net value of assets and resources owned and controlled by an individual, household, or any other entity. Usually, these resources are scarce yet transferable and helpful in meeting human demands. It could also be any tradable item that one can liquidate. From a more specific financial perspective, wealth is often associated with net worth, which is the total value of all assets (such as cash, investments, real estate, businesses) minus liabilities (such as loans and debts). The greater an entity's assets and the fewer its liabilities, the greater its net worth or wealth. Broadening the perspective, wealth isn't only about tangible resources; knowledge, skills, health, and intellectual property can also be considered a form of wealth as they can be used to create economic value. Wealth is a multifaceted concept that goes beyond monetary or material wealth.

Wealth, assets, goods, and resources are described using various terms in Sharī'ah and scholarly writings. Arabic words that encompass these meanings include *Ginā*, *Wafrāh*, *Tharwah*, *Yasār*, *Māl*, among others. These terms are all translated as wealth in the following references for the purpose of this chapter.

Ibn al-'Athīr (d.606 AH) explained that the original definition of *Māl* pertained to the ownership of gold and silver, which later expanded to encompass any acquired and owned valuable asset. In early Arabia, property was most commonly associated with camels, as they constituted a significant portion of their assets [al-Nihāyah].

Imam al-Ghazālī (d.505 AH) in his discourse on the conditions of sale, remarked that wealth is essentially something beneficial, asserting that it is the inherent benefit that confers value upon an item [al-Wasīt].

Imam al-Suyūṭī (d.911 AH) observed that any useful entity is deemed property and wealth [al-Ashbāh wa al-Naẓā'ir].

Imam al-Nawawī (d.676 AH) posited that items devoid of any benefit do not qualify as wealth or property[Rawdat al-Talibin]. He further narrated from Sufyan al-Thawrī that wealth (*Māl*) is so named because it inclines (*Yamīl*) the hearts, suggesting a metaphorical, rather than etymological, connection [Tahdhib al-Asma' wa al-Lughāt].

Imam Badr al-Dīn al-Zarkashī (d.794 AH) said, "Wealth is what can be beneficial, i.e., readily beneficial" [al-Manthūr].

Imam al-Sarakhsī (d.483 AH) said, "Wealth refers to all created things that humans can fulfil their needs with" [al-Mabsūt].

2. What is the purpose of wealth?

Imam al-Ghaznawī (d.593 AH) characterised wealth as a tool for human benefit [al-Ḥāwī al-Qudsī].

Mullā ‘Alī al-Qārī (d.1014 AH) said, “Wealth was created to protect people from destruction and harm” [Fath al-Bāb al-‘Ināyah].

Imam al-Dabbūsī (d.430 AH) said, “Wealth exists due to our necessity for it, with survival being the foremost of these necessities. Therefore, its accessibility should be enhanced, and acquiring it should not be made overly challenging” [Taqwīm al-‘Adillah].

Imam al-Marghinānī (d.593 AH) states, “Wealth serves to preserve and sustain human life” [al-Hidāyah].

Imam al-Bazdawī (d.730 AH) states, “Wealth, managed and transacted by humans, is intended to bring them benefits. Humans are created to worship their Lord and act as His vicegerents on Earth, upholding His decrees and bearing His trust” [Kashf al-Asrār].

Imam al-Sam‘ānī (d.489 AH) said, “Almighty Allah created wealth for the benefit of His servants. Whenever there is an obligation concerning wealth, the meaning for which it was created must remain – that is, for the benefit of the servant. Therefore, He made Zakat obligatory for the poor for their benefit. When it becomes obligatory for their benefit, it is their right. This is the distinction between this and physical acts of worship, because they were not made obligatory for the benefit of other humans. They are solely the right of Almighty Allah” [Qawāti’ al-Adillah].

Ibn al-Qayyim (d.751 AH) said, “Wealth was created to support humankind in their devotion to Allah” [‘Uddat al-Ṣābirīn wa Dhakīrat al-Shākirīn].

Ibn Qudāmah (d. 620 AH) said, “Almighty Allah created wealth for the children of Adam so that they may use it to excel in obedience and fulfil their obligations. Allah Almighty said: "He created for you all that is on the earth." Hence, ownership is suitable for him, just as it is facilitated for obligation and worship” [al-Mughnī].

Imam al-Ghazālī (d.505 AH) states, “Wealth has been created for a purpose and wisdom, which is its suitability to meet the needs of creation” [Iḥyā’ Ulūm al-Dīn].

Perhaps the most telling indication on the purpose and wisdom of wealth is the following verse of the Quran:

"Do not entrust your wealth to the feeble-minded, which Allah has made to maintain you" [Quran 4:5].

In this verse, the word 'Qiyām' in Arabic is used to describe the purpose of wealth. It implies that wealth and resources are there to maintain, support, and sustain. It underscores the essential nature of wealth as a means for maintaining the worldly system. Wealth is vital for organising worldly affairs like trade, acting as a means to an end – the end being the sustenance of one's worldly life to prioritise the Hereafter.

In summary, wealth's purpose is to sustain us in this world, aiding humans in their existence, and thus enabling them to fulfil their existential purpose.

3. What is the Sharī'ah position on the acquisition of wealth?

Imam al-Sarakhsī (d.483 AH), quoting Imam Muhammad al-Shaybānī (d.189 AH) states that the mainstream view among the jurists of the *Ahlul al-Sunnah* is that earning a livelihood to the extent of necessity is an obligation [al-Mabsūt].

The Prophet ﷺ said, "Seeking lawful [wealth] is an obligation upon every Muslim" [Mu'jam al-Tabarānī]. He also prophesised that a time will come when one will not care how one gains one's money, lawfully or unlawfully [Ṣaḥīḥ al-Bukhārī].

Imam al-Sarakhsī (d.483 AH) writes that in earning a livelihood, lies the orderliness of the world. Allah has decreed the world to continue until its destined end, and He has made the means of its continuation and orderliness to be the earning and acquisition of wealth of His servants. In the absence of this acquisition, His system would be disrupted, which cannot occur. If it is argued that the maintenance of this system depends on the mating among animals and nobody says that is obligatory, we would say yes, Allah has tied survival to the mating among animals and instilled lust in their nature. So, this lust leads them to perform that act, thus there is no need to make it obligatory upon them so as to prevent them from refraining from it. Indeed, nature is more conducive to the gratification of desires. However, earning a livelihood initially involves effort and hardship, and the world's order depends on it. Had it not been made obligatory, people would all agree to abandon it because there is nothing in their nature that calls them to this extra and extraneous effort and hardship. Therefore, the Sharī'ah has made it obligatory so that they do not collectively abandon it, thereby achieving the intended purpose. The essence of obliging wealth acquisition is linked to maintaining the world's order, and it is not linked to the idea of excessive acquisition for the sake of increasing wealth and showing off. Allah condemned excessive acquisition when it is of this nature. As He says, "and mutual boasting among you, and multiplication of wealth and children" [Quran 57:20].

The Hanafi jurist Imam al-Khādimī (d.1156 AH) mentions that earning is an obligation to the extent that it fulfils the needs of oneself and one's dependents. Any earnings beyond these necessities are considered permissible, provided they are not pursued for the sake of ostentation [al-Barīqah al-Mahmūdiyyah].

Among the most comprehensive explanations on the different rulings of wealth acquisition is the discussion by Imam al-'Aynī (d.855 AH), whilst commenting on Imam Zayn al-Dīn al-Rāzī's (d.666 AH) *Tuhfat al-Mulūk*, states:

"The author of *Tuhfat al-Mulūk* writes (And it is) that is, seeking wealth, (four types):

1. His saying: (Obligation) means an obligation (and that is earning the minimum to suffice) for oneself, his family, and paying off his debt, because it is a means by which he can establish obligations, so it becomes an obligation. Among the severe warnings that we have in this regard is the saying of the Prophet ﷺ, "The greatest sins with Allah after the major sins are that a servant meets Him while he has a debt without leaving anything for its payment," as reported by Abū Dāwūd. And that the best a man can eat is from his earnings, according to his saying ﷺ, "The best of what you eat is from your earnings and your children are from your earnings" reported by Tirmidhī and Nasa'ī.
2. His saying: (And recommended) that is, the second type: recommended (and it is the earnings and acquisition of wealth exceeding the minimum sufficiency) to comfort the poor, or to support relatives, because it is a means by which he can establish what is recommended, so it becomes recommended, according to the Prophet ﷺ saying, "The one who strives for the widow and the poor is like one striving in the way of Allah, and like the one who stands at night and fasts during the day", and his saying ﷺ, "Being charitable to the needy gives the reward of *Sadaqah*, and the reward is twofold when it is towards a relative, as it involves maintaining ties of kinship and *Sadaqah*" [Ibn Mājah]. The author further says: (And it is) that is, the recommended earnings and acquisition of wealth (better than voluntary worship) because the benefit of worship is specific to him, and the benefit of additional earnings extends to others, and the Prophet ﷺ said, "The best of people is the one who benefits people." And the Prophet ﷺ said, "The acts of worship competed among each other, and *Sadaqah* stood out and remarked: I am the best of them."
3. His saying: (And permissible) that is, the third category: permissible (and it is the earnings exceeding all of the above) i.e., what he can comfort the poor with, and support and connect with the relative. The permissible category involves spending for lawful enjoyment, beauty, and luxury, even if it includes building new properties, and decorating walls, and purchasing luxurious furniture and servants, for Almighty Allah declares: "Say, 'Who has forbidden the

adornment of Allah which He has produced for His servants and the good [lawful] things of provision?" [Quran 7:32]. And His saying, the Almighty, "Eat from the good things which We have provided for you" [Quran 2:172]. And his saying ﷺ, "How good is wealth for a good person!" And a weaker view suggests that this is disliked, because it may be a cause for tyranny, disobedience, rivalry, and showing off, and that is religiously forbidden.

4. His saying: (And prohibited) that is, the fourth type: prohibited and it is earning for showing off, rivalry, evil, and extravagance, even if it was from a *Halāl* source, because it is a means by which he can establish what is totally disliked, so it becomes severely disliked and prohibited" [Minḥat al-Sulūk Fī Sharḥ Tuhfat al-Mulūk].

The acquisition of wealth is permissible and even desirable with the right objectives. Being resourceful in as many ways as possible on earth is a desirable quality. Every human is encouraged to strive hard and work, with a view to be as beneficial as possible. Your earnings and wealth acquisition should be premised on the intention to support and help more people. Earning with good intentions is recommended and rewarding, no matter how much the quantum and time put in, as long as no unlawful activity is committed. We also learn from the above that having no virtuous intention, and having no evil intention, means that your *Halāl* wealth acquisition and spending is lawful in and of itself. There is no blame in this activity either.

4. What should we ultimately be using wealth for?

Ideally, wealth should be used for fulfilling obligations, fulfilling one's needs, and spending in good causes. However, Sharī'ah has permitted using wealth to spend and buy the good things of this world too. Perhaps the most comprehensive and explicit guidance on why we should be acquiring wealth is found within one verse of the Quran. The Quran unequivocally and explicitly states:

"Seek the life to come by means of what Allah has granted you, but do not neglect your rightful share in this world. Do good to others as Allah has done good to you. Do not seek to spread corruption in the land, for Allah does not love those who do this" [Quran 28:77].

This particular verse stands as a comprehensive guide on the purpose of wealth and its proper use. It imparts several vital lessons, each addressing crucial aspects of wealth acquisition and management:

1. **Purpose of Wealth in the Journey to the Hereafter:** The primary goal of possessing wealth is to aid our journey towards the Hereafter. Our resources are meant to facilitate this journey in the most effective and efficient manner. This perspective is grounded in the understanding that life is a transient journey, and everything we possess should be utilised to reach our ultimate destination in the best possible state. Like a traveller who uses their

luggage judiciously to sustain themselves until they arrive, we too must use our financial and other resources wisely to ensure a successful journey to the Hereafter.

2. **Perception of Wealth as Allah's Blessing:** This verse also shapes our understanding of wealth as a blessing from Allah. Recognising that all wealth originates from Allah is crucial for its righteous utilisation. This belief fosters the understanding that if we misuse this blessing, Allah may choose to withhold it. His continuous generosity, despite our shortcomings, is a testament to His immense mercy.
3. **Balancing Worldly Needs and the Hereafter:** Islam teaches a beautiful balance in life; while emphasising the pursuit of eternal blessings and preparing for the Hereafter, the verse reminds us not to neglect our worldly responsibilities. It reinforces the idea that wealth should be used efficiently to meet our worldly needs while continually striving for the life hereafter.
4. **Gratitude Through Generosity:** A recurring theme in the Quran is expressing gratitude for Allah's blessings through generosity. The gratitude for the wealth Almighty Allah has given to us is achieved by being generous and supporting others. We are simply a river through which the blessings of Allah flow. Just as water came to us and will come to us again, we should let it flow through to others. If we were to stop the water, it will clog and damage everything. Just as a river is replenished by its source, so too does Allah bestow upon us continually. If we choose to withhold our waters, to hold tight to our blessings and not share them, the stagnation that ensues can lead to damage, not just in our lives, but in the lives of those around us. By letting the 'waters' of Allah's blessings flow freely through us to others, we maintain the harmonious balance of giving and receiving, reinforcing our gratitude for His divine blessings. Hoarding these blessings can lead to spiritual and communal stagnation, while sharing them maintains the natural balance of giving and receiving.
5. **Misusing and Abusing Wealth:** The verse concludes with a warning against the misuse and abuse of wealth. It cautions against causing corruption, mischief, and chaos with the resources Allah has bestowed upon us. Such actions are not only prohibited but also lead to the loss of Allah's love, which is the greatest deprivation one can experience.

5. Is wealth evil?

Wealth and resources, in their absolute terms, are a blessing from Allah, and this is reflected in the Quran where wealth is described as '*Fad'l*'. However, relatively speaking, wealth can also be a test, as indicated by its description as a '*Fitnah*' in the Quran. Therefore, wealth itself is not inherently evil; it is a blessing and a bounty. It's the human action surrounding wealth that can be morally questionable and evil.

Imam al-Ghazālī (d.505 AH) offers an in-depth analysis of this concept. He states that wealth is created with a purpose and wisdom, which is to fulfil the needs of creation. The challenge lies in how wealth is managed – it can be withheld from necessary spending, spent inappropriately, or handled justly. Just management of wealth involves preservation where necessary and expenditure where appropriate. Failing to spend where needed is stinginess, while overspending where not needed is wastefulness.

The commendable approach is moderation, situated between these extremes. The Prophet ﷺ was advised to be generous, as indicated in the verse, “And do not make your hand [as] chained to your neck or extend it completely.” The Quran also says, “And [they are] those who, when they spend, do so not excessively or sparingly but are ever, between that, [justly] moderate.” Thus, generosity is the middle path between extravagance and stinginess. It involves managing spending to meet obligatory needs and being content with this approach in one's heart.

If one spends in obligatory avenues but grudgingly, they may appear generous but are not genuinely so. True generosity entails a heart aligned with the purpose of wealth, directing it to where it is needed. When considering what is obligatory to spend, Imam al-Ghazālī explains that there are two categories:

1. Legal obligations as per Shari‘ah requirements; and
2. Moral obligations dictated by integrity and dignity.

A generous person does not withhold spending in either category. Stinginess, especially in legal obligations like Zakat or family maintenance, reflects a deeper level of miserliness. Similarly, someone who spends inferior wealth, or is not content in giving better quality wealth also exhibits stinginess.

Moral obligations involve avoiding petty discomforts and not being overly frugal on minor goods, as this behaviour is disapproved. The extent of this disapproval varies with the individual's circumstances. For a wealthy person, certain behaviours might be more reprehensible than for someone less affluent, like unnecessarily causing discomfort to one's family, relatives, and dependents. Preserving dignity and integrity are more important than preserving money, and causing petty annoyances to those with whom it is inappropriate to do so is a breach of dignity and integrity for the love of money, so he is stingy.

Then there remains another level, where a man fulfils his obligations and preserves his dignity, but accumulates an abundance of wealth not with the intent to spend in charity or support the needy. In such a scenario, there is a clash between accumulating money to simply provide him with a means to deal with future hardships, and the ability to gain reward and elevate his ranks in the Hereafter. Withholding money when there is an opportunity to spend in avenues of the Hereafter

is considered stinginess by the wise, but not by the common people. This is because the perspective of the common people is limited to the affairs of this world, so they see his preservation to fend off the hardships of that may arise in the future as important. And perhaps the mark of stinginess may also appear on him among the common people if there is a needy person in his neighbourhood, so he withholds money from him saying, "I have paid my obligatory Zakat, and I am not responsible for anything else." The acceptability of this varies depending on his net worth, the severity of the need of the needy, the person's uprightness and steadfastness in faith, and the deservedness and need of the needy. Whoever fulfils the obligatory duties of Shari'ah, maintains dignity and integrity, has freed himself from stinginess. Indeed, he cannot be characterised by the attribute of generosity unless he gives more in pursuit of virtue and to attain higher ranks. So, if he is generous enough to give money where neither the Shari'ah obligates it nor is there any customary blame, he is truly generous to the extent that he feels comfortable giving, whether little or much" [Iḥyā' 'Ulūm al-Dīn].

6. How do we attain financial *Ihsān*?

Financial *Ihsān* represents the pinnacle of excellence in managing one's resources and wealth, embodying actions and engagements with wealth that are most pleasing to Almighty Allah. It's important to understand that within the Shari'ah framework, there are various levels of virtue, piety, and commendable statuses. Certain actions are obligatory and form the basic standard expected of everyone, such as conducting permissible transactions and strictly adhering to what is allowed. While fulfilling these obligations is good and praiseworthy, they represent the fundamental requirements expected of everyone.

However, Shari'ah goes beyond these basics, urging both individuals and communities to aim for higher ideals, elevated statuses, and greater aspirations. This framework encourages everyone to strive to become the best versions of themselves. While achieving the highest ranks isn't mandatory for all, there is a strong emphasis on continually striving towards these elevated levels. For example, having faith (*'Imān*) and practicing Islam are obligatory, but attaining the state of *Ihsān*, though not mandatory, is highly desirable and commendable. This can be understood by the following discussions and statements of various scholars.

Ibn Abī al-Īṣba' (d.654 AH) discusses *Ihsān* under the commentary of the famous verse in the Quran in relation to '*Adl*' and '*Ihsān*', and writes that Almighty Allah, commanded justice ('*Adl*), which is the fair treatment to oneself and others, then commanded, after justice, excellence ('*Ihsān*), which is a general term that includes excellence in conduct after justice. The mention of justice came first because justice is mandatory, followed by excellence because striving for excellence is encouraged, so the speech is set in the best order [Tahrīr al-Taḥbīr Fī Ṣanā'at al-Shi'r wa al-Nathr wa Bayān I'jāz al-Qur'ān].

Ibn Taymiyyah (d.728 AH) writes that '*Ihsān* in the actions of the limbs is divided into that which is obligatory, that which is a communal obligation, an emphasised *Sunnah*, and that which is virtuous. In relation to '*Ihsān* in the actions of the limbs after establishing the foundation of knowledge, it is of several types: one is an individual obligation, one is a communal obligation, one is an emphasised *Sunnah*, and one is a virtue. It is not fitting for a person of intellect and understanding to miss his share of this, and this varies according to different conditions [al-'Imān al-Awsat].

Imam al-Qurtubī (d.671 AH) presents what Ibn 'Atīyyah said about this matter: 'Justice ('Adl) is everything imposed from beliefs and laws in performing trusts, refraining from oppression and fairness, and giving the right. Excellence (*Ihsān*) is doing everything that is recommended; so there are things that are all recommended, and some of them are obligatory, except that the limit of the reward from it is included in justice, and the completion exceeding the reward is included in *Ihsān*.' [Tafsir al-Qurtubī]

Ibn 'Āshūr (d.1393 AH) writes that if '*Ihsān*' was obligatory, Almighty Allah would have made it an obligation for all people. The implication of making it a right for those specifically labelled as *Muhsinūn* (those who strive for excellence) is that it is not a right for all people [al-Tahrīr wa al-Tanwīr].

'*Ihsān*' comes in several degrees, the highest of which is what draws one close to Allah Almighty, as the Prophet ﷺ explained in the famous *Hadīth*, "*Ihsān* is to worship Allah as if you see Him, and if you do not see Him, He sees you." Below that is drawing closer to Allah Almighty with supererogatory acts. Then come other levels of '*Ihsān*', whether in intention or action. As for '*Ihsān*' in action, that is, in dealing with creation, it is in what is beyond the obligatory requirements, and this includes all speech and actions with all of creation, except where not permitted [Mawsū'ah al-Nadrat al-Na'im].

In describing the commentary of the true believers, Imam al-Šabūnī (d.1442 AH) describes them as the ones who have attained perfection in faith and have realised the highest levels of '*Ihsān*' [Šafwat al-Tafāsīr].

How is '*Ihsān*' in financial matters attained? Islam provides comprehensive guidance on both spiritual and economic aspects for individuals and societies. The Quran and the Prophetic teachings give significant guidance on financial matters. This guidance is not limited to mere legal directives on transactions and what constitutes permissible activity, rather the guidance is holistic and encompasses the ideals and best practices in financial matters too. To attain financial '*Ihsān*', optimisation, and excellence, the following six points need to be implemented:

1. To earn *Halāl* wealth.
2. To preserve wealth.
3. To grow wealth.
4. To utilise wealth for social impact and philanthropy.
5. To utilise resources efficiently and impactfully.
6. To conceptualise wealth as a means, and not an end.

1. Command to earn Halāl wealth

The first step to financial ‘*Ihsān*’ is earning *Halāl* wealth. The forthcoming Quranic verse instructs us to pursue the bounties of Almighty Allah after conducting our Friday prayers. This passage is set against a backdrop of people immersed in commerce and trade. However, when the summons for Friday prayers rings out, the faithful should suspend their business activities and proceed to prayer. Upon the conclusion of the prayers, individuals are free to return to their commercial pursuits and seek out Allah’s abundant blessings through trade and business. The verse provides a vivid depiction of believers engaged in lawful ventures outside of prayer times. It also promotes the active pursuit of Allah’s abundant blessings.

“Then when the (Jumu`ah) *Salāh* is ended, you may disperse through the land, and seek the Bounty of Allah (by working)” [Quran 62:10].

The Prophet ﷺ said, “Seeking lawful [wealth] is an obligation upon every Muslim” [Mu‘jam al-Tabarānī]. He also prophesised that, “A time will come when one will not care how one gains one’s money, lawfully or unlawfully” [Ṣaḥīḥ al-Bukhārī].

In another narration, he ﷺ said, “It is far better for you to take your rope, go to the mountain, (cut some firewood) carry it on your back, and sell it and thereby save your face than begging from people whether they give you or refuse” [Ṣaḥīḥ al-Bukhārī]. He ﷺ also informed us that the way of the prophets was to work and earn wealth. He ﷺ said, “Prophet Dāwūd ate only out of that which he earned through his manual work” [Ṣaḥīḥ al-Bukhārī]. In another narration, we are told that Prophet Zakariyyā (‘alayhi al-Salām) was a carpenter [Ṣaḥīḥ al-Bukhārī].

Imam al-Ghazālī reported that *Sayyidunā* ‘Umar (*Raḍiallāhu ‘anhu*) said, “Let not one of you refrain from working for his provision, supplicating to Allah to provide while he knows that the sky does not rain gold and silver” [Iḥyā’ ‘Ulūm al-Dīn].

We are commanded to work and seek wealth even though everything comes from Allah. Of course, Allah is completely able to provide for everyone without us working, however, we have still been

commanded to work. Maulānā Rashīd Gangohī (d.1323 AH) states the world is *Dār al-'Asbāb* (an abode where we must take means to fulfil needs) [al-Kawkab al-Durriy].

The world is *Dār al-'Asbāb* for many wisdoms and reasons. Firstly, it teaches us to work hard and exert effort to gain. This training is equally important for our faith. If we want to truly succeed in the Hereafter, we need to exert effort. Secondly, if this world was not *Dār al-'Asbāb*, then it would mean that we would simply sit and command Allah to give us things. This would be a reversal of roles; we are the servants and not in a position to demand the Almighty King. We work hard and request Him for his bounties, but we are in no position to sit and simply demand. Thirdly, if this was not *Dār al-'Asbāb*, then faith would not be a test as such. We would all be aware of Almighty Allah, and everyone would be believers as they would see provision coming directly from Almighty Allah.

The above clearly shows that as Muslims, we are directed by Allah to seek wealth. This is an Islamic practice, and when we seek wealth, our intention should be that we are doing so primarily to follow the guidance and direction of Almighty Allah and the Prophet ﷺ. We cannot practice *Ihsān* in financial matters without initially earning sufficient *Halāl* wealth to fulfil our needs.

2. *Preserving wealth*

The second step in attaining financial *Ihsān* is to not waste the wealth and resources that we have. There are several verses in the Quran and narrations regarding the preservation of wealth and resources. The Quran unequivocally informs us:

“Eat from the fruit they bear and pay the dues at harvest, but do not waste. Surely, He does not like the wasteful” [Quran 6:141].

“Eat and drink, but do not waste. Surely, He does not like the wasteful” [Quran 7:31].

“And do not be extravagant, for verily He does not love the extravagant. And be moderate in your spending, and He (Allah) loves not the extravagant” [Quran, 17:26-27].

“And [they are] those who, when they spend, do so not excessively or sparingly but are ever, between that, justly moderate” [Quran 25:67].

The Prophetic narrations also instruct us to not be wasteful of resources, to have a moderate hand in spending and preserving wealth for the long term.

Sayyidunā 'Anas (*Rađiallāhu 'anhu*) reported that the Prophet ﷺ would perform ablution with one *Mudd*, and would perform a ritual bath with one *Ṣā'* [Ṣahīḥ al-Bukhārī]. Imam al-Bukhārī commented on this by saying, “The scholars disliked extravagance in ablution and to go beyond what was done by the Prophet ﷺ.” In fact, even when resources are plentiful, there is guidance in

Shari'ah to be resourceful, and preserve the resources that we have. Once, the Messenger of Allah ﷺ passed by Sa'd while he was performing ablution. The Prophet ﷺ said, "What is this extravagance?" Sa'd said, "Is there extravagance with water in ablution?" The Prophet ﷺ said, "Yes, even if you were on the banks of a flowing river" [Musnad Ahmad].

In another narration, the Prophet ﷺ also said, "Eat, drink, give in charity, and wear nice clothing, but without pride and extravagance. Verily, Allah loves for His blessings to be seen upon His servants" [Musnad Ahmad].

The Prophet ﷺ said, "Allah is pleased with three actions of yours and is displeased with three actions: He is pleased with you worshipping Him without partners, that you unite upon His rope, and that you do not divide among yourselves. He is displeased with gossiping, abundantly asking the people for things, and wasting wealth" [Ṣaḥīḥ Muslim].

Imam Mālik (d.179 AH) said, "Extravagance is taking wealth from where it ought to be spent and placing it where it ought not to be. It is wastefulness" [Tafsīr al-Qurtubī].

Ibn 'Abbās (*Radi>Allāhu 'anhu*) said, "Eat what you wish and dress in what you wish so long as two qualities are absent from you: extravagance and arrogance" [Musannaf Ibn 'Abī Shaybah].

All of the above teaches us that Allah does not want us to be wasteful with resources. We cannot practice financial *Ihsān* in our wealth and have impact if we are unable to preserve our wealth in an efficient and meaningful way. Therefore, we are guided to preserve resources and wealth. Preservation comes with investing, saving, and budgeting.

Preserving wealth is an essential aspect of life that carries far-reaching implications for personal, and societal well-being. From the ability to meet basic needs, invest in future growth opportunities, to the potential of contributing positively to society, the role of wealth preservation cannot be overstated. Wealth preservation is fundamentally about maintaining and increasing one's resources over time. It involves wise investment, savings, and prudent spending. Hence, Shari'ah guidance is not just about preserving wealth in order to hoard wealth, rather the purpose is to put wealth to good use and for impact.

3. Growing Wealth

We are not only guided to earn wealth and preserve wealth, but Shari'ah also encourages us to grow wealth. We cannot practice financial *Ihsān* efficiently without growing wealth; growing wealth gives us more opportunities and surplus assets that can be used to support others and have social impact. If one did not have surplus wealth, they would be limited to fulfilling their necessities and

that of their dependents. *Sayyidunā ‘Umar ‘Ibn Khaṭṭāb (Raḍiallāhu ‘anhu)* advised, “Invest the wealth of orphans so that it will not be eaten away by Zakat” [al-Muwaṭṭa’].

Further, in the famous narration of three people who got stuck in a cave and then supplicated to Allah by putting their good deeds as a means of intercession and gaining divine support, one of the three said: “O Allah! I hired some labourers and paid them their wages except one of them departed without taking his due. I invested his money in business and the business prospered greatly. After a long time, he came to me and said: O servant of Allah! Pay me my dues. I said: All that you see is yours - camels, cattle, goats, and slaves. He said: O servant of Allah! Do not mock at me. I assured him that I was not joking. So he took all the things and went away. He spared nothing. O Allah! If I did so seeking Your Pleasure, then relieve us of our distress” [Ṣahīḥ al-Bukhārī]. In this narration, there is implicit encouragement of investing and re-investing wealth and generating revenue.

In another narration reported by Imam Aḥmad and by Ibn Mājah, the Prophet ﷺ said, “Whoever sells a house and does not put its price into something similar will not be blessed therein” [Ibn Mājah]. This *Hadīth* suggests that reinvesting brings *Barakah* (blessing). Further, it also implies that redirecting the funds from the sale of a property into similar immovable assets, continues *Barakah*, as these assets are durable and permanent in nature. Hence, just as property is very rarely destroyed, it is hoped that *Barakah* will continue just as long.

Imam al-Munāwī (d.1031 AH) interprets the aforementioned narration as an encouragement for people to leave a lasting legacy through real estate and immovable assets, which are effective in achieving this goal. He notes that when such assets are sold for money, the enduring legacy element is lost, as the owner no longer possesses something long-lasting and non-consumable [Fayḍ al-Qadīr]. Imam al-Tahāwī (d.321 AH) offers a different perspective on the narration, explaining that Ibn ‘Uyaynah viewed the words of Almighty Allah, “And He blessed it, and measured therein its sustenance” [Quran 41:10] as referring to the Earth. Thus, selling a house or piece of land equates to parting with something Allah has blessed, and consequently, the seller loses out on this blessing in favour of something inherently less blessed [Mushkil al-‘Āthār]. Mullā ‘Alī al-Qārī (d.1014 AH) further explains that exchanging immovable for movable assets is generally less desirable. Immovable assets, like real estate, offer more benefits such as security against theft and loss, unlike movable assets. Therefore, reinvesting the proceeds from the sale of immovable assets into similar assets is considered better [Mirqāt al-Mafātīḥ].

In a related narration, the Prophet ﷺ encouraged the revival of barren land by granting ownership of it to those who cultivate it [Tirmidhī]. This guidance serves as an incentive for wealth generation through land cultivation. Such activity not only benefits the landowner but also the wider community, as cultivated land brings advantages to all.

To achieve financial *Ihsān*, it is imperative to grow wealth. This growth opens up opportunities for engaging in more desirable and recommended practices with wealth. However, it's important to continually reflect on one's intentions, questioning whether the pursuit of wealth is for the sake of *Ihsān*, or driven by lower desires and the inclination to show off.

4. Social Impact and Philanthropy

Financial *Ihsān* can never be achieved without the re-distribution of wealth for social impact. The dispersion of economic assets among individuals and societies directly influences social equity, economic development, and societal harmony. From an Islamic perspective, the equitable distribution of wealth is not only encouraged but is a key tenet of economic justice in Shari‘ah.

For society and individuals, the fair distribution of wealth can lead to increased social cohesion and reduced levels of poverty and crime. A more equitable distribution of wealth enhances social mobility, providing opportunities for individuals from all walks of life to improve their circumstances, and subsequently contribute more significantly to societal growth. In terms of individual benefits, wealth distribution offers improved access to quality education, healthcare, and other vital social services. It fosters a sense of fairness among individuals, enhances their purchasing power, and generally improves their living standards.

One of the five pillars of Islam, namely Zakat, facilitates wealth distribution at a macro level. From this perspective, the distribution of wealth is in fact encapsulated as a pillar of faith. The Zakat officers and Zakat collectors of the Prophet ﷺ would take Zakat from the rich and circulate the wealth among the poor. Abū Juhaifah (*Radiyallāhu ‘anhu*) said, “The Zakat officer of the Messenger of Allah ﷺ came and collected Zakat from the rich amongst us and distributed it to our poor. I was then a minor orphan, so he gave me a she-camel” [Sunan al-Tirmidhī].

The Prophet ﷺ instructed *Sayyiduna* Mu‘ādh as follows, “Teach them that Allah has made it obligatory for them to pay the Zakat from their property, and it is to be taken from the wealthy among them and given to their poor” [Ṣaḥīḥ al-Bukhārī].

The Quran clearly states that resources must be distributed among people and not be monopolised in the hands of a few. The verse of the Quran states:

“So that this wealth should not become confined only to the rich amongst you” [Quran 59:7].

Wealth circulation and distribution, especially when done equitably, can play a crucial role in promoting economic prosperity, societal well-being, and individual welfare. The concept of distributing wealth in Shari‘ah is closely linked to the themes of charity, social enterprise,

philanthropy, and impact investing. One verse beautifully illustrates the exponential rewards of charitable giving: “The example of those who spend their wealth in the way of Allah is like a seed (of grain) which grows seven spikes; in each spike is a hundred grains. And Allah multiplies (His reward) for whom He wills. And Allah is all-Encompassing and Knowing” [Quran 2:261]. This verse eloquently describes how even a small act of giving, like donating a pound or a dollar in *Sadaqah*, can yield a manifold return. The impact of such giving extends beyond the immediate recipient, as it circulates and benefits others in the system. It implies that the returns on such investments can be as high as 700%. Other verses echo this sentiment too:

“By no means shall you attain righteousness unless you give freely of that which you love, and whatever you give, Allah knows it well” [Quran 3:92].

“O believers give of what We have provided for you” [Quran 2:254].

“For those who give in charity, men and women, and loan to Allah a beautiful loan, it shall be increased manifold (to their credit), and they shall have (besides) a liberal reward” [Quran 57:18].

“Those who give, out of their own possessions, by night and by day, in private and in public will have their reward with their Lord” [Quran 2:274].

“They ask you what they should spend (in the way of Allah). Say: ‘Whatever wealth you spend (is right), but the deserving ones are your parents and close relatives and orphans and the needy and the wayfarers. And whatever good you do, Allah indeed knows it full well” [Quran 2:215].

These verses collectively underscore the importance of philanthropic spending and engaging in virtuous activities. Achieving financial *Ihsān* is intertwined with creating social impact and empowering others, highlighting the profound connection between personal financial conduct and the wider good of society. All of the above verses clearly indicate and encourage spending philanthropically and in virtuous avenues. Financial *Ihsān* comes with social impact and empowering others.

5. Utilising resources efficiently and impactfully

Achieving financial *Ihsān* in one's life involves the efficient and impactful use of wealth, a principle strongly encouraged by Shari'ah. The Quran often describes true believers as those who wisely allocate their resources and skills in the service of Allah. This represents the most effective and beneficial use of wealth. Serving the way of Allah encompasses a wide range of noble activities that bring people closer to divine guidance in this world and positive outcomes in the Hereafter. This divine guidance also includes employing one's talents and abilities in virtuous deeds. Moreover, it

involves the strategic use of one's resources, whatever they may be, towards these commendable ends. The Quran tells us:

"You who believe, shall I show you a bargain that will save you from painful torment? Have faith in Allah and His Messenger and struggle for His cause with your resources, possessions, and your persons--that is better for you, if only you knew" [Quran 61:10-11].

"The believers are only the ones who have believed in Allah and His Messenger and then doubt not but strive with their properties and their lives in the cause of Allah. It is those who are the truthful" [Quran 49:15].

The following narration underscores efficient and impactful deployment of resources which was not only praised in the narration, but also had clear benefits for the person involved. The Prophet ﷺ said, "While a man was walking through a barren land, he heard a voice coming out of a cloud saying: 'Irrigate the garden of so-and-so.' Thereupon the cloud drifted in a certain direction and discharged its water over a rocky plain. The streamlets flowed into a channel. This man followed the channel until it reached a garden and he saw the owner of the garden standing in its centre, working with his spade spreading the water (changing the course of the water). He asked him: "O slave of Allah, what is your name?" He told his name, which was the same that he heard from the cloud. The owner of the garden then asked him: "O slave of Allah, why did you ask my name?" He replied: "I heard a voice from a cloud which poured down this water saying: 'Irrigate the garden of so-and-so.' I would like to know what you do with it." He said: "Now that you asked me, I will tell you. I estimate the produce of the garden and distribute one-third of it in charity, I spend one-third on myself and my family and invest one-third back into the garden" [Ṣahīḥ Muslim].

6. Conceptualising wealth as a means, and not an end

The driver for financial '*Ihsān*' is to possess the correct worldview and faith in regard to wealth: it is but a means. Sharī'ah not only teaches us how to practically manage our wealth, but primarily, Sharī'ah teaches us the correct mindset, vision, and beliefs to have regarding wealth. Everything follows from the correct belief and mindset. There are three core beliefs when it comes to wealth that Islam really makes unequivocal and crystal clear:

1. All wealth and resources are ultimately from Allah alone.
2. Wealth and resources are a means.
3. Virtue is not measured by the quantity of wealth and resources.

These three teachings set the conversation when it comes to seeking wealth for itself and seeking it as a means. Wealth and resources are a steppingstone. They help, facilitate, and create opportunity.

However, they are not the destination. When we forget these teachings, we begin to consider money as the ultimate goal and objective of life. And unfortunately, one of the strongest emotions and overwhelming weaknesses of man is the love of wealth. Allah informs us in numerous places in the Quran that human beings have an intense love for wealth.

“(Woe to him) The one whose only concern is to amass wealth and count it; he has no other concern” [Quran 104:2].

You are distracted by mutual competition in amassing (worldly benefits)” [Quran 102:1].

The insatiable thirst for wealth and the relentless pursuit of wealth is vividly described in the teachings of the Prophet ﷺ, who said, “If a person had a valley filled with gold, they would desire to possess two valleys” [Ṣahīḥ al-Bukhārī]. The Prophet ﷺ also issued warnings about the potential perils of wealth obsession, remarking, “Indeed, it's not the lack of wealth that I worry for you, but rather the bounties of the world being granted to you as they were to those before you. You will vie for it as they did, and it will lead to your downfall as it did for them” [Ṣahīḥ al-Bukhārī].

Furthermore, the Prophet ﷺ declared, “The devastation caused by a pair of ravenous wolves among a sheep flock is less harmful than the damage caused by a man's greed for wealth and prestige on his faith” [Sunan al-Tirmidhī].

All wealth is perceived as Allah's bounty, with humans merely acting as custodians, entrusted to manage and allocate assets in a way that aligns with Allah's will. The Quran states, “Put your faith in Allah and His Messenger and use the wealth over which He has appointed you as trustees, for those who believe and spend, there will be a great reward” [Quran 57:7].

The Islamic principle that wealth is ultimately Allah's ownership and humans are merely custodians significantly influences the spending and investment of this wealth. When believers realise their role as custodians, they take up the responsibility to safeguard these assets, comprehend the rights over them, and distribute them to those entitled to them. The Prophet ﷺ stated: “When a Muslim spends on his family with the intention of receiving Allah's reward, it is deemed as charity from him” [Ṣahīḥ al-Bukhārī]. The teachings of the Prophet ﷺ profoundly alter the understanding of investment. He asserted, “Humans exclaim, 'My wealth! My wealth!' But do they truly own any wealth that isn't consumed, worn out, or given in charity so it endures?” [Ṣahīḥ Muslim].

In this context, from a spiritual standpoint, the only enduring wealth is that which is donated to charity. The Prophet ﷺ also said, “Who among you values the wealth of his heirs more than his own?” The companions responded, “O Messenger of Allah! None of us prefers the wealth of our heirs

more." The Prophet ﷺ then declared, "So, a man's real wealth is that which he gives away during his lifetime, while the wealth of his heirs is what he leaves behind after his death" [Ṣahīḥ al-Bukhārī].

These teachings reframe the notion of true wealth by promoting charity as a means to accumulate spiritual value and savings for the afterlife. On another occasion, the Prophet ﷺ, upon learning about a slaughtered sheep, asked Sayyidah ‘Ā’ishah, "What is left of it?" She replied, "Only the shoulder remains." He said, "The whole of it remains except for its shoulder" [Sunan al-Tirmidhī].

The Quran teaches, "And do not strain your eyes towards the worldly benefits We have bestowed on some of them, the splendour of this life through which We test them. But the provision of your Lord is far superior and more lasting" [Quran 20:131].

It further elaborates, "And if Allah had increased the provision for His servants, they would have certainly rebelled on earth. But He sends down what He wills in perfect measure. Indeed, He is Informed and Observant of His servants" [Quran 42:27].

Money is not something to be idolised and worshipped. The test of this is when we give preference to earning wealth when there is a clash with the guidance of Shari‘ah. The Prophet ﷺ said, "Wretched be the slave of the dinar; wretched be the slave of the dirham; wretched be the slave of fine cloth; wretched be the slave of embroidered cloth. May he be wretched and degraded, and if such a one is pierced by a thorn, let it not be extracted. When he is granted his desires he is pleased and when he is denied them he is angered" [Ṣahīḥ al-Bukhārī].

"Wealth and sons are allurements of the life of this world. But the things that endure, good deeds are best in the sight of your Lord, as rewards, and best as the foundation for hopes" [Quran 18:46].

Concluding Thoughts

In this chapter, we explored the multifaceted concept of wealth in Islam and its profound implications within the realm of Islamic Finance. We delved into the various dimensions of wealth, ranging from tangible and intangible assets to financial resources, emphasising its role not just as a material possession but as a means of fulfilling human needs and obligations. The chapter highlighted the diverse interpretations of wealth across different fields and its representation in Islamic terms through various terminologies like *Ginā*, *Wafrāh*, *Tharwah*, *Yasār*, and *Māl*.

The purpose of wealth in Islam, as elucidated in this chapter, transcends mere accumulation and possession. It was underscored that wealth is a divine blessing, intended for the maintenance and sustenance of human life, thereby facilitating the fulfilment of one's existential purpose. The acquisition of wealth, as per Islamic teachings, varies in its ruling from obligatory to severely disliked, depending on its intended use and the individual's circumstances. The rightful utilisation

of wealth, in line with Islamic values, was identified as crucial for maintaining social harmony and individual well-being.

Throughout the chapter, the Islamic perspective on wealth was further clarified. Wealth is not inherently evil, but a test and a responsibility bestowed by Allah. The concept of financial *Ihsān'*—or excellence in financial matters—was thoroughly examined, illustrating the importance of earning *Halāl* wealth, preserving it wisely, and utilising it for societal benefit and personal growth. The notion of wealth as a means to achieve higher spiritual and ethical objectives was consistently emphasised, with guidance drawn from the Quran and *Hadīth*.

Wealth is a transient trust from Allah, meant to be used responsibly and ethically. This understanding shapes the approach towards wealth acquisition, preservation, and utilisation in Islamic Finance, ensuring that economic activities align with the broader goals of societal welfare and spiritual growth. The chapter thus provided a comprehensive overview of the Islamic philosophy of wealth, setting a foundation for aligning financial practices with Islamic principles of justice, charity, and moderation.

Chapter 6: The Purpose of *Mu‘āmalāt*

Chapter Summary

- *Mu‘āmalāt* refers to commercial transactions and business activities in Islamic law. *Fiqh al-Mu‘āmalāt* are Islamic legal principles governing business and financing.
- The purpose of *Mu‘āmalāt* is to fulfil our worldly needs in the most optimal way so we can focus on our existential purpose.
- When our needs are met, we can excel in attaining blessings of the next life. Wealth is not an end, but a means to do more good.
- Pursuing worldly interests through business and labour is not only permitted but encouraged.
- Society depends on people working to earn a living.
- People have an innate incentive and drive to acquire wealth and fulfil needs. Sharī‘ah recognises this natural tendency.
- Fulfilling individual needs allows one to then help others, creating mutual social benefit. There is more virtue when aiding others.
- Being strong in faith means having more resources to do good deeds and help others according to scholars.
- Wealth is praiseworthy if intended for noble purposes, not materialistic indulgence. It enables greater impact.
- Income to fulfil your own and dependents' needs is valid and allowed. It is part of dignified living per Islam.
- Pursuing needs should be within Islamic ethics. The ultimate aim is to be a devoted servant of Allah.

What is *Mu‘āmalāt*?

Kamāl ibn al-Humām (d.861 AH) notes that scholars typically structure their *Fiqh* compendia by initially discussing actions that are rights of Allah, known as *Ibādāt*. Following this, they delve into matters concerning the rights of people, referred to as *Mu‘āmalāt*. *Mu‘āmalāt* essentially deals with interactions and engagements between individuals. In *Fiqh* literature, this term encompasses all actions involving two or more people in some form of interaction or transaction. Business and commercial transactions fall under *Mu‘āmalāt*, as they include a wide array of activities like buying, selling, and exchanging goods and services. This domain covers everything related to trade, commerce, contracts, sales, and more, focusing on the creation and exchange of value through various economic activities. Consequently, *Fiqh al-Mu‘āmalāt* pertains to the Islamic laws governing transactions and business activities, providing a legal framework for Muslims to manage their economic affairs, including principles for contracts, trading, leasing, partnerships, and beyond.

Viewed through the lens of classical scholars, the immediate goal of *Mu‘āmalāt* and exchange is to meet worldly and temporal needs in the most optimal and efficient manner. The Sharī‘ah guidelines set out in *Fiqh al-Mu‘āmalāt* are designed to ensure that people can lawfully acquire assets and goods to fulfil their needs. When these needs are satisfied, individuals can then direct their focus and efforts towards realising their existential purpose in life, both on a personal and individual level.

Ibn ‘Ābidīn (d.1252 AH) aptly describes the purpose and wisdom of *Mu‘āmalāt* as follows:

“For indeed, Almighty Allah created the world upon the most perfect system and ordained the means of livelihood in the best manner. This cannot be achieved except through buying and selling, as no one is able to make everything he needs by himself. For if he busies himself with ploughing the land, sowing wheat, taking care of it, guarding it, harvesting it, threshing it, winnowing it, cleaning it, grinding it, and kneading it, he will not be able to occupy his hands with what that requires of farming tools, harvesting tools, and the like, let alone occupy himself with what he needs in terms of clothing, dwelling, and so on. So he is compelled to buy that. And were it not for buying, he would take it by force or begging, if possible. Otherwise, he would fight its owner over it. The continuation of the world cannot be achieved with that” [Hāshiyah Ibn ‘Ābidīn].

In another passage, Ibn ‘Ābidīn (d.1252 AH) states that the objective of *Mu‘āmalāt* is to grant the ability to lawfully use what has been acquired and to gain ownership [Hāshiyah Ibn ‘Ābidīn].

Ibn Taymiyyah (d.728 AH) writes:

“Among the customary actions of people, in sayings and deeds, are things they need in their worldly life. The default ruling regarding these is permissibility, so nothing is prohibited except what Sharī‘ah has forbidden. Being heedless of this fact exposes us to falling into grave sin. Allah Almighty says: ‘Say (to the pagans), ‘Think about the provision Allah has sent down for you, some of which you have made unlawful and some lawful.’ Say, ‘Has Allah given you permission [to do this], or are you inventing lies about Allah?’ [Quran 10:59]. Selling, gifting, renting, are habits and things that people need in their daily engagements and life similarly to how they need to eat, drink, and cloth themselves. Sharī‘ah has guided us in these activities and daily matters to good practice and virtuous actions. Sharī‘ah forbade whatever leads to corruption in these activities, made obligatory what is necessary, discouraged what is improper, and recommended and encouraged what is overwhelmingly beneficial and in the interests of people” [Majmū‘ al-Fatāwā].

Ibn ‘Abd al-Salām (d.660 AH) mentions:

“Know that the interests of the Hereafter are not completed except by most of the interests of this life, such as food, drink, marriage, and many benefits. Therefore, Sharī‘ah is divided into pure acts

of worship in pursuit of the interests of the Hereafter, and into acts of worship related to the interests of this world and the Hereafter, and into what the interests of this world prevail over, such as charity, and into what the interests of the Hereafter are dominant, like prayer. Likewise, transactions are divided into that where the interests of this world are dominant, like sales and leasing, and into that where the interests of the Hereafter are dominant, like paying for services related to matters of the Hereafter (such as Islamic education etc)" [Qawā'id al-'Aḥkām].

Ibn 'Āshūr (d.1393 AH) writes:

"Legal rulings are either related to the affairs of the Hereafter, and they are the acts of worship, or to the affairs of this world, whether they are related to the survival of the individual such as transactions, or to the survival of the species such as marriage, or in terms of maintaining civility, and they are the penalties" [Maqāṣid al-Shari'ah al-Islāmiyyah].

Imam al-Taftazānī (d.793 AH) writes:

"The bottom line is that *Fiqh* is the knowledge of practical legal rulings, they are either related to the affairs of the Hereafter which are primarily acts of worship, or to the affairs of this world that are primarily related to the existence of an individual, such as trading and transacting" [Sharḥ al-Talwīḥ 'alā al-Tawdīḥ].

Imam al-Naysāpūrī (d.850 AH) mentions:

"Duties are either related to the interests of the religion, which is the chapter of worship from prayer, charity, fasting, pilgrimage, striving in His cause, emancipation, vows, and the like, or the interests of this world, and they are transactions. Imam al-Shāṭibī states that all Sharī'ah rulings are justified by the interests of the servants in this world and the Hereafter" [Tafsīr al-Naysāpūrī].

Imam al-Shāṭibī (d.790 AH) mentions:

"The *Darūriyyāt* (essentials) of Sharī'ah guidance are of two levels:

- a. The first level includes immediate individual interests that concern the person directly, such as maintaining one's own welfare and the welfare of one's family, providing sustenance, finding a residence, clothing, and anything related to these matters like trade, leasing, marriage, and other means of acquisition necessary for human life.
- b. The second level includes things that don't serve an immediate primary interest and benefit (but a secondary benefit), such as personal obligations like bodily and financial acts of

worship including purification, prayer, fasting, almsgiving, pilgrimage, and similar things, or communal obligations like public authority roles in leadership, ministry, guilds, arbitration, judgment, leading prayers, striving in His cause, education, and other matters that are generally legislated for public benefit. If these are neglected or abandoned by people, the whole system collapses.

As for the first level, since humans have an immediate interest and an internal motivation calling them towards seeking what they need, and this call is so powerful that it forces them to do so, there is no obligation for the individual to seek these needs. Rather, professional engagement, acquisition of wealth, and marriage are generally desired but not obligatory. Often these come in the context of what is permissible, as in the saying, "God has made trade lawful" [Quran, 2:275], "When the prayer has finished, disperse in the land and seek the bounty of Allah" [Quran, 62:10], "There is no sin upon you in seeking bounty from your Lord" [Quran, 2:198], "Say, who has forbidden the adornment of Allah which He has brought forth for His servants, and the good things of provision?" [Quran, 7:32], "Eat from the good things with which We have provided you" [Quran, 2:172], and similar sayings. Yet, if we were to obligate people to seek these as we oblige them to seek recommended things, such that they all completely neglect them, they would sin. This is because the world cannot function without management, acquisition and earning. This is as if the legislator has taken into account the natural incentive within human beings to acquire wealth, so when there is no personal interest involved or conflicting natural tendency, the law obliges it directly or communally, just as it would be obligatory to provide for wives and relatives, and similar cases.

In summary, this type involves two categories: One where the pursuit of interests occurs directly, like pursuing one's own interests directly. Another where the pursuit of interests occurs through benefitting others, like fulfilling the duties of a spouse and children, and acquiring things that benefit others, such as leases, rents, trade, and all other forms of crafts and acquisitions. Through these, a person seeks his/her own interest and that results in the interests of others being fulfilled too, creating a cycle of service amongst creation, just like the different parts of the human body serving each other to ensure the well-being of all. The need becomes more apparent when it involves the interests of others, compared to the direct personal interest" [al-Muwāfaqāt].

The Ultimate Reason for Gaining More Wealth

The fulfilment of needs is not so that we simply live a comfortable and luxurious life, nor is it merely to realise all our dreams in this world. Rather, we fulfil our needs through financing and business so that we preserve ourselves, grow ourselves, be better versions of ourselves, do more good, and ultimately allow us to excel in attaining the blessings of the next life. That is the real and true reason for fulfilling our needs. The famous *Hadīth* of the Prophet ﷺ states:

“The strong believer is more beloved to Allah than the weak believer, but there is goodness in both of them. Be eager for what benefits you, seek help from Allah, and do not be frustrated. If something befalls you, then do not say: If only I had done something else. Rather say: Allah has decreed what he wills. Verily, the phrase ‘if only’ opens the way for the work of Satan” [Ṣahīḥ Muslim]. When it comes to strength in this narration, the scholars have interpreted this idea in several ways, and all of these interpretations are applicable.

- Strength here refers to person who benefits others, whilst weakness refers to a person who cares for himself only [al-Zaydānī d.727 AH].
- Strength refers to acts of good deeds and bearing the struggles of doing good [‘Ibn ‘Abd al-Hādī d.1138 AH].
- Strength refers to wealth and more resources so that a person can be more helpful and do more good acts [Qādī Iyād d.544 AH].
- Strength refers to matters of Akhirah in terms of doing difficult good deeds [al-Nawawī d.676 AH].

Qādī Iyād (d.544 AH) clearly states that being strong refers to being wealthy and resourceful to be more impactful. As such, having wealth and striving to be wealthy with a noble intention is praiseworthy, as this is for the ultimate purpose. Of course, this includes earning income to fulfil your worldly needs, your dependents' needs, to maintain your dignity, and to ensure that you are able to meet your expenses and costs in the world. But all of this is within the worldview of Islam, and that ultimately, we are servants of Allah and living with a purpose.

Therefore, as Muslims, it is imperative that we endeavour to maximise our resourcefulness. We should aim to enhance our spiritual depth, physical robustness, intellectual capacity, skill sets, financial prosperity, moral integrity, and all other forms of resources at our disposal. The sole purpose is to serve Almighty Allah and spread the teachings of the Prophet ﷺ.

Conclusion

Mu‘āmalāt, as noted by scholars like Kamāl Ibn al-Humām and Ibn ‘Ābidīn, is a comprehensive term in *Fiqh* that encompasses the intricate web of human interactions, particularly in economic and social transactions. It forms a crucial part of the Islamic legal framework, focusing on guiding human behaviour in commercial activities and interpersonal dealings. The essence of *Mu‘āmalāt* lies not just in the lawful exchange of goods and services but in fostering a community of fairness, trust, and mutual benefit.

The classical scholars' insights on *Mu‘āmalāt* reveal a profound understanding of human nature and societal needs. They recognised that individuals cannot fulfil all their needs independently; hence, the necessity for trade, contracts, and mutual cooperation arises. This branch of *Fiqh* serves as a

reminder that while fulfilling our worldly needs is important, it should not overshadow our ultimate purpose in life. The pursuit of wealth and economic activities is not an end in itself but a means to a higher goal – facilitating a life that is in harmony with our spiritual self and existential purpose. This perspective is crucial in today's fast-paced, materialistically driven world, where the relentless pursuit of wealth often leads to ethical compromises and social injustices.

Mu‘āmalāt aims to strike a balance between worldly pursuits and loftier pursuits. While engaging in economic activities is necessary for our survival and well-being, these activities must be carried out with an awareness of their ethical implications and their impact on both our immediate environment and the Hereafter.

Mu‘āmalāt is not just about legal transactions; it's about building a just, equitable, and God-conscious society. It teaches us that our economic activities, while necessary for worldly survival, should be conducted with an awareness of their larger impact on our existential purpose.

Chapter 7: The Objective of Islamic Finance

Chapter Summary

- Islamic Finance refers to conducting financial activities in accordance with Islamic principles, involving the provision of funds for business, purchases or investments by institutions expecting returns.
- It represents making money work positively for all stakeholders and the economy through avoiding exploitation and bringing benefit to humans in this world and the Hereafter.
- Islamic Finance is based on timeless and universal principles that underpinned the financial activities of all prophets throughout history, with consistent guidelines but specific rules differing across times and places.
- Islamic Finance is distinct from conventional finance in prohibiting interest and zero-sum speculation, requiring asset-backing, and promoting risk-sharing between parties.
- Islamic Finance applies the principles of *Fiqh al-Mu'amalat* to more complex contemporary financial arrangements, differing in risk considerations, objectives, timescales, and other key aspects.
- Finance deals more with intangible assets like credit and securities while trade focuses on buying and selling of tangible goods and services.
- Islamic Finance has both macro and micro-objectives.
- The micro-objective of Islamic Finance is to facilitate allocation of capital through valid Islamic contracts allowing financiers returns and fulfilling customer capital requirements.
- Transactions are intended to seamlessly meet mutual worldly needs rather than requiring specific intentions transforming acts into worship.
- The macro-objective is to transform the current global economic landscape that is skewed by debt, inequality and commodification to realise broader Islamic economic goals.
- Islamic Finance is the force to solve epidemics like *Ribā*, debt slavery, predatory financialisation, wealth concentration and unsustainable growth.
- While debt itself is not prohibited, controls exist around repayment intention, avoiding excessive debt, prohibiting interest-based debt, and preventing debt trading or recycling.
- No Sharī'ah preference is stated for equity financing over debt. The choice of the type of financing has been left to the context and the agreement between parties.
- The ultimate goal of Islamic Finance is to facilitate focus on eternal salvation rather than solely personal financial enrichment, with responsible wealth creation being a power for good.

Defining Islamic Finance

Islamic Finance, in its most basic form, refers to the practice of conducting financial activities in accordance with Islamic principles. The term 'finance' in this context signifies the provision of funds for various purposes such as business ventures, purchases, or investments. Credit is typically offered by institutions like banks, credit card companies, insurance firms, and investment banks. These entities provide capital and expect a return on their investment. Essentially, financing in Islamic Finance means providing capital on a deferred basis, while seeking a return on this capital.

I like to describe Islamic Finance as '*making money work positively for yourself, your counterparty, the society, and the economy*'. For finance involves money, and Islam is all about bringing benefit to humans in this world and the Hereafter. Thus, **Islamic Finance is positive money** in short. Islamic Finance is based on timeless and spaceless principles; the principles that underpin financial activity in Sharī'ah are the same principles that underpinned the financial activity of every single prophet. Imam al-Shāṭibī (d.790 AH) states that the overarching principles of Sharī'ah that involve the *al-Darūrīyyāt* (essentials), *al-Hājīyyāt* (needs), and *al-Taḥsīnīyyāt* (luxuries) have never been abrogated in any time or space. Abrogation only occurred in subsidiary and ancillary matters [al-Muwāfaqāt].

All revelations, and the guidance delivered by the prophets have called for morals and values that Allah has instilled as the optimal way for people; all prophets were identical in this message; they invited people to it, preserved it, and rejected what contradicted this optimal life. These values cannot change, be altered, or abrogated. They are like monotheism and the principles of faith, honouring parents, forbidding immorality and injustice, unlawfully taking a life, kindness to orphans, fairness among people, forbidding arrogance and pride, encouraging generosity and loyalty, and forbidding betrayal and deceit. In addition to the principle of monotheism and its core doctrines, Almighty Allah bestowed upon each nation a distinct set of laws through their respective messengers. These laws were tailored to be comprehensive and perfectly suited for their time and people. While these divine codes shared similarities among different nations, they also exhibited unique differences tailored to the specific needs and contexts of each community. Allah concluded all laws with what was revealed to the Prophet Muhammad ﷺ, a comprehensive and complete code of conduct, applicable until the Final Hour, addressing the needs of the servants in every place and time until Allah inherits the Earth and those on it. This final revelation abrogated all previous codes and instructed humanity to unite behind this final revelation. These insights are derived from the Quranic verse:

"For each [religious following] is a direction toward which it faces. So race to [all that is] good" [Quran 6:48].

Qatādah (*Rahimahullāh*) states that this verse means a way and a tradition. Traditions differ; in the *Torāt* there is a law, in the *'Injīl* there is a law, and in the Quran there is a law. Allah permits in it what He wills and forbids what He wills, in order to know who obeys Him and who disobeys Him. And the religion that Allah will not accept other than it is monotheism and sincerity to Allah, which the messengers came with [Tafsīr Ibn Kathīr].

Imam al-Sa'dī (d.1376 AH) said, "Laws vary based on the distinct characteristics of nations and evolve in response to shifts in times and circumstances. Nonetheless, at their core, these laws are founded on principles of justice relevant to the period of their enactment. The fundamental principles, embodying universal benefits and wisdom, remain constant across all legislations and do not change, reflecting their timeless relevance and application in all legal systems" [Tafsīr al-Sa'dī].

What we can extrapolate from the above is that the harmful economic practices regardless of time, era or market would be prohibited across time and space; *Ribā* is injustice, and harmful for every era and every economy. *Gharar* and all its branches are damaging to every counterparty, regardless of where and when. Zero-sum games and gambling are dangerous to everyone, irrespective of who, where, and when. This idea adds to what Islamic Finance is based upon; a values-driven proposition of managing and distributing resources.

What makes Islamic Finance different?

What makes financing based on Islamic principles different to every other form of financing is the central philosophy and concept that money is only a medium exchange; it is not an asset that can demands its own price.

Islamic financing stands apart due to its foundational belief that money serves merely as a tool for exchange, not as an asset warranting its own yield. In the Islamic financial system, money is strictly a facilitator of trade rather than a tradeable commodity itself. Unlike other assets, money does not possess intrinsic utility; its value is realised only through expenditure or donation. Holding money provides no tangible benefit beyond the psychological satisfaction it may offer. In contrast, tangible assets provide direct benefits and are valued for the utility and enjoyment they deliver while in possession. Money cannot be 'used' like other assets. Consequently, when purchasing goods, one compensates for the inherent value and utility they offer. Money, lacking this inherent consumptive value, is valued only at its nominal worth. This principle underlies the prohibition of *Ribā*, as it emphasises that money should not generate additional value merely through its exchange. Imam Ibn al-Qayyim (d.751 AH) states:

“Money is never sought for itself; rather, it is used as a means to gain other assets” [Tlām al-Muwaqqi‘īn].

Imam al-Ghazālī (d.505 H) articulated, “Almighty Allah designed the Dinar and Dirham to facilitate transactions and serve as a fair measure among various goods. These currencies act as a gateway to all other assets; they hold value inherently yet are not sought for their own sake” [Iḥyā’ Ulūm al-Dīn].

Elsewhere, he mentioned, “Money functions as a mirror, reflecting all but not being reflected upon itself. Its creation serves another purpose: to facilitate the exchange of all other assets as an intermediary” [from Iḥyā’ Ulūm al-Dīn].

Money cannot make more money on its own. It has to be the following:

$$\text{Money} + \text{_____} = \text{profit}$$

Money on its own does not have the capacity to produce additional funds; it must be paired with labour, a service, or an asset to yield profit. This requirement for supplementary components to enhance money's value is the reason it is not classified as 'capital' within the production factors. Within the economic framework, money must be combined with capital, land, labour, and enterprise to become productive. Essentially, money requires an external factor to increase its amount.

A classification of tradable subjects in Shari‘ah

Understanding the Shari‘ah perspective on tradeable entities necessitates recognising its foundational philosophy on assets. According to Shari‘ah principles, for an entity to be considered an asset, it must inherently provide benefit and utility on its own, without reliance on external factors or third-party interactions.

The Ḥanafī scholars firmly held that for an item to qualify as a valid asset, it must independently offer utility to the counterpart. Thus, an asset is characterised by its inherent ability to provide utility and benefit. This is encapsulated in the definition of '*Māl*' which states:

“*Māl* is that which is normally sought and can be stored to use when needed” [Majallat al-Ahkām].

Imam al-Sarakhsī (d.483 AH) said, “Wealth refers to all created things that humans can fulfil their needs with” [al-Mabsūt].

The utility has to be bundled and captured within a defined construct or a thing. It cannot be abstract, assumed, or theoretical. Considering this, the Hanafi jurists resolved that a single grain of wheat is not an asset (*Māl*) if people do not benefit directly from it (*Tamawwul*) [‘Umdat al-Ri‘ayah]. This shows that although a grain of wheat is existing, it is tangible, visible, and storable, the jurists negated it from being *Māl* unless people use such a thing to derive direct benefit.

If something was not *Māl*, it was non-existent, and therefore not tradeable according to the Hanafi jurisprudence. Only that which was *Māl* can be traded, and *Māl* depended on two factors:

1. Existence
2. Utility

Hence, given the above, there were only three types of tradable things:

1. Asset (*Māl*)
2. Money (*Thaman*)
3. Nothingness (*Ma‘dūm*)

Māl

Māl refers to entities that inherently possess utility and benefit, as noted by Ibn al-‘Abidīn (d.1252 AH), who emphasised that assets should offer utility directly from their existence, unlike money, which does not yield utility merely by possession. When it is *Māl*, it is an asset in Sharī‘ah.

Money

Money is something that does not provide utility by holding it; the utility of money is realised through its role as a medium of exchange, addressing the barter system's limitations by eliminating the need for a double coincidence of wants. Money's value is manifested in its exchangeability, not in holding it. Money intrinsically does not have a utility - there is no gain or benefit by holding onto money. The utility of money is realised only on exchange and spending. When that is the case, money cannot warrant a price beyond its face value.

Thus, a person selling money to someone is not transferring ‘utility’, as utility is not embedded in money. When utility is not being transferred to the counterparty, the counterparty cannot be required to pay for more for something non-existent. The only amount owed is the face value, which is due on exchange. If a person makes an additional amount, they will be making money in an unjustified manner, which is what we call *Ribā*.

Profit can only be made when a tangible and genuine utility is being transferred to the counterparty, or if an investment is made in an asset that provides an embedded utility that people can benefit from and derive. That is why profit is gained from assets, not through trading money-for-money.

Nothingness

Apart from the previously mentioned categories, other entities are not considered valid tradeables. This includes *Manfa'ah* (usufruct), *Huqūq* (rights), and *Dayn* (debt), which are regarded as non-existent in the context of tangible assets.

Manfa'ah, or usufruct, is inherently non-existent, intangible, and invisible. It is deemed tradable solely out of the necessity for leasing and deriving benefits from the utilities of others' assets. Similarly, *Huqūq*, or rights, lack an independent existence; they are not tangible or transferable in the same manner as physical assets. Instead, they exist within the awareness and obligations of the rights holder, who may then grant permissions to beneficiaries. Nevertheless, as rights become commonly traded based on customary practices, they acquire a recognised existence. From the standpoint of *Fiqh*, the customary trade of such entities, once established, eliminates the original prohibitive reason of *Nizā'* (discord), thus rendering the trade permissible due to the absence of the prohibiting factor. Likewise, *Dayn*, or debt, is not considered *Māl* in the strict sense. Jurists classify it as *Māl* within a legal framework (*Hukmī*), recognising that debt lacks an independent existence and, hence, does not qualify as an asset in its own right.

How are Islamic Financial transactions structured?

Financial transactions in Sharī'ah are all structured in a way that all parties either benefit together or face losses together. There is no structure in Sharī'ah that results in a scenario where one party gains at the expense of others; such arrangements are prohibited. Thus, *Ribā* is prohibited, as it guarantees one party winning and gaining a return. In *Qimār* activity, one party wins at the expense of the other. In *Gharar* and uncertain scenarios, one party gains certainly, whilst the other party's benefit is uncertain.

Every transaction in Sharī'ah is based on one of two scenarios:

1. Exchanging
2. Investing

During an exchange, two parties meet to satisfy distinct needs—one requires money, while the other seeks goods. They swap what they have to receive what they need. Both parties walk away gaining something; it is a win-win. In investing, both parties come together to co-create value and

fulfil a mutual need; they both want to generate a return on investment. Again, they either win together, or lose together.

Islamic financing methods revolve around the principles of exchanging or investing. Funds are provided either through an exchange where the return is deferred or through investing.

The Difference between Islamic Finance and *Fiqh al-Mu‘āmalāt*

Understanding the distinction between Islamic Finance and *Fiqh al-Mu‘āmalāt* is crucial. Islamic Finance, while being an extension of *Fiqh al-Mu‘āmalāt*, incorporates complex structures and layers due to the 'finance' aspect. It essentially deals with financing based on Islamic principles, but the primary focus remains on finance, not just the commercial and business aspects outlined in classical *Fiqh* texts. The classical Shari‘ah contracts and structures, and their underlying principles are modified to facilitate financing.

Mu‘āmalāt involves a broader set of activities, encompassing the buying, selling, and exchanging of goods and services. It covers all activities connected with trade, commerce, contracts, sale, and more. It is about the creation and exchange of value through various economic activities. *Fiqh al-Mu‘āmalāt* refers to the Islamic law of transactions and business activities. This legal framework governs how Muslims should conduct their economic affairs. It includes principles for contracts, trading, leasing, partnerships, and more. *Fiqh al-Mu‘āmalāt*, although designed to guide everyday business and commerce, can be adapted to facilitate Islamic financing. However, the finance element brings tweaks to a standard transaction based on the nature of a financing arrangement.

The world of finance is primarily concerned with the questions of how an individual, company or government acquires the money needed - called capital in the company context - and how they spend or invest that money. Financial activities often involve credit, where one party provides resources to another with an expectation of repayment with interest or profit in the future. Finance deals more with money and other negotiable instruments. In addition, finance is generally focused on the future, anticipating returns and managing the risks associated with these returns. Financing transactions can have longer time horizons. In this arena, risk management becomes paramount, with a keen focus on credit default risk and concentration risk. Finance brings with it its own rules, behaviour, and mindset.

On the other hand, trading and business refer to the buying and selling of goods and services, with the aim of making a profit. It's generally a cash-based, on-spot transaction where goods and services change hands immediately. Trading businesses are typically more concerned with operational risks, such as the risks associated with inventory management, supply chain disruptions, or changes in consumer demand. Trading and business tend to involve more tangible assets and physical goods.

Trade has a shorter time horizon, with the aim to buy low and sell high within a relatively short timeframe.

There are several key differences between finance and trading. To start with, financing involves deferred payments, with money transferred now to be repaid later, while trading is generally a cash transaction, taking place instantly. This difference in timing leads to a different risk profile for each activity. Financing is more vulnerable to credit risk – the risk that the borrower will not repay the finance – while trading faces more immediate risks like fluctuating market prices or supply chain disruptions. Finally, finance often involves an additional party, such as a bank or other financial institution that provides the capital for the loan. In contrast, trading typically involves just a buyer and a seller. If we summarise the differences between financing and trading, it can be presented as follows:

1. **Risk Profile:** Financing carries a different kind of risk compared to business transactions. In financing, the risk is often related to the customer's ability to repay the finance and the risk of default. In contrast, business risks revolve around market demand, product viability, competition, and operational efficiency.
2. **Objective:** The objective of financing is to raise or provide funds. On the other hand, the objective of business transactions is to create, deliver, and exchange value through products or services.
3. **Time Horizon:** Financing usually involves a more extended time horizon and the consideration of future value, as funds are borrowed or invested for a period. In contrast, business transactions may have a shorter time frame focusing on immediate exchange.
4. **Regulatory Aspects:** Financing activities are heavily regulated, ensuring transparency and protecting stakeholders from potential abuse. Business transactions have their own set of regulations, though often less stringent than those for financing.
5. **Legal Implications:** Financing agreements require legal enforceability, ensuring that the borrowed funds are returned. Business transactions also have legal implications, but these are more about ensuring fair trade practices.
6. **Economic Impact:** Financing influences economic factors such as borrowing rates, liquidity, and capital availability, having a macroeconomic effect. Business transactions impact the economy too but are more about supply and demand dynamics at a microeconomic level.
7. **Collateral and Securities:** Financing often involves collateral or securities to hedge against the risk of default. In comparison, business transactions rarely require such safeguards.
8. **Taxation:** Financing costs are often tax-deductible, whereas business transactions are subjected to sales tax, value-added tax, or goods and services tax.

9. **Financial Reporting:** Financing requires detailed financial reporting to keep track of the borrowed or invested funds and their returns. Business transactions need financial reporting too, but it's focused more on revenue, costs, and profitability.
10. **Liquidity:** Financing deals with large amounts of money and hence is closely linked with the liquidity management of an entity. Business transactions are about the flow of goods or services and may not directly impact liquidity to the same extent.
11. **Counterparty Risk:** In financing, especially Islamic financing, the risk is more pronounced as it relies heavily on the ability of the counterparty. In regular business transactions, counterparty risk is present but usually mitigated by immediate exchange or short-term credit.
12. **Asset Ownership:** In many forms of financing, actual asset ownership may not be transferred (as in a lease) or may be partially transferred as in a diminishing Musharakah. In business transactions, asset ownership is typically transferred upon purchase.
13. **Nature of Contracts:** Financing uses specific contracts such as leases, Murabahah, or investment agreements, whereas business transactions involve sale-purchase agreements, service contracts, etc.

The above differences are typically the real-world factors, and challenges in Islamic Finance that cause a product to have greater engineering and structuring to ensure it still complies with Sharī'ah principles.

The Objectives of Islamic Finance

To address this comprehensively, it is fair to say that there are different objectives at different levels, which then feed into one overall objective. The following is an attempt to address these objectives comprehensively:

1. The micro-objective of Islamic Finance

Islamic Finance is an extension of *Fiqh al-Mu'amalāt*, therefore it follows that the same objectives of *Mu'amalāt* in Sharī'ah apply to Islamic Finance. Just as the purpose of *Mu'amalāt* is to facilitate transactions in a *Halāl* way to fulfil our immediate worldly needs, Islamic Finance is there to fulfil our need for capital in a *Halāl* way.

Ibn 'Ābidīn (d.1252 AH) states:

"The soundness and validity of transactions depend on achieving the intended purpose of the action. In transactions, the objectives are the lawfulness of using and benefiting from an asset, as well as gaining ownership; they are the intended aims. In rituals (acts of worship), according to the

theologians, the goal is to fully comply with the commandment upon which it depends” [Ḥāshiyah Ibn ‘Ābidīn].

Thus, Islamic Finance, being a transaction, also seeks to facilitate the lawful use of assets as well as gaining ownership in a valid manner. Hence, at a pure micro level, the role of a financing transaction is to simply allow the allocation of capital, permitting the financier to earn a return on their capital, whilst for the customer, it allows them to fulfil their need of requiring access to capital. It is a transaction, and the wisdom of a transaction is that it is there to simply fulfil the diametrical needs of the counterparties. Transactions are designed to meet the contrasting or opposing needs of the counterparties in a transaction [Jāmi‘ al-Uṣūl].

A transaction, whether it is a trade or finance, is simply *Mubāh* (a permissible activity) in and of itself without any context, as mentioned by Imam al-Signāqī (d.711 AH), Ibn al-Rushd (d.520 AH), al-Māwardī (d.450 AH) and many others. Without any virtuous intention or charitable goal, the transaction is *Mubāh* and lawful if it complies with Sharī‘ah principles. The parties have safeguarded themselves from *Harām* by transacting in the *Halāl* way. This makes the return lawful for the financier and permits the customer to benefit from the finance. Hence, at a micro level, the objective and purpose of Islamic financing is there to fulfil the worldly needs of the parties in a *Halāl* manner. It is in this context that Sharī‘ah scholars have developed different models and structures so that the needs of people can seamlessly and efficiently be fulfilled.

The design and principles of *Mu‘āmalāt* in Sharī‘ah, as interpreted from the teachings of classical jurists and scholars, highlight its role in addressing our immediate, worldly needs. *Mu‘āmalāt* is characterised by several unique aspects:

Firstly, unlike acts of worship (*Ibādah*) such as *Ṣalāh*, Fasting, Zakat, and Hajj, where intention is a prerequisite for validity, *Mu‘āmalāt* and financial dealings do not require a specific intention for their validity. In *Ibādah*, intention transforms a physical action into one that holds significance for the Hereafter; A mundane worldly action becomes exclusive for the Hereafter. For example, a monetary payment becomes an act of *Ibādah* like Zakat when accompanied by the appropriate intention, showcasing *Tamyīz* (discernment) in *Fiqh*. However, in the sphere of *Mu‘āmalāt*, transactions are valid regardless of intention, facilitating seamless trade and fulfilment of needs without necessitating a specific intention.

Secondly, while *Ibādah* is exclusive to Muslims and requires faith (*Īmān*) for its validity in this world and acceptance in the Hereafter, *Mu‘āmalāt* is valid for everyone, irrespective of faith. Transactions carried out by non-Muslims are also valid, indicating that *Mu‘āmalāt* is designed to meet the needs of all humans. This inclusivity demonstrates Sharī‘ah’s provision of a universal framework for transactions for the life of this world.

Thirdly, the default stance in *Mu‘āmalāt* is one of permissibility, contrasting with the more restrictive nature of worship practices. In trade and commerce, specific evidence to permit a particular transaction is not required; rather, it is essential to ensure that there are no violations of Shari‘ah principles. This approach underscores the facilitation of worldly needs within the Islamic legal framework.

Lastly, the representation of *Mu‘āmalāt* in *Hadīth* literature primarily focuses on principles rather than prescriptive rules. The Prophetic teachings on financial matters are less numerous and more principle-based, while teachings on *Ibādah* are detailed and specific. For instance, the guidance for prayer is clearly outlined in narrations like “perform prayer as you see me” [Ṣaḥīḥ al-Bukhārī]. This difference perhaps reflects the intrinsic nature of *Mu‘āmalāt*, which, being permissible by default, requires only a framework and guiding principles, leaving people to operate freely with mutual consent within this framework, and according to market practice, customs, and trade practices. Conversely, worship, linked to eternal salvation and the Unseen, necessitates explicit divine guidance to navigate safely.

The *Fuqahā’* and classical scholars, such as Imam al-‘Aynī (d.855 AH) and others, have emphasised the importance of virtuous intentions in financial transactions. They suggest that while engaging in financial activities with altruistic and philanthropic intentions, individuals can elevate their transactions from merely being *Mubāh* (lawful) to *Mustahabb* (desirable). According to Imam al-‘Aynī, earning beyond one's needs can be considered *Mustahabb* if done with noble intentions like supporting relatives or assisting the poor. On the other hand, earning for purposes of enjoyment, beauty, and luxury, without any noble or evil intention, remains permissible (*Mubāh*) as long as the contracts involved are lawful. This perspective encourages people to strive for actions that are not just permissible but also recommended and pleasing to Almighty Allah.

In light of these teachings, both financiers and customers are encouraged to infuse their financial dealings with actions that align with the *Sunnah* or are considered *Mustahabb*. By doing so, they enhance the quality and impact of their transactions. The goal is not only to engage in trade but to strive for higher, more meaningful outcomes and eternal gains. This can be achieved by seeking the pleasure of Almighty Allah in our actions and adhering to Prophetic practices, thereby transcending the mere mechanics of trade.

2. The macro-objectives of Islamic Finance

Although the above is true at a micro level, and that individual parties are free to simply transact and finance in any *Halāl* way to fulfil their worldly needs, Islamic Finance has a societal and macro element to it. “Islamic Finance” today is a movement and an alternative system. It is not just

individual transactions per se, it has a macro element to it which is often cited and presented as *the* Islamic way. Given that the world is drowning in *Ribā* and debt, with the harms of these practices vividly clear as daylight, Muslim scholars, practitioners, and economists are all trying to find solutions to the problems the world is facing. Islamic Finance is working in a world which is heavily in debt and filled with *Ribā*, poverty, polarity, and unbridled, predatory financial capitalism. In early 2023, the global world debt-to-GDP was an insane \$300 trillion dollars. Thus, whilst Islamic Finance represents permissible transactions or merely *Halāl* alternatives at a micro level to fulfil consumer needs, at a macro level, it is *Da'wah* - a call to an economic framework and practice that are rooted in divine guidance that embed justice, fairness, and sustainability. This context is key in understanding why Islamic Finance practitioners are frustrated; they see economic oppression through *Ribā* and debt enslavement and want to emancipate people from all the consequences of this *Ribā* and debt enslavement.

To develop the correct, accurate and authentic positioning of Islamic Finance, it is important to anchor it back to its roots. At a macro level, Islamic Finance operates as a system and is a subset of the wider Islamic economic system. The Islamic economic system has goals, objectives, and ideals that it seeks to achieve in society. The goals and objectives of Islamic economics can only be realised when the subsets of Islamic economics operate to realise these goals as a whole. An Islamic economy is a sum of its parts. If Islamic Finance is a subset of a system, it cannot work in isolation of that system. It must respond and receive; it must exchange with that system. What is in Islamic Finance must transmit to the system, and at the same time, Islamic Finance must receive and be fed from that system. Otherwise, it cannot be part of the Islamic system.

Envision Islamic Finance as a constituent part of the grand system of an Islamic economy, much like a neuron operating within the vast neural network of the brain or a single computer engaging with the multitude of systems interconnected in the world of the internet. Just as the neuron and the computer engage in continual exchange of information within their networks, Islamic Finance too interacts with the larger system of Islamic economic principles and values, participating in an ongoing exchange. Islamic Finance cannot function independently from the broad framework of Islam. It is immersed in a dynamic interaction with the overarching Islamic ethos, in a relationship reminiscent of the constant transmission and reception of signals between neurons, or the unending data exchange between computers in a network.

Thus, the overall macro-objective of Islamic Finance stems from the goals and objectives of the Islamic economic system. Shaykh Ali al-Qurradāghī has expertly summarised the goals of the Islamic economic system as follows:

1. “Fulfilling the role of guardianship and empowering people on Earth to cultivate it and improve it in the interests of all humanity.

2. Achieving comprehensive development of human beings and society economically, socially, culturally, and intellectually.
3. Preserving and growing wealth through investment, circulating it through contracts, avoiding its waste, and adopting a balanced approach to consumption that avoids extravagance and stinginess.
4. Realising the purpose of money and ownership by fulfilling their social and cooperative roles within an Islamic system, and then the human community at large. Money belongs to Allah and humans are stewards over it. Therefore, they must fulfil what the Owner has obliged regarding spending and social solidarity” [Maqāṣid al-Shari‘ah fī al-Iqtisād].

It would not be an overstatement to suggest in simple terms that the entire Islamic Finance and Islamic economic system is there to eliminate *Ribā* in every sense of the word. That involves what currency is and how money is made, the mindsets of market participants, the dealings of people, their transactions and behaviour. *Ribā* is multi-faceted; it is a financial practice legally, but has a social, behavioural, and economical manifestation. If we look at the different linguistic uses of the word *Ribā* in the Quran, it is used in several meanings as follows:

- unproductive growth,
- an immediate increase,
- an artificial growth,
- a dominating and overpowering substance,
- a transitory and meaningless increase,
- overwhelming and artificial power.

It is precisely for these reasons that a *Ribā* system destabilises the economy, skews the balance of power artificially, weaponises money, and overwhelms the wealth and property of others. In fact, the *Hadīth* in Sunan Ibn Mājah states that the Prophet ﷺ said, “There are seventy three categories and types of *Ribā*.” This narration is authentic as reported by Haythamī (d.807 AH), al-‘Irāqī (d.806 AH) as mentioned by al-Munāwī (d.1031 AH) in Fayḍ al-Qadīr, and al-Hākim (d.405 AH) in his al-Mustadrak.

Current Context of the World and Islamic Finance

We are living in a particular context in history: global economic disparity. Let alone global economic disparity, there is economic polarity in many countries across the world. Income and wealth inequalities have been on the rise nearly everywhere since the 1980s, following a series of deregulation and liberalisation programs which took different forms in different countries. The divide between the rich and poor is increasing year-on-year. The poorest half of the global population (four billion people) barely owns any wealth at all, possessing just 2% of the total. In

contrast, the richest 10% of the global population own 76% of all wealth. On average, the poorest half of the population owns PPP €2,900 per adult, i.e. USD4,100 and the top 10% own €550,900 (or USD771,300) on average [The World Inequality Report 2022].

There is little coincidence that this inequality has been on the rise since the financialisation of the economy took shape. This shift was driven by the realisation that there was more profit to be made in the manipulation of money than in productive endeavours. In market-driven societies, capital naturally gravitates towards the most profitable ventures. By the late 20th century, financial shenanigans had become more lucrative than traditional industries.

At its core, financialisation refers to the increasing dominance of the financial sector in the overall economy. Over the past few decades, the financial sector has grown both in size and power, with its growth tripling in the last 40 years. However, financialisation isn't just about the growth of the financial sector; it also encompasses a shift in business models. Historically, banks played a straightforward role: they accepted deposits and lent them out to businesses. This system, as envisioned by economists like Adam Smith, was designed to support productive businesses, thereby fostering job creation and economic growth. However, recent data suggests a significant deviation from this model. Today, only 15% of the financial flows from major U.S. institutions are directed towards business investments. This shift underscores a fundamental change in the role of the financial system.

The transformation in the financial sector's priorities has been accompanied by a decline in regulatory oversight. This has led to a situation where the majority of the population has witnessed stagnation in real wages for over three decades. To maintain their standard of living, many have turned to accumulating debt, leading to periodic financial bubbles. The housing bubble, which resulted in an \$8 trillion loss, stands as a testament to the dangers of such practices.

The rise of financialisation has had a profound impact on businesses. With a focus on short-term gains and stock market performance, many companies have resorted to financial engineering to boost their stock prices. This has often come at the expense of long-term investments in research and development, hindering genuine innovation and growth. There has been increasing allocation of credit to areas like collateralised real estate, rather than sectors that directly contribute to productivity growth. This shift has been exacerbated by a decline in regulatory oversight, leading to financial bubbles, such as the housing bubble, which resulted in significant economic losses.

Housing markets across the world are increasingly being impacted by the phenomenon known as the "financialisation of housing". This refers to the treatment of homes as financial assets rather than places for people to live. Homeowners used to rarely think about the changing value of their home, but over the past few decades people began to move more often, and technology has made

mortgages cheaper to generate. Additionally online tools have made it much simpler to estimate current home values and so it became easier for owners, including individual homeowners, to access their home equity. In financial terms their asset got more liquid. These trends make housing a more easily traded and more easily financed asset.

Financialisation involves financial investment, often speculative, where money is being made through financial activity and lending, rather than making money through making things or through production. Financialisation has often manifested in the acquisition of rental housing properties by financial firms, and these are firms that will then treat that housing as an investment product. The financialisation of housing is more than who owns housing, it is also very much, and it's more than housing as a commodity. It is precisely the capacity of powerful investors to be able to speculate, to be able to surprise, but also then to be able to, for example, turn housing debt into something that is profitable.

Financialisation, while a complex and multifaceted phenomenon, has undeniable implications for the broader economy. The shift from a production-oriented economy to one driven by financial manoeuvres has introduced a range of challenges that need to be addressed. As we navigate the intricacies of modern finance, it is crucial to remember the fundamental purpose of the financial system: to support and foster genuine economic growth. Only by realigning our financial priorities can we hope to build a sustainable and prosperous future.

In the current global context, where economies are heavily burdened with *Ribā*, debt, and financialisation, there is an urgent need for Islamic Finance to play a transformative role at the macro level. Islamic Finance needs to proactively contribute to rectifying these global economic imbalances. It should aim to delineate a vision for the future that is not only sustainable but also equitable and inclusive for all communities. To achieve this, stakeholders in the field of Islamic Finance must strategically reposition themselves. They need to establish clear strategies that aspire to cultivate a global economy devoid of *Ribā*. This involves actively working towards diminishing the prevalent, detrimental debt levels, preventing the predatory financialisation of economies, and promoting an economic system that prioritises real economy production, sustainable development, and reduction of global wealth disparities. This approach is essential for creating a more balanced and fair economic landscape worldwide.

We must be balanced in our views and conversations, something that is often lacking in the Islamic Finance space. We are either overzealous or ill-educated. For instance, many would jump and say debt is prohibited or having debt is 'religiously disliked' and even discouraged. Or that Shari'ah prefers equity over debt. The truth is, there is no such precedent in the classical Islamic texts or Shari'ah sources. Debt itself is not prohibited; it is permissible to enter into debt contracts. However, debt cannot be recycled or traded. Islam does not prohibit debt; it recognises the fact that people

may face circumstances that necessitate borrowing or situations where a debt-financed product works better. However, it emphasises caution, responsibility, and most importantly, the intention and effort to repay the debt promptly. In the Islamic worldview, debt is not merely a financial issue but a matter involving ethics, morality, and social responsibility. While borrowing is not prohibited, there is a clear emphasis on the virtues of prompt repayment and the spiritual and ethical implications of living a debt-free life. There are types of debt that are prohibited, and debt has more controls, risks & warnings as follows:

1. The longest verse in the Quran, verse 2:282, addresses debt, offering the most comprehensive guidance on any financial matter within the Quran.
2. The Prophet ﷺ would seek refuge with Allah from the burden of overwhelming debt.
3. Emphasis on repayment is clear in Islamic teachings, with a *Hadīth* in al-Bazzār stating: "Whoever takes on a debt without the intention to repay it, is akin to a thief."
4. Debt's impact on human behaviour is acknowledged; a *Hadīth* in Ṣahīḥ al-Bukhārī notes that indebted individuals may resort to dishonesty and unreliable promises.
5. Debt is a serious obligation, even after death, as another *Hadīth* in Muslim highlights that martyrs are forgiven all sins except debt.

Despite the above, the Prophet ﷺ engaged in debt transactions [Ṣahīḥ al-Bukhārī]. It is also permissible to sell an asset on credit with a mark-up as expressly stated by Ibn ‘Abbās (Raḍi Allāhu anhumā) [Muṣannaf Ibn Abī Shaybah]. Most importantly, trading and selling debt to third parties is prohibited.

The *Fiqh* indicates that the choice of debt or equity is something that the Sharī‘ah has left to the counterparties to decide. Each has its own benefits and risks, and they change according to business, markets, circumstances, and preferences. In such things which are so fluid and context-dependent in financial transactions, Sharī‘ah doesn't typically stipulate a universal principle; Sharī‘ah leaves it to people and gives a framework.

Three types of debt are the real problem and must be avoided as per Sharī‘ah guidance:

1. Unmanageable and excessive debt
2. *Ribā*-based debt
3. Traded and recycled debt

We live in a debt-based system full of inequalities, and debt is only incentivised by *Ribā* in our system, hence there is much more resentment to debt. The global economy is heavily exposed to excessive debt, unmanageable debt, *Ribā* debt and recycled debt that keeps changing hands and passes through the veins of the economy.

Equity financing undoubtedly offers significant economic benefits. It serves as a financial cushion, with the burden of financial risks being absorbed by the assets rather than individuals. This approach can contribute to societal equality, as claims are linked to assets, not people. Equity also instils a sense of shared purpose among all stakeholders and shareholders, fostering alignment, unity, and collective effort towards common goals. Additionally, it provides companies with improved cash flow and financial flexibility, as it does not necessitate fixed repayments. In pure equity scenarios, there is no set maturity date, and investors share both profits and losses, reducing the likelihood of financial distress for companies with substantial equity.

However, despite these advantages, Sharī‘ah does not exhibit a preference for equity over debt. Debt arises from specific transactions and exchanges, while equity is derived from investments. Both approaches are viable for creating financing structures, depending on the business context and mutual agreement of the parties involved. While equity is not inherently considered 'more religious' in Sharī‘ah, debt financing comes with its own set of warnings and requires adherence to specific Islamic guidelines and controls, similar to the regulations governing equity financing.

Islamic Finance is not just about getting rich. Islamic Finance is not just about finding *Halāl* alternatives to anything and everything. Islamic Finance is not just about serving ultra-high net worth individuals, it really is not.

On one hand, Islamic Finance acts as a conduit, disseminating Islamic principles, values, and ethical norms into the realm of economic transactions and monetary matters. It imparts its unique Islamic characteristics to the world of finance, permeating it with notions of fairness, justice, and shared prosperity. On the other hand, Islamic Finance is continuously being nourished and shaped by the larger system of Islam. It draws its strength, adaptability, and resilience from the timeless wisdom of Islamic teachings. It receives direction from the holistic values of Islam, which helps Islamic Finance adapt and evolve in response to the ever-changing socio-economic landscapes.

In this two-way exchange, Islamic Finance not only contributes to the realisation of the economic objectives of Islam but also evolves through its interaction with the broader system of Islamic teachings. This reciprocating dialogue ensures Islamic Finance remains a vibrant, resilient, and relevant tool for translating Islamic values into practical economic realities. Just like a river that channels water in the right direction, Islamic Finance serves as a conduit for resources to flow in a manner that promotes equitable wealth distribution, poverty reduction, and overall community prosperity.

Concluding Thoughts

Business and finance from an Islamic perspective are there to fulfil our needs so that we can focus and work on matters that are crucial and important. They support our growth and journey to the Hereafter. The purpose of business and finance in Islam is not the business and finance in and of itself. It's not to solely and ultimately become wealthier. Of course, being wealthier and growing one's wealth with the mindset of being more resourceful, efficient, and beneficial overall is praiseworthy.

Islamic Finance is not an isolated concept, but rather a subset of a broader, comprehensive Islamic worldview that encompasses every facet of a Muslim's life. It brings to life the principles of the Quran and *Sunnah*, forming a balanced socio-economic system designed to create fairness and equilibrium within society. It serves as a bridge, connecting the temporal needs of our earthly existence with the transcendent objectives of our faith. It is the practical manifestation of the Islamic worldview within the financial sphere, marrying the temporal needs of human existence with the eternal abode of and eternal existence of man in the Hereafter.

It is the practical interpretation of the Quranic verse 28:77 within the realm of finance, that is:

"Seek the life to come by means of what Allah has granted you, but do not neglect your rightful share in this world. Do good to others as Allah has done good to you. Do not seek to spread corruption in the land, for Allah does not love those who do this" [Quran 28:77].

Whilst the Quranic verse 28:77 instructs individuals what they should do with the resources they have; it gives us an insight into the intentions and aspirations with which people should be seeking additional resources through Islamic financing. From the verse of the Quran, we can deduce that money movement, business and finance should all ultimately feed into the five core objectives mentioned in the verse, that are:

1. To ultimately help us be more virtuous and attain a favourable position in the Hereafter.
2. To facilitate the movement of capital with the correct vision and belief, that all capital ultimately comes from Allah.
3. To fulfil our worldly needs and sustain us in this temporary existence through the exchange of Halal goods, assets, and services.
4. To have excellence and have a positive impact in the world with the resources that we have. That is the gratitude for wealth that we have acquired.
5. To ensure that there is a financial framework and system that allows people to exchange, finance and move capital around in a manner that does not spread corruption, neither spiritually, socially, morally, physically, economically, environmentally, and societally.

Chapter 8: Revolutionary Attempts in Islamic Finance

Chapter Summary

- The term 'Shari'ah Based' is used to refer to more ethical Islamic Finance with better alignment to *Maqāṣid al-Shari'ah* but lacks clarity on what this means and how ideas align with textual sources.
- *Maqāṣid al-Shari'ah* refers to higher objectives of Shari'ah which some invoke to override *Fiqh* principles based on personal interpretations, instead of recognising *Maqāṣid* as outcomes of *Fiqh*.
- 'Spirit of the law' versus 'letter of the law' is a false dichotomy projecting flaws onto *Fiqh*, which already encapsulates rationale, goals, and a philosophy of the law.
- In Shari'ah, substance follows form – the terminology and conditions in a contract intrinsically shape its nature, ensuring transparency over covert agendas.
- The claim that Islamic Finance is only '*Halāl*' but not '*Tayyib*' wrongly frames *Tayyib* as 'more' *Halāl*, when classical Islamic literature considers *Tayyib* as either a synonym of *Halāl* or that a consumable has no impurity on the surface, or that it is not encumbered.
- Good intentions motivate using such terms, but they often lack grounding in classical legacy and are vulnerable to introducing foreign ideas or biases into Shari'ah.
- Overemphasis on these terms risks overlooking the comprehensive nature of *Fiqh*, which already encompasses higher objectives, ethics and flexibility when properly understood and practiced.
- Well-meaning reform calls should originate from within *Fiqh* boundary conditions through '*Ijtihād*' of qualified jurists, instead of imposing external ideological assumptions.
- Reform requires recognising complexity in applying divine principles to unprecedented modern contexts, beyond superficial judgments or borrowed frameworks divorced from our intellectual heritage.
- Success lies in instilling the Prophetic embodiment of virtue in all spheres, aligning to objectives like justice and avoidance of harm, anchored in integrity, compassion and wisdom – the true 'spirit'.

Introduction

In this chapter, we explore various methods and ideas that have been proposed to enhance Islamic Finance. These approaches, brought forth by different individuals, are mostly well-intentioned and have been positively received. However, concerns arise when these perspectives are not developed from authentic Sharī‘ah sources, or they override normative Sharī‘ah understanding held for centuries since the earliest generations, or they become dismissive and negate the sincere efforts of others within the industry. In fact, some attempts simply ‘*Halālify*’ or Islamicise current trends and hashtags.

Crucially, when frameworks lacking a solid foundation in Sharī‘ah adopt superficial terminology—often merely Arabic terms combined with contemporary trends and popular hashtags—they risk overshadowing authentic Sharī‘ah principles. This represents a significant concern, especially when these frameworks claim to be deeply rooted in Sharī‘ah and *Fiqh*. Merely adopting terms like *Tayyib*, and then imposing conventional trends, personal interpretations to assert that this aligns with Islamic teachings is misleading. Such practices demonstrate a lack of intellectual honesty and scholarly rigor, distorting the true essence of Sharī‘ah guidance. Rather, we should be mining our own intellectual heritage, searching through the commentaries of the Quran, commentaries of the Prophetic narrations, and the *Fiqh* manuals to formulate a holistic understanding of what *Tayyib* means, and what it does not mean. This is the authentic method to produce guidance that is truly meaningful and embedded in the Sharī‘ah.

It is critical to differentiate between legitimate disagreements from a Sharī‘ah standpoint, known as *Ikhtilāf*, and attitudes of intolerance or unwarranted opposition, referred to as *Khilāf*. The line is crossed when disagreements transform from healthy, constructive discourse into a realm of intolerance and unjust criticism, undermining the collaborative spirit essential for the growth and integrity of Islamic Finance.

The five revolutionary attempts that we will explore are the following:

1. Sharī‘ah Based
2. *Maqāṣid al-Sharī‘ah*
3. Spirit of the law vs the letter of the law
4. Form and substance
5. Islamic Finance is *Halāl* but not *Tayyib*

Classical scholars narrate a maxim of ‘*Lā Mušāḥḥah Fī al-‘Istilāh*’, that there is no contention over the use of terminologies and terms, rather the essence is of importance that it aligns with Sharī‘ah principles. Hence, the above terms, whilst not a problem in and of themselves, the concern arises if

and when any framework, interpretation or methodology is not rooted in nor deduced from Sharī‘ah and the *Fiqh*. This is when they superimpose foreign ideas onto the *Fiqh*, and into the Sharī‘ah discourse. It is not enough for it to be a word from the Quran or a Prophetic narration; it must be consistent with the entirety of Sharī‘ah guidance and be in harmony with the *Fiqh*.

1. Sharī‘ah Based instead of Sharī‘ah Compliance

There is a call in the industry to move to Sharī‘ah-based products. Clear explanations on what ‘Sharī‘ah based’ means has been challenging to find. Ryan Calder writes “One of the earliest recorded usages was by Iqbal Khan in a 2006 lecture. Khan equated a Sharī‘ah-based future for Islamic Finance with a more ethical one: It is critical that the industry redress the balance in the letter and spirit of the law to maintain its authenticity – shifting from its accommodative, Sharī‘ah-compliant setup to a spirited, Sharī‘ah-based industry, which encapsulates a change in mindset as well as product offering, away from indebtedness products, to savings and investment solutions” [Sharī‘ah-compliant or Sharī‘ah-based? The Changing Ethical Discourse of Islamic Finance].

In the same article published by the Arab Law Quarterly, it is suggested that Sharī‘ah based has been in ascendance to reflect profit-and-loss sharing as opposed to debt financing. Ryan Calder further states, “my interviews throughout the Islamic Finance industry, as well as usages in the Islamic-finance literature, suggest that definitions of Sharī‘ah-based finance refer to at least one of three separate principles: separation, authenticity, or welfare.” We will address each one below.

1. In regard to separation, he writes that ‘practitioners use the word Sharī‘ah based to refer to separate product development, separate pricing, the segregation of funds, or sectoral separation’. The use of Sharī‘ah based in this context is absolutely acceptable and reasonable, as it clearly makes a distinction of greater Sharī‘ah controls being implemented and greater governance.
2. As far as authenticity is concerned, some practitioners use the term Sharī‘ah based to refer to a financial instrument if it is used in the same or similar manner it was used in earlier times, such as in the time of the Prophet ﷺ or medieval periods when a range of nominate Islamic contracts were used for long-distance trade. This particular usage of Sharī‘ah based seems weak. Almost all financing arrangements are modifications of the nominate Islamic contracts, and do not operate how the classical nominate contracts operated. They were merely trade contracts. The only place you will find the nominate contracts being used as they were practiced in earlier times is in the retail space where businesses trade.

The nature of financing in the era of the Prophet ﷺ is a topic that is seldom discussed. In those times, the concept and practice of 'financing' as we know it today were virtually

non-existent. This isn't to suggest that current Islamic financing methods are invalid or incorrect, but they are certainly different from the era of the Prophet ﷺ. Traditionally, business and trade were the primary economic activities. If someone needed capital, they would either obtain an interest-free loan or engage in a partnership such as Mudarabah or Musharakah, where profits were shared. Notably, financiers in Mudarabah were akin to modern private equity investors rather than bankers. The focus was on real trade and business, not solely financing. In addition to the above modes of getting capital, since borrowers were in reality needy, there were many wealthy Muslims willing and happy to give a *Qard*, *Sadaqah* and *Zakat*. The system operated to support those in need, and not to make money from them. Rather, money was made *with* them. That is what participatory finance is all about.

Interest-free lending (*Qard Hasan*) was prevalent for several reasons; Since gold was the currency, holding excess gold posed safety and security risks. In the absence of secure centralised depositing facilities, redistributing this excess gold by lending it to others was a practical choice. Lending gold provided a sense of security and guarantee for its return, thus protecting the lender's capital. Unlike keeping it, which risked total loss if misplaced or stolen, lending it out established a guaranteed claim on the equivalent amount. In addition, liquidity risk and default risk were very low, as the entire community was ever ready to give loans; it was a liquid lending market. If a lender demanded payment, the borrower could easily borrow on an interest-free basis from someone else. Credit checks were not necessary, as they were people of high morals and values, who honoured their word and protected their dignity. Creditworthiness was based on personal integrity and social standing rather than formal credit checks. They were people of dignity, and in the time of the Prophet ﷺ and his companions, lying and not fulfilling one's word was a great shame and embarrassment. One's entire existence, identity, and social standing rested on uprightness, fulfilling trusts, and keeping one's word.

Furthermore, the use of gold as a medium of exchange, being non-inflationary, supported this system. People did not worry about the devaluation of their wealth through lending, as the value of gold remained stable. Consequently, there was less urgency to protect the real value of their capital, as is often the case today. Considering this, the comparison of contemporary Sharī'ah-compliant financing with the practices of earlier times may not accurately reflect the nuances and context of historical financial transactions. Thus, the description of 'Sharī'ah based' meaning to resemble earlier times does not seem accurate.

Some have suggested that Sharī‘ah based refers to being authentically linked to the real economy. The real economy concerns the production, purchase, and flow of goods and services (like oil, bread, and labour) within an economy. It is contrasted with the financial economy, which concerns the aspects of the economy that deal purely in transactions of money and other financial assets, which represent ownership or claims to ownership of real sector goods and services. This too is debatable as Islamic Finance revolves around assets and service. Islamic Finance is never direct money-for-money transactions. Further, financing activities are provided to businesses involved in production of goods and services, or people wanting to buy real assets and properties. Hence, using the term Sharī‘ah based for this is not clear nor meaningful.

3. The third usage of Sharī‘ah based is in the idea of welfare, that Sharī‘ah compliant is deemed to only be concerned with rule-following, and Sharī‘ah based is rooted more in *Maqāṣid al-Shari‘ah*. We shall discuss the *Maqāṣid al-Shari‘ah* separately below.

Others have also voiced a similar understanding of Sharī‘ah based, that it refers to the incorporation of the *Maqāṣid al-Shari‘ah*, and that the term ‘Sharī‘ah compliant’ is void of the *Maqāṣid al-Shari‘ah*. In many such circumstances, the examples of Musharakah and Mudarabah are cited as being Sharī‘ah based due to profit-and-loss sharing. The idea that Sharī‘ah inherently promotes risk-sharing is challenging to find from any authoritative source from the classical sources, as discussed previously. The Prophet ﷺ said, “The proviso of a loan combined with a sale is not permitted, nor two outcomes and open-ended stipulations relating to one transaction, nor the profit arising from something that you do not bear the risk of, and nor is the sale valid of something that is not in your possession” [Sunan Abū Dāwūd]. The principle in Sharī‘ah is clear, that you must *bear* risk in order to gain. However, *sharing* risk is not religiously virtuous. It may be commercially beneficial or helpful in instances, but that is a commercial reason. It may even have economic benefits, but that is an economic decision that the Sharī‘ah has left to the people to decide. To make this point unmistakably clear, consider the following: the most common transaction in Islamic Finance and even classical *Mu‘āmalāt* is sale. Buying and selling form the bulk of transactions that are happening across the world. In a sale, there is no risk *sharing*. Rather, it involves each party *bearing* risk at the appropriate time to earn their reward. The buyer is not encouraged to bear the risk of the asset whilst it is with the seller, and nor is the seller encouraged to bear the risk of the payment whilst it is with the buyer. Each party bears their own risk, and the risk of the asset is transferred upon delivery. Thus, when the most common transaction in Islamic Finance and in the world does not involve risk sharing, risk *sharing* cannot be an inherent Sharī‘ah requirement. Rather, risk *bearing* is an inherent requirement.

At present, and despite searching hundreds of books for over ten years, I have not come across any statement in the authoritative texts of the Sharī‘ah to categorically and unequivocally state that risk

sharing is better and more Islamic or more virtuous from a Shari‘ah perspective. Instead, what we find are several principles on risk and how risk entitles one to reward, regardless of the form or structure. You can only be entitled to a return or profit when you have a liability and responsibility due to:

1. Committing capital and putting capital at risk.
2. Undertaking labour and effort.
3. Taking liability and responsibility to work (as in the case of service-based partnership) [Badā’i‘ al-Şanā’i‘].

Any gain that is achieved without having capital at risk is a form of *Ribā*. To understand what *Ribā* does to a transaction, it is helpful to conceptualise a transaction as a scale; a scale requires balance, and balance between two pans of a scale represents justice. The concept of balance is crucial; when one party gains without bearing any risk, it leads to an imbalance in the scale and, consequently, oppression. This is because, fundamentally, all parties in a transaction are considered equal, as all humans are equal. What one party places in one pan of the scale has no extra or extrinsic value. Money cannot embed time value to give it extra weight in the scale, nor can the lender demand additional repayment in the other side of the scale simply on account of giving money to a counterparty in need. The need does not warrant extra weight on the scale. Any gain without the underlying accountability, risk, potential to lose something is a form of *Ribā*. The gain is unjustified as the counterparty did not contribute or commit anything.

The principle of justice and balance underpins all exchanges, ensuring order and fairness in society at both micro and macro levels. Allowing one party to gain disproportionately without risk would lead to chaos and unfair advantage, effectively empowering one party at the expense of the other. Such a scenario would result in a form of enslavement, where one party bears a greater burden than the other, serving the interests of the risk-free partner. This goes against the core principles of the Islamic guidance of equitable transactions.

The use of *Shari‘ah* based in the industry is driven by good intentions and with a genuine concern to improve the overall performance of Islamic Finance on multiple metrics and multiple fronts, and not just ROI (Return on Investment) and AUM (Assets Under Management). It is praiseworthy for many of our pioneers and seniors to call for reviews and reforms. Islamic Finance is a live project and prototype; what we tend to forget is that in all of history, we have not been in a situation where the global financial system operates the way it does, the money that we use is inherently debt-based, and the system that is at play is capitalism. Islamic Finance is still very much in its infancy compared to conventional finance, and it needs continuous iteration, review, and development. It is going through constant review, reform, and rethinking. At the same time, what we cannot fall into is downgrading the entire Islamic Finance industry and claim it is a sham or scam. If it is following

Shari‘ah principles, then the transactions are *Mubāh*, permissible and lawful. Yes, it may not have any impact whatsoever, it may just be to facilitate wealth generation without any social impact, but that too, if it is done in a Shari‘ah compliant way, is *Halāl* and lawful. It cannot be deemed disliked, discouraged, or problematic, unless the very transaction incorporates something that is *Makrūh* (disliked). *Makrūh* incorporates unethical and harmful practices as recognised by Shari‘ah. Whilst we all want improvements at various levels, it should not come at the expense of erroneously passing unqualified *Fatwā* and opinions. The well-respected Professor Dr. Engku Rabiah writes:

“Whenever I read or listen to discourses on the topic of “Shari‘ah-Compliant” vis-à-vis “Shari‘ah-based” Islamic Finance, the first thing that comes knocking on my mind is; “is there a need for such differentiation between the two?” If something is compliant to the Shari‘ah, should it not be considered as Shari‘ah-based too? Is not Shari‘ah compliance itself based on Shari‘ah precepts and injunctions? Is it possible to be Shari‘ah-compliant without being Shari‘ah-based; or vice versa? Thus, to differentiate the two appears to my mind, quite paradoxical.

What is meant by Shari‘ah compliance? In general, Shari‘ah compliance means adherence and conformity with the Shari‘ah principles. In the context of Islamic financial transactions, this means that all the financial transactions must comply and conform to Islamic law and rules of commercial transactions (*Aḥkām Fiqh al-Mu‘āmalāt*). These law and rules on the other hand are derived and deduced from the primary sources of the Shari‘ah (that are Divine in origin), i.e., injunctions of the Quran and the directives and practices of the Prophet ﷺ, normally referred to as the *Sunnah*; as well as the secondary sources of Shari‘ah that are based on human interpretation and reasoning, whether at the strongest level of *Ijmā‘* (consensus of all jurists), or in the form of *Qiyās*, *Istihsān*, *Istiṣḥāb*, *Istiṣlāh* etc. Thus, it is submitted that Shari‘ah compliance originates from a Shari‘ah base or a Shari‘ah framework of principles, injunctions, directives, rules, and prohibitions. It follows that if an act is Shari‘ah compliant, it should be considered as Shari‘ah based as well. If Shari‘ah compliance is to be differentiated from Shari‘ah based, what is the basis of such differentiation?

Perhaps, a more relevant issue to be addressed is a re-examination of whether we really achieve Shari‘ah compliance in the real context of specific injunctions and its application to a specific act in question. In this regard, the issue of understanding the Shari‘ah injunctions and directives becomes very pertinent because a correct understanding of the Shari‘ah injunctions will lead to the ability to properly comply with the said injunctions. On the other hand, a wrong or inaccurate understanding of the Shari‘ah injunctions will result in an inability to properly comply with the injunctions, or in other words, it can result in non-compliance.

In relation to this, scholars have discussed about understanding the meanings and intents of the Shari‘ah injunctions. This can come within the domain of discourses on wisdom (*Hikmah*), cause (*Sabab*), rational (*illah*), and intents (*Maqāṣid*) of the law and the Law-Giver in imposing the

Shari‘ah injunctions on us. In this regard, Imam al-Shātibī (d.790 AH) said that: “The original status in dealings is consideration of meanings”. He further said that: “Everyone who goes after Shari‘ah injunctions (*Takālif*) for other than what they are meant for, he has contradicted the Shari‘ah, and everyone who contradicts it (the Shari‘ah), then, his act that is in contradiction is invalid (*Bātil*). And everyone who goes after injunctions that have not been prescribed by the Shari‘ah for him, then his act is invalid. The fact that an act that is in contradiction (with the Shari‘ah) is invalid is clear-cut; verily all Shari‘ah injunctions (*al-Mashrū‘at*) are ordained to realise good (*Maṣāliḥ*) and prevent evil (*Mafāsid*), if these are not complied with, it is not possible for those actions that are non-compliant to neither realise good nor prevent evil” [Shari‘ah-compliant to Shari‘ah-based financial innovation].

The concept of something being 'Shari‘ah based' raises critical questions regarding its depth and foundational grounding. The central issue lies in understanding the criteria and processes that distinguish something as being 'Shari‘ah based' rather than 'Shari‘ah compliant'. This distinction is vital because it delves into the core of Islamic jurisprudence: who decides what aligns with Shari‘ah, what criteria are used, how these decisions are made, and why certain practices are deemed Shari‘ah based? This has not been addressed in a satisfactory manner at all.

A significant concern is that the label 'Shari‘ah based' might lead to the incorporation of ideas and practices that do not originate from or align with the authentic teachings of Shari‘ah. When such concepts gain popularity or become trending, they can inadvertently shape the industry's direction and influence stakeholders' actions. This influence is particularly problematic if it steers practices away from the true principles of Shari‘ah.

Furthermore, terms that lack a firm anchoring in traditional Islamic jurisprudence can become empty vessels, susceptible to being filled with foreign or non-Islamic ideas, thereby diluting or misrepresenting the true essence of Shari‘ah guidance. While the intentions behind promoting 'Shari‘ah based' concepts might be commendable, the term itself appears to lack the necessary depth and rigorous connection to the established principles of Shari‘ah. Such a superficial approach risks oversimplifying the complex and nuanced nature of Shari‘ah and its application in various aspects of life, including finance, social justice, and personal conduct.

2. *Maqāṣid al-Shari‘ah*

The term '*Maqāṣid*' in Arabic is plural to the word '*maqṣid*' which refers to a purpose, objective, principle, intent, or end. *Maqāṣid al-Shari‘ah* are translated as the Higher Objectives of Shari‘ah. They are typically used to refer to the overarching intents and goals of the Lawgiver (Allah) in areas and circumstances of legislation.

Perhaps the oldest treatise that has the usage of the term “*Maqāṣid al-Shari‘ah*” in *Uṣūl al-Fiqh* texts is the book of Imam al-Juwainī (d.438 AH) named “*Al-Burhān fī Uṣūl al-Fiqh*” followed by Imam al-Ghazālī (d.505 AH), al-Rāzī (d.606 AH) and al-Āmidī (d.631 AH). Then came Imam ‘Izz al-Dīn Ibn al-Salām (d.660 AH), and of course al-Shāṭibī (d.790 AH), who contributed greatly to the evolution of the main topics and discussion of *Maqāṣid al-Shari‘ah*.

A great number of scholars have written books illuminating the benefits (*al-maṣālih*) of the rulings of the Shari‘ah and its objectives (*al-maqāṣid*). Their purpose was not to derive the rulings solely from these benefits and objectives without consideration of the primary textual evidence of the Shari‘ah. Rather, their purpose was to illuminate the benefits from the rulings derived from the primary texts, such that it becomes clear that the Shari‘ah did not ordain a ruling except that behind it was a benefit for servants in this world and the next. The Law of Allah determines whether a matter is a benefit or a harm. Thus, an apparent benefit, which goes against one of the primary texts, is not truly a benefit. Rather, it is only a result of personal desire, whose obedience the Shari‘ah was sent to eliminate. Therefore, *Maqāṣid al-Shari‘ah* from the classical sense is not a source of evidence, it is just an expression of outcomes.

Mufti Muhammad Taqi Uthmani writes regarding the *Maqāṣid al-Shari‘ah*:

“In our times, some people have arose who cling to the words “*Maqāṣid al-Shari‘ah*” intending to place it before the primary Islamic texts under the pretence that the goal of the rulings derived from these sources is the establishment of some benefits and the fulfilment of some objectives. When these benefits and objectives are apparently lost by acting upon the outward meaning of the texts, then we are commanded to follow these benefits and objectives not to follow the outward meaning. *who decides these objectives and who sets the limits in which these objectives are employed? If we entrust this decision to the intellect alone, then the Shari‘ah will fall into disarray.* Indeed, this type of rationalisation will only lead to the destruction of the entire Shari‘ah and the removal of religious obligations based on assumed and imagined objectives and benefits” [‘*Uṣūl al-‘Iftā wa ‘Ādābuhu*].

The issue that potentially arises with using the *Maqāṣid al-Shari‘ah* is not in the development of frameworks, but to supersede and override established *Fiqh* principles. Alarmingly, some individuals, driven by their erroneous interpretation of the *Maqāṣid al-Shari‘ah*, are even dismissing the relevance of *Fiqh* altogether. It's crucial to recognise that *Fiqh* serves as a direct link to the Quran and Sunnah, effectively codifying their principles. The various schools of *Fiqh* have their roots in the understandings and teachings of the *Sahābah*, who directly studied, observed, and captured all the guidance from the Prophet ﷺ. The evolution of the schools of *Fiqh* is closely tied to the different centres of knowledge that emerged during the era of the *Sahābah*. The *Sahābah* dispersed and settled in various cities and regions, spreading and teaching Islam to the people. This naturally established centres of knowledge wherever they went.

For instance, the Ḥanafī *Fiqh*, attributed to Imam Abū Ḥanīfah (d.150 AH) and his students, developed in Kufa. This school draws from the *Fiqh* and knowledge of companions like ‘Abdullah ‘Ibn Mas‘ūd, ‘Alī, ‘Ammār ‘Ibn Yāsir, Sa‘d ‘Ibn ‘Abī Waqqās, among others, may Allah be pleased with them all. It’s noted by historians that about 1,500 *Šahābah* had settled in Kufa. This knowledge was passed down generationally, with Imam Abū Ḥanīfah and his circle tracing their scholarly lineage directly back to these *Šahābah*.

Similarly, the Mālikī school, led by Imam Mālik, known as the Imam of *Dār al-Hijrah*, is deeply rooted in the *Fiqh* of the numerous companions who resided in Madinah. This school reflects the knowledge of figures such as Sayyidah ‘Āishah, Zayd ‘Ibn Thābit, ‘Abdullah Ibn ‘Umar, and others. Imam Mālik acquired his knowledge from the students, associates, and descendants of these *Šahābah* that resided in Madinah.

The Shāfi‘ī school, named after Imam al-Shāfi‘ī, benefited from multiple centres of knowledge. Raised in Makkah and having studied there under several notable scholars, including Muslim ibn Khālid, Imam al-Shāfi‘ī also learned from Imam Mālik in Madinah and from Imam Muḥammad al-Ḥasan al-Shaybānī in Iraq. Makkah, as a hub of Islamic scholarship, hosted companions like ‘Abdullah ‘Ibn ‘Abbās and ‘Abdullah ‘Ibn al-Zubayr, whose *Fiqh* reached Imam al-Shāfi‘ī through various chains. He spent over a decade studying in Makkah, absorbing this wealth of knowledge.

Furthermore, the Ḥanbalī school, linked to Imam Aḥmad, also connects back to the *Fiqh* of the *Šahābah*, with Imam Aḥmad himself being a student of Imam al-Shāfi‘ī, Imam ‘Abū Yūsuf, and many others.

Therefore, while the *Maqāṣid* framework is intended to guide Muslims towards higher objectives in alignment with Sharī‘ah, the problem arises when individual assumptions and interpretations are incorrectly incorporated within the *Maqāṣid* discourse, thereafter, imposed on the entire *Fiqh* tradition, and then presented as the enlightened way. In reality, *Fiqh* is ex-ante, and the *Maqāṣid* are ex-post; *Maqāṣid* are there to understand, measure, and appreciate the applications of *Fiqh*. The *Maqāṣid al-Sharī‘ah* are the consequences and results of proper *Fiqh* application, and not the method to make Sharī‘ah rulings and principles. To truly understand the *Maqāṣid al-Sharī‘ah*, it requires a deep engagement with Sharī‘ah, studying classical texts of *Fiqh*, the *Ta‘līl* (legal underpinnings and effective causes of rulings), arguments and explanations of the jurists of the rulings of Sharī‘ah. This ensures that the application of *Maqāṣid* is grounded in the rich and nuanced tradition of Sharī‘ah, rather than being based on contemporary trends, the current hype, and pressure from external parties.

3. Spirit of the law vs letter of the law

Another issue that is often raised is that Islamic Finance follows the letter of the law and not the spirit of the law. Whilst the intent of the one articulating such comments is genuinely praiseworthy, this particular generalisation and framing has several objections. The terms “letter” and “spirit” have been juxtaposed for centuries, but their origins are not clear. One possible source is the biblical distinction between the letter and the spirit of God’s law. The 1st century letter of Saint Paul to the Corinthians (specifically 2 Corinthians 3:6) refers to the spirit and letter of the law [Note on the Letter and Spirit in the New Testament]. Though it is not quoted directly, the principle is applied using the words “spirit” and “letter” in context with the legalistic view of the Hebrew Bible. Paul argues that Christians are not bound by the literal interpretation of the Mosaic law, but by the spirit of Christ’s teachings. He writes: “He has made us competent as ministers of a new covenant—not of the letter but of the Spirit; for the letter kills, but the Spirit gives life” [2 Corinthians 3:4-6].

Perhaps what people intend by this juxtaposing is that the letter of the law and the spirit of the law are two possible ways to read rules, or laws. To obey the letter of the law is to follow the literal reading of the words of the law, whereas following the spirit of the law means enacting the intent behind the law. The problem with this juxtaposition is that what does the letter of law even mean and what does the spirit of the law mean in relation to Sharī‘ah? People who make such claims often leave it to the audience to define such terms. Who has decided the spirit? What is the spirit? Is our understanding of the ‘spirit’ what the Sharī‘ah genuinely conveys? Is our perception of the ‘spirit’ aligned with what the Sharī‘ah genuinely conveys? Or are we superimposing our own interpretations onto the Sharī‘ah? Where do we even study the ‘spirit’ if it is not in writing?

If it is the spirit *of the law* and letter *of the law*, how can the spirit and letter contradict each other? Why would the letter tell you something whereas the intent is something else? Why did the letter of the law not be the spirit in the first place? Would it not have been easier and more enriching for there to be only the spirit of the law in writing for us all to follow if we go with this logic? Does that mean the law is ambiguous? Is the law revealed by Allah incomplete or has hidden elements? Never! The absurdity of this logic becomes clearer the more you think about it. There is no parallel code or parallel guidance called the ‘spirit’ of Sharī‘ah. This dichotomy of letter vs spirit has several flaws:

a. Lack of Tangibility

The term "spirit of the law" suggests a nebulous, abstract essence that is not clearly defined. How can one follow or enforce something that is inherently intangible and subjective? By contrast, the "letter of the law" is written, specific, and, therefore, something concrete to follow.

b. No Official Documentation

Fiqh is written with precision and detail to ensure clarity and reduce ambiguity. When we talk about the "spirit of the law," where is it documented? If it's not in the written law, then on what grounds can one base this supposed "spirit"?

c. Opens Door to Subjectivity

If the spirit of the law is left to individual interpretation, it paves the way for a myriad of understandings. This can result in inconsistent applications, which in turn can undermine the very purpose of having *Fiqh* — to ensure order, predictability, and fairness.

d. Potential for Abuse

When you lean on the "spirit" to make decisions, it can potentially be used as a tool for justifying actions that might otherwise be seen as going against the *Fiqh*. This can be manipulated very quickly to erroneously support incorrect actions.

e. Erodes the Principle of Legal Certainty

One of the bedrocks of any legal system is the principle of legal certainty. *Fiqh* gives you certainty in how to perform and execute transactions. Individuals should be able to understand what is expected of them. If the emphasis shifts from the clear wording of the law to its supposed "spirit," it can undermine this certainty.

f. Undefined Origin and Genesis

Who determines the "spirit" of the law? Is it the intention of the Lawgiver? The perceived intention by academics and scholars? Or is it an evolving understanding based on trends? The ambiguity here makes it a problematic benchmark.

g. Creates an Unnecessary Dichotomy

The division between the letter and spirit of the law suggests that *Fiqh* is inherently lacking or insufficient. This is perhaps the greatest objection against this dichotomy. Anybody who has studied the *Fiqh* deeply and properly will understand how the *Fiqh* addresses the rationale and wisdom of the law. It is already in the *Fiqh*!

h. Cultural and Temporal Fluidity

The "spirit" of the law might be seen as reflecting the values and intentions of a given society at a particular time. As societies evolve, so do their values. This means that the "spirit" can change, which again brings us back to the problem of inconsistency and unpredictability.

The debate over the "letter versus the spirit" of the law is deeply rooted in Western legal tradition, particularly in the context of biblical interpretation. When examining *Fiqh*, it's crucial to recognise that the framework of understanding is fundamentally different. Here's why the dichotomy of "letter vs. spirit" is not inherent in the Islamic legal tradition:

a. Unified Source of Law and Morality

In Islam, both law and 'spirit' or morals come from the same Divine source: the Quran and the *Sunnah*. The *Fiqh* is just a codification of this into a clear, actionable, coherent, and consistent framework. This intertwining of law and morality makes it less likely to see a distinct separation between the "letter" and the "spirit" of the law.

b. The *Fiqh* has purpose

The *Fiqh* is not just a set of rules, but it's underlined by underpinning rationale and goals, what we call in *Fiqh* nomenclature '*ilal*' and *Ma'anī*. These guide the interpretation and application of specific laws, ensuring that both the "letter" and "spirit" are intrinsically aligned. Hence, there is no distinct and independent source of the "spirit". However, this engagement is done by the *Fuqahā'* and jurists, and not by any random individual.

c. *Ijtihād*

The classical jurists as part of their *Fiqh* enterprises and projects engaged in a rich tradition of *Ijtihād*, where the earliest scholars of this nation engaged in deep reasoning, exploration and interaction with the Quran and *Sunnah* to interpret and apply the Divine guidance in changing contexts. This dynamic process naturally integrated the underlying intentions and principles of the law, ensuring that its "spirit" is incorporated into the "letter".

d. Comprehensive Way of Life

Islam is not merely a set of rituals or legal prescriptions but a comprehensive way of life. The guidance it offers covers both external actions and internal states, making the dichotomy between "letter" and "spirit" less pronounced.

It is incorrect to equate the *Maqāṣid al-Shari‘ah* as the “spirit” of the law, and then use that to undermine the *Fiqh*. The *Maqāṣid*, as we have discussed, is simply the outcomes of practicing *Fiqh* and what practicing the *Fiqh* achieves!

Hence, whilst many practitioners invoke the letter of the law and spirit of the law with good faith, they often overlook the above reality. Perhaps what they intend is moral values, but the term spirit is incorrect. Perhaps they seek higher and more noble performance from the industry and stakeholders, than merely profit maximisation. We do have a framework for this, which is captured in the Quran and *Sunnah*, and the *Fiqh*.

Where a person is cutting corners or manipulating the law, it is the law itself which guides to this manipulation and problematic stances. There is no secondary or counter source called ‘the spirit’ which regulates the *Fiqh*. The *Fiqh* regulates all practice. When practice is done wrongly or is manipulated, the *Fiqh* itself will tell you that what you are doing is disliked (*Makrūh Tanzīh*), severely disliked (*Makrūh Tahrim*) or outright unlawful (*Harām*). If we want to elevate ourselves and act more virtuously, then that is the Prophetic way. That transcends people beyond the rules, legal, and into the realms of true piety. That is the way Almighty Allah has instructed us:

“Say, If you love Allah, then follow me, and then Allah will love you and forgive you your sins, for Allah is Forgiving, Merciful” [Quran 3:31].

Being dismissive of the letter of the law is one extreme, and being dismissive of the moral objectives of the law is another extreme. The truth, and Islam, is in between. If we follow the *Sunnah*, we are doing more than the law. However, that is not to say the one who follows what is permissible and what the *Fiqh* says is incorrect, erred, or blameworthy.

4. Substance versus Form

Another typical fight that is seen play out in the Islamic Finance industry is the ‘substance versus form’ debate. Originally, “substance over form” is a principle in accounting and finance that emphasises the economic substance of transactions over their legal form. Essentially, it means that the financial statements and other disclosures of a business should reflect the underlying realities of transactions, rather than merely their legal or formal structures. A key tenet of IFRS (International Financial Reporting Standards) is the concept of ‘substance over form’, whereby a transaction is measured and reported in accordance with its economic substance rather than its legal form. Simply put, this means that the financial statements should capture the true intent of the transaction rather than only following their strict legal form. Often, the economic substance and legal form are the same for a transaction, but when they reflect fundamental differences, recording them based on the legal form may not give a fair or accurate representation of the transaction.

For example, a financial lease grants one party the right to use an asset and has similarities with operating leases in conventional business. Financial institutions have modified this type of transaction into a form of finance where the bank buys the asset and then leases it to the customer. The arrangement enables the bank to recoup its costs and earn a profit as though it had loaned the money to the customer, who is in turn able to acquire ownership of the asset at the end of the rental term. Under IFRS, such a contract is designated as a finance lease, as opposed to an operating lease, to reflect the fact that the inherent risks and rewards associated with the asset have been transferred to the lessee, who in substance is deemed to be the owner. As such, IFRS requires finance leases to be recorded by the lessor as a loan which earns interest, while the lessee records the asset in its balance sheet as though it is the owner.

Does this idea apply in Sharī‘ah? There is a principle in Sharī‘ah, in the *al-Qawā‘id al-Fiqhiyyah* (Islamic legal maxims) which is referenced in the books of *Fiqh* that states:

“*‘al-Ibrah Fī al-Uqūd bil-Maqāṣid wal-Ma‘āni dūna al-alfāz wal-Mabāni*” [Murshid al-Ḥayrān]

“The substance of a contract is formed based on the meanings understood through a contract, and not through individual words and constructs within a contract.”

This does not mean substance over form the way it is understood in the accounting and finance fields. Sharī‘ah has its own framework, and to understand Sharī‘ah transactions, one must understand it through Sharī‘ah principles. What this principle means from a Sharī‘ah perspective is that the intent of the wordings and language in a contract deem the overall substance and essence of a contract. For example, if there is a donation in which a party promises to donate their car in lieu of another donation of a £10,000, where one is conditional on the other, then despite using ‘donation’, this transaction will not be a donation. Instead, it will be deemed as a sale and exchange. A second example is that of a *Hawālah* (assignment) that contains a condition that the creditor still enjoys recourse to the principal debtor. Such a condition will transform the *Hawālah* into a *Kafālah* (guarantee). A third example is that of a Mudarabah contract. Scholars have differed on the following: If an investor transfers his capital and says to the Mudarib, “Invest, and all the profit is yours,” or “all of it is mine,” is this considered a Mudarabah or a loan? And if it is Mudarabah, is it valid or invalid? Imam al-Kāsānī (d.587 AH) writes that if all the profit is stipulated for the Mudarib, it is considered a loan. If all the profit is stipulated for the investor, it is considered an agency; due to the presence of the meaning of agency. The justification for this opinion is rooted in the idea that this contract with this condition cannot be corrected as Mudarabah. Hence, it can be rectified as a loan in the first case, and as an agency in the second, because the essence of contracts lies in the meanings derived from the contract, and not solely on individual words and constructs.

In Sharī‘ah, the essence and substance of any financial or contractual agreement are intrinsically shaped by the language and conditions specified in the contract. In Sharī‘ah, substance follows form. This means that the real nature and implications of a contract are determined by its form – the way it is structured, and the specific terms used in its drafting. The substance of a contract is not an abstract concept; rather, it is directly forged through the form, as clearly evidenced in various examples. This approach in Sharī‘ah emphasises transparency and the literal interpretation of contractual terms. There is no covert or 'behind the scenes' principles that are applied to assess or judge the validity of contracts. The actual wording and the apparent stipulations in the contract are what define its nature. For instance, if the contract is labelled as a "sale" but the terms and conditions are actually that of a lease, then, in essence, it is treated as a lease in Sharī‘ah. Similarly, if a contract is presented as an "interest-free loan" but includes clauses that provide benefits to the lender, this will be a *Ribā* contract and interest, regardless of its nominal label. In Sharī‘ah, the form of the contract is not just a technicality but a reflection of its true spirit and intention. The meticulous attention to the wording and structure of contracts in Sharī‘ah ensures that all parties have a clear understanding of their obligations and rights.

5. Islamic Finance is *Halāl* but not *Tayyib*

Another debate that is becoming frequent is that Islamic Finance is *Halāl* but not *Tayyib*. I understand the sentiment that is being professed here, and in many instances, practitioners are simply wanting to see something more from Islamic Finance than legal validity. This has merit and I agree with the sentiment. However, there are two concerns with using *Tayyib* specifically:

1. *Tayyib* is often undefined authentically. What makes something *Halāl* but not *Tayyib* in Islamic Finance from the lens of authoritative sources in Sharī‘ah?
2. The assessment of being *Halāl* is subtly devalued or portrayed as inferior and insufficient.

It is critical to understand what *Tayyib* authentically means in Islam, and what it does not mean. *Tayyib* and its derivatives have been mentioned approximately 42 times in the Quran. Linguistically, *Tayyib* refers to something being pleasant and beneficial, its opposite is *Khabīth*, something repulsive. Imam al-Rāghib (d.502 AH) writes that the origin of *Tayyib* is what the senses and oneself find pleasant. He further writes that *Tayyib* food is what is attained in a manner, quantity and source that is lawful. Ibn al-‘Athīr (d.630 AH) writes, "The mention of *al-Tayyib* and *al-Tayyibāt* has been frequently repeated in the Prophetic narrations, and most of the time it refers to the *Halāl*, just as *al-Khabīth* refers to the *Harām*. *Al-Tayyib* can also mean the pure and clean." Hence, in most instances, *Tayyib* is actually synonymous to *Halāl*.

Imam Mālik (d.179 AH) described that *Tayyib* refers to anything which the Sharī‘ah has found to be delightful to consume and not something disliked. Imam al-Shāfi‘ī (d.204 AH) describes *Tayyib* as something which reasonable people with a sound mindset desire to consume. Imam al-Rāzī (d.606

AH) states that *Tayyib* has two connotations: something which reasonable people with a sound Islamic mindset desire. *Tayyib* can also refer to assets or items that do not have the rights of others attached to it. Ibn Kathir (d.774 AH) states that *Tayyib* refers to something which is not harmful for the body or mind. Ibn ‘Āshūr (d.1393 AH) describes *Tayyib* in his commentary of the Quran as something which people incline towards due to the embedded benefits within the consumption of that thing. He further states that it is on account of being beneficial that something is *Halāl*, as Allah is merciful with His servants and does not prohibit His servants to consume that which is beneficial for them.

Ibn Rajab al-Ḥanbalī (d.795 AH) writes that actions, speech, and beliefs are described as *Tayyib*. *Tayyib* is an adjective. Its opposite is *Khabith*.

Ibn ‘Āshūr (d.1393 AH) also writes that the root meaning of *Tayyib* is purity, cleanliness, and a good impression on the soul, both immediately and in the long term. A thing that is enjoyable but rotten is not called *Tayyib* because it results in pain or harm. Therefore, the *Tayyib* of everything is that it be of the best and most beneficial kind. The term *Tayyib* has been applied to what is permissible in law, because the law's permission of something is a sign of its goodness and safety from harm [al-Tahrīr wa al-Tanwīr].

Hence, we understand from the authoritative and authentic sources in Sharī‘ah that *Tayyib* is not about something being 'more' *Halāl*. You cannot get 'more' *Halāl*. Something is either *Halāl* or not. *Halāl* refers to the legal validity and lawfulness of something, be it food, an item, a transaction, or a relationship. If something is *Halāl*, it necessarily means it is beneficial. Sharī‘ah does not declare something as *Halāl* if it is intrinsically, in and of itself, harmful. If *Tayyib* is used to mean beneficial or wholesome whilst *Halāl* is relegated to mean harmful, unethical, or unwholesome, then that is a misrepresentation of *Halāl*, and in fact, a misrepresentation of *Tayyib*.

Since *Tayyib* is terminology found within the Quran and *Sunnah*, it must be applied accordingly. To redefine *Tayyib* or to attribute meaning to it which is not found in the classical sources, can be an injustice to the term. Hence, whilst the term *Tayyib* is underpinned by noble intentions, it lacks any real classical, authentic, and authoritative reading as a framework and application in *Fiqh* matters. *Tayyib* was never on the spectrum of *Halāl*, nor is the qualification of *Tayyib* a legal ruling as such. Thus, whilst the use of the term is not a problem, terms that lack a firm anchoring in *Fiqh* and classical literature can become empty vessels, susceptible to being filled with foreign or non-Islamic ideas, thereby diluting or misrepresenting the true essence of Sharī‘ah guidance. Similarly, to expand the connotation of *Tayyib* to more than what the classical scholars have understood from the Quran and *Sunnah* can be dangerous, as it is then imposing one's own understanding onto *Shari‘ah* without any right or qualification to do so. In reality, the way the term is beginning to be used in the Islamic Finance industry, appears to lack the necessary depth and rigorous connection

to the established principles of Sharī‘ah or the way the term was understood. Such a superficial approach risks oversimplifying the complex and nuanced nature of Sharī‘ah. Further, the term risks being an empty vessel to import foreign concepts into established Sharī‘ah discourse.

Concluding Thoughts

This chapter explored five prevalent concepts - 'Sharī‘ah based', *Maqāṣid al-Sharī‘ah*, 'spirit vs letter' of law, 'substance vs form', and being only *Halāl* not *Tayyib* - that have entered Islamic Finance discourse seeking evolution. All of these ideas and terms have merit but lack depth.

Creating a framework for Islamic Finance based on these terms is challenging, and genuinely enriching Islamic Finance with such statements proves difficult. These statements do not contribute any meaningful value or substance.

'Sharī‘ah based' aims for greater ethical alignment but its vagueness leaves it vulnerable to foreign concepts that diverge from authentic teachings. *Maqāṣid al-Sharī‘ah* intends to guide objectives, but can dismiss centuries of scholastic legal evolution if individual assumptions override *Fiqh* principles that already encapsulate higher intents.

The 'spirit vs letter' dichotomy falsely projects flaws onto *Fiqh*, which already contains rationale, purpose, and dynamism. In Sharī‘ah, form shapes substance - terminology defines agreements. Claims of being only *Halāl*, not *Tayyib* undermine legal validity for undefined ideals that classical jurisprudence never differentiated.

Such terms, though well-intended, often lack rigor or grounding in intellectual heritage. This risks oversimplification and importing external biases antithetical to the holistic worldview that Sharī‘ah offers. Proper reform recognises *Fiqh*'s sophistication in applying the Divine guidance to complex modern contexts. Thus, in the following chapters, we will present, arguably, something that has more authenticity and classical precedence to steer the ship of Islamic Finance.

Chapter 9: What is Shari‘ah?

Summary

- Linguistically, Shari‘ah refers to the clear, well-trodden path to water, symbolising guidance and preservation of life.
- Ibn Fāris (d.395 AH) states that Shari‘ah refers to something that reveals itself and unfolds continuously, guiding and paving a way in life.
- Ibn ‘Āshūr (d.1393 AH) states that Shari‘ah refers to an abundance of water, symbolising spiritual cleansing and healing for the soul.
- Imam al-Ālūsī (d.1270 AH) mentions that Shari‘ah refers to the very clear path that leads to a water source, symbolising the source of life for the soul.
- Most importantly, Shari‘ah is not just law and legal matter. Shari‘ah encompasses three aspects: belief ('Aqā'id), actions (*Fiqh*), and morals ('Akhlāq).
- Shari‘ah is comprehensive, and has guidance on worship, personal conduct, family relationships, business, economic affairs, justice, medicine, and more.
- Ibn al-Qayyim (d.751 AH) states that Shari‘ah is entirely founded upon wisdom and welfare for people in this life and the afterlife.

Introduction

In the previous chapter, we looked at revolutionary attempts to enhance the Islamic Finance industry. One clear shortcoming was the vagueness and lack of anchoring in authoritative and authentic Shari‘ah teachings. In order to develop guidance from Shari‘ah to empower the Islamic Finance industry, it is necessary to understand what Shari‘ah means, and what it encompasses. For an authentic and authoritative framework to govern practices of Shari‘ah, the framework must stem from Shari‘ah principles.

The Linguistic Definition of Shari‘ah

Linguistically, the term 'Shari‘ah' is derived from the verb '*shara‘a*', with this verb meaning to command, specify, permit, or prohibit. This name was given to the source of water, i.e., the running water visible to people. It precisely refers to the place from where water flows. The term also applies to a clear or straight path, indicating anything that is specific, clear, and devoid of ambiguity.

Ibn Fāris (d.395 AH) states that the root letters of the word Shari‘ah refer to something that reveals itself and unfolds continuously. Shari‘ah is something that continuously guides and paves a way in life in every unfolding circumstance and situation.

Shari‘ah also refers to that path which leads to a source of water, typically in a desert or where water is scarce. Hence, linguistically, Shari‘ah is that path which is lifesaving, preserving oneself and dependents, and the route to further growth, as with this water, one will be able to proceed further in their journey. Shari‘ah is the gateway to prosperity and path to growth. It is on the above linguistic idea of path to preservation, prosperity, and productivity that the technical meaning is drawn.

Ibn ‘Āshūr (d.1393 AH) states that the word Shir‘ah and Shari‘ah refer to an abundance of water. Religion is called Shari‘ah because there is a healing in it for the souls and a refreshing for it. It is as though this is spiritual cleansing, and water is a cleansing agent [al-Taḥrīr wa al-Tanwīr].

Imam al-Ālūsī (d.1270 AH) mentions that Shari‘ah refers to the very clear path that leads to a water source. He states that Shari‘ah is called Shari‘ah because just as water is a source of life for the body, the teachings of Shari‘ah are a source of life for the soul [Ruh al-Ma‘ānī].

Hence, when translated from Arabic, the meaning of Shari‘ah in literal terms is ‘the clear, well-trodden path to water’.

The Technical Definition of Shari‘ah

Technically, ‘Shari‘ah’ refers to all that Almighty Allah has legislated for His servants on earth, including rules, principles, systems, and commands that lead them from the darkness of ignorance and misguidance to the light of knowledge and understanding, aiming to achieve the ultimate goal of living in the best possible way. It’s the code by which Muslims live their lives, covering a wide range of topics like prayers, food, and financial affairs.

Ibn al-Manzūr (d.711 AH) says that Shari‘ah and *Shara‘* refer to what Allah has legislated in the religion and commanded, like fasting, prayer, pilgrimage, alms-giving and all other righteous deeds. It’s derived from the word *Shir‘ah*, and from it is His saying, ‘Then We put you on the path so follow that’ and His saying, ‘For each one We have made a divine law and a traced-out way.’ It was interpreted: Shari‘ah: the divine guidance, and *Minhāj*: the way [Lisān al-‘Arab].

Imam al-Kafawī (d.1094 AH) said, “Shari‘ah generally refers to the practical rulings through which the accountable person refines his worldly and otherworldly life, whether explicitly stated by the Legislator or referred to him. And the *Shara‘* is like Shari‘ah in meaning, which encompasses every specified action or abandonment by a prophet from the prophets, explicitly or implicitly. Hence, its usage for all principles and aspects of revealed guidance is metaphorical, albeit common, unlike the ‘*Millah*’” [al-Kullīyāt].

Maulana Tahānawī (d.1362 AH) mentions that Sharī'ah refers to all guidance which Allah has revealed through his messengers, whether that guidance is in relation to actions and practices, codified into *Fiqh*, or whether it is in regard to belief and faith [Kashf 'Iṣṭilāhāt al-Funūn]. In fact, Maulana Tahānawī mentions that Islam has five branches, including:

1. 'Aqā'id (belief)
2. *Ibādāt* (worship)
3. *Mu'amalāt* (transactions)
4. 'Akhlāq (good character)
5. *Mu'āsharāt* (social etiquettes)

Imam al-Shāṭibī (d.790 AH) writes regarding the definition of Sharī'ah that it sets boundaries for people in their actions, sayings, and beliefs, and it encompasses everything [al-Muwāfaqāt].

Sharī'ah is Comprehensive

Thus, Sharī'ah refers to the guidance from Allah which He has revealed to mankind. This guidance encompasses belief, practice, and character. Hence, the word Sharī'ah encompasses all aspects of Islam: belief, actions, and morals [al-Mawsū'ah al-Fiqhiyyah al-Kuwaitīyyah]. Sharī'ah involves guidance on worship, personal conduct, family relationships, business, economic affairs, justice, medicine and more.

Imam al-Rāghib (d. 502 AH) states that the root letters denote a very clear and open path. He then states that the word Sharī'ah was used as a metaphor for the path to Almighty Allah. Allah Almighty says: "For each of you, We have made a law and a way" [Quran 5:48]. This refers to two matters:

1. What Allah has made every person responsible for in terms of a path they seek, which leads to the benefits of the servants and the development of the lands. This is referred to in His saying: "And We have raised some of them above others in degrees, that some of them may take others in subjection" [Quran 43:32].
2. What has been ordained for them in religion, and what they are commanded to seek by choice, which includes the varying laws, and is subject to abrogation. This is indicated by His saying: "Then We put you on a clear course of the command; so follow it" [Quran 45:18]. Ibn Abbas said: The legislation (Sharī'ah) is what is conveyed by the Quran, and the methodology (*Minhāj*) is what is conveyed by the *Sunnah*.

This statement by Imam al-Rāghib above it very telling on what Sharī'ah refers to: the path that leads to *Masālih al-Tbād* (benefits for the people) and *'Imārat al-Bilād* (development of the lands).

‘Ibn al-Qayyim (d.751 AH) said, “Verily, the Shari‘ah is founded upon wisdom and welfare for the servants in this life and the afterlife. In its entirety it is justice, mercy, benefit, and wisdom. Every matter which abandons justice for tyranny, mercy for cruelty, benefit for corruption, and wisdom for foolishness is not a part of the Sharī‘ah even if it was introduced therein by an interpretation”[*Tlām al-Muwaqqi‘īn*].

Ibn Taymiyyah (d.728 AH) said, “All elements beneficial to people’s welfare are encapsulated within the Sharī‘ah, encompassing both significant and minor matters, all circumstances and actions, and interactions with others” [*Majmū‘ al-Fatāwā*].

Concluding Thoughts

To sum up this chapter, it is evident that Sharī‘ah has guidance for all facets of life. The guidance in Sharī‘ah is not just of a legal and compliant nature, rather, as Imam al-Rāghib explains, if the guidance is holistically walked upon, it will lead to *Maṣālih al-Ibād* (benefits for the people) and *‘Imārat al-Bilād* (development of the lands). When finance embraces Sharī‘ah holistically, it can only lead to benefiting people and developing the earth we live in. Sharī‘ah encompasses belief, actions, and morals. If we want to develop Islamic Finance based on authentic Sharī‘ah guidance, we need to do so understanding that Sharī‘ah is encompassed of all three elements, and not directives for legal actions. To understand the belief and moral dimensions of Sharī‘ah guidance, it requires returning to the teachings of the Prophet ﷺ. As the messenger and the one we are instructed to emulate in every aspect, it is his beliefs, morals, and methods that we should embrace. To authentically enrich Islamic Finance with a framework that adds real value, drawing from Sharī‘ah teachings and guidance, the most authentic approach involves studying the life of the Prophet ﷺ and applying his principles in Finance. Thus, the following chapters will now revolve around the best of creation, and the best example to follow in life, the Prophet Muhammad ﷺ.

Chapter 10: Who is the Prophet ﷺ?

Chapter Summary

- The chapter emphasises that any genuine, authentic, and authoritative framework for Islamic Finance must necessarily be based on the practices and teachings of Prophet ﷺ.
- The Prophet's ﷺ legacy is considered alive and influential in Islamic teachings and practices. He left no worldly possessions, instead, his legacy is seen in knowledge and guidance.
- The Prophet ﷺ is described as possessing a luminous and handsome appearance, with distinct facial features and an influential presence.
- His life (570-632 CE) is detailed from his noble birth in Makkah, upbringing, trade, and leadership skills development, to receiving the first revelation at forty and his dedication in spreading guidance and the message of Allah to the people.
- His character is portrayed as humble and simple, living a modest life despite his leadership position, emphasising serving Allah and humanity over personal gain.
- The Prophet's ﷺ loftiness is highlighted, being the most eminent of humans, the leader of all prophets, and having a unique status on the Day of Judgment.
- The obligation towards the Prophet ﷺ includes believing in his message, adhering to his guidance, emulating his behaviour, loving and honouring him, acknowledging his role as the final prophet, and bestowing blessings and salutations upon him.

Introduction

If we want to develop authentic and authoritative guidance, we must do so by turning back to Shari‘ah. In the previous chapter, we understood that Shari‘ah is holistic and encompasses belief, practice, and behaviour. Belief, practice, and behaviour was demonstrated and taught to us by the Prophet ﷺ, and then codified into the *Fiqh*. To understand the full depth and breadth of the Shari‘ah in practice, we must go back to the Messenger of the Shari‘ah, whom we have been commanded to follow in all our affairs, the Prophet Muhammad ﷺ. The Prophet ﷺ showed us how to implement the Shari‘ah guidance in life. Any framework to enhance Islamic Finance must be reflective of Prophetic guidance, Prophetic practice, and Prophetic teachings.

You may notice that the chapter states ‘who *is*’ and not who *was*. That is very intentional. The Prophet Muhammad’s ﷺ legacy, teachings, and name are very much alive among us. In fact, there was no distribution of his estate and nor were his wives allowed to remarry after his passing. The estates of the prophets were not distributed, they were left as *Sadaqah* and as *Waqf*. Sayyidah ‘Āishah (*Radiallāhu ‘anhā*) narrates that the Prophet ﷺ said, “We (the prophets) do not have inheritors. Whatever we leave is *Sadaqah*” [Ṣaḥīḥ Muslim]. However, the state of the Prophet ﷺ when he passed away was such that he neither owned a Dinar, nor a Dirham, and had no goat or

camel to his name [Ṣaḥīḥ Muslim]. Imam al-Nawawī comments on this narration that the Prophet ﷺ had absolutely no wealth at all when he passed away.

The Prophet ﷺ holds a special presence in the hearts of the believers. Beyond just the emotional attachment we have with him, his guidance, way of life is practiced and taught to hundreds of millions today. It is his guidance, his practice and implementation of the message of the Quran which breathes life into everything.

In another narration, the Prophet ﷺ said, “The scholars are the inheritors of the prophets. The prophets do not leave behind gold coins nor silver coins. They only leave behind knowledge, so whoever takes hold of it has taken an ample share” [Sunan Abū Dāwūd]. The guidance and knowledge of the Prophet ﷺ was passed onto his companions, and thereafter this transfer of ‘wealth’ has continued until the scholars that are among us today. The Prophet’s ﷺ inheritance is intergenerational. He is relevant to every generation. This is what makes him *alive* among us; his estate is among us, being heard, taught, memorised, practiced and studied. The knowledge that the Prophet ﷺ imparted to us was so extensive and vast, it holds the keys to manage the entire world and all the facets of life. Before we unearth the treasure in the guidance of the Prophet ﷺ, let us just take a few moments to appreciate the Prophet ﷺ.

His features

‘Umm Ma‘bad (*Radiallāhu ‘anhā*), when describing our Master ﷺ, states: “He possessed a luminous face, a handsome disposition, and had a beautifully balanced physique. His eyes were strikingly distinct where the whiteness of the eyes was extremely white and the blackness was densely black, complemented by long eyelashes. His neck was prominent, and his hair was jet-black. From afar, he was the most distinguished and notable, and up close, he was the most handsome and delightful in appearance” [al-Ṭabarānī].

The noble companion Anas Ibn Mālik (*Radiallāhu ‘anhu*) described the Prophet ﷺ as, “Beautifully faced, I have never seen anything before him or after him similar to him” [Ṣaḥīḥ Muslim].

Sayyidunā Ka'b (*Radiallāhu ‘anhu*) said, “When he was pleased, his face would shine so brightly that you would easily think that it was a portion of the moon” [Ṣaḥīḥ al-Bukhārī].

Once a female companion was asked to describe the beauty of the Prophet ﷺ, she said to the young children who had not seen him, “Had you seen him, you would exclaim that the sun is rising” [al-Dārimī].

Sayyidunā ‘Abū Hurayrah (Radiallāhu ‘anhu) said something amazing. He states, “I have never seen anything more beautiful and pleasant than the Prophet ﷺ, it was as if the sun was orbiting and moving in his face” [Musnad Ahmād]. This description tells us something even more startling; not only was beauty engrained and embedded in the Prophet ﷺ, rather it was alive in him. The beauty moved, evolved, and was ever-growing and manifesting itself constantly in different features of the Prophet ﷺ. Beauty was a living organism within the Prophet ﷺ. The peak of beauty was not static in his noble features, rather it was dynamic, vibrant, and energetic.

His life

The Prophet Muhammad ﷺ (570-632 CE) is the final messenger of Allah. His life has been the subject of countless biographies, each revealing the depth and magnificence of his character, his achievements, and his legacy. He belonged to the prestigious Quraysh tribe, which was responsible for maintaining the Ka‘bah, the House of Almighty Allah. He had the most noble lineage, being a direct descendent of Prophet Ibrāhīm (*‘alayhi al-Sālam*).

The Prophet ﷺ was born in 570 CE in Makkah, a city in present-day Saudi Arabia. He was born 50-55 days before the great event of the People of the Elephants, in Rabī‘ al-Awwal, on a Monday. His dear father had passed away before his noble birth. As per the tradition of the people, the Prophet ﷺ was taken to the Bedouin areas of Banu Sa‘d and raised and nurtured in the deserts until the early years. Sayyidah Ḥalīmah Sa‘diyyah nurtured him and looked after him initially for two years, upon seeing the blessings of this child, requested to keep him for another two years. The dear mother of the Prophet ﷺ passed away when he was six years old at a place called Abwa on return from a journey. The young Prophet ﷺ was taken into the care of his grandfather ‘Abd al-Muṭṭalib, who sadly passed away after two years. The Prophet ﷺ then went into the care and guardianship of his uncle ‘Abū Tālib.

Under the caring guardianship of his uncle ‘Abū Tālib, the Prophet ﷺ travelled for business, mastered the art of trade, practiced employment, and developed several leadership skills. The Prophet ﷺ engaged in trade, was employed as a shepherd, and thereafter, worked with Sayyidah Khadījah. Sayyidah Khadījah then proposed to the Prophet ﷺ, which he accepted at the age of twenty-five.

When he was nearing forty years of age, he increased in solitude and would often retreat to the mountains, worshipping Almighty Allah. He disliked idolatry that his people were engaged in from the very outset. It was then, in Ramadan, at the age of forty, where the Prophet ﷺ was met by the Archangel Jibrīl, who conveyed the first revelation to him:

"Recite in the name of your Lord who created. Created man from a clinging substance. Recite, and your Lord is the most Generous. Who taught by the pen. Taught man that which he knew not" [Quran 96:1-5]

For the first three years, the Prophet ﷺ engaged in private *Da'wah*, inviting people to monotheism and Islam face-to-face and selectively. He taught the people faith and belief in the Hereafter in private gatherings held in Dār al-'Arqam. The Quran, the Word of Almighty Allah, was being revealed to him at different occasions and instances. He would teach people the verses of the Quran and the guidance of Allah. The Prophet ﷺ was unread and illiterate, he could not read or write Arabic, yet he delivered the most mesmerising and immaculate message to the people. It is truly the Word of Allah.

After three years, he was instructed by Almighty Allah to openly call people to Islam, as now he had a strong base of believers who would further support the call and message. The Prophet ﷺ gave his night and day in inviting people with wisdom, gentleness, and kindness to the message of Islam. Despite his gentle approach, the people responded with hostility and violence, attacking him and the believers. They would persecute and harass the Muslims. In the 5th year after prophethood, a group of Muslims migrated to Abyssinia in Africa.

In the 7th year of Prophethood, the people of Makkah forged a plan to boycott the Muslims. The Muslims took refuge in a valley of Makkah, where they were isolated and boycotted. They lacked basic necessities, yet they held onto their faith with firmness. It was after three years that this boycott was lifted as the agreement was miraculously consumed by ants, leaving only the name of Almighty Allah.

The 10th year of Prophethood was a year of heartbreak and sadness, as Abū Tālib passed away, and a few days later, the noble wife of the Prophet ﷺ passed away too. In the same year, the Prophet ﷺ visited the people of Ta'if and invited them to Islam. They responded by pelting him, causing him to bleed profusely. After returning from Ta'if, Almighty Allah granted him something spectacular, The Night Journey & Ascension to the Heavens (*al-Isrā' wa al-Mi'rāj*). The Prophet ﷺ travelled physically to Jerusalem and then to the Heavens all in a few moments in the midst of the night. It was in this night that the Prophet ﷺ led all the prophets in prayer in al-Masjid al-Aqṣā, and thereafter travelled to the Heavens, seeing first-hand the appeal of Paradise and the horrors of Hell. It was there, in the highest of Heavens, that Almighty Allah granted the Prophet ﷺ the gift of five times prayer.

In the following three years, the Prophet ﷺ invited people to Islam with even more determination. It was in the season of Hajj that he met the people of Madinah, known as Yathrib at the time. Initially, six people embraced Islam. In the following year, a group of twelve individuals came from

Madinah and pledged allegiance to the Prophet ﷺ at ‘Aqabah. The Prophet ﷺ sent his companions to teach the people of Madinah more about Islam. In the 13th year after Prophethood, eighty-five individuals from Madinah came for Hajj. After this Hajj, the command from Almighty Allah to migrate to Madinah was revealed, thus the Prophet ﷺ instructed his companions to relocate and move to Madinah. The Prophet ﷺ also migrated to Madinah miraculously, despite being surrounded by assassins, and all the while with a bounty on him. This event, known as the Hijrah, marked the beginning of the Islamic calendar.

The Prophet ﷺ was the Head of State in Madinah and presided over the affairs. The Prophet ﷺ established a community, founded on the principles of Islam. He drafted the Constitution of Madinah, a treaty between the various tribes and faith groups, which granted rights and responsibilities to all members of the community. He established a Masjid as the centre of the city, and also established a market which was free of tariffs and free of taxes.

In the first two years, many practices were revealed, including full performance of prayer, fasting, Zakat, the observance of Ramadan, *Īd* celebrations and *‘Udhīyah*. The institutions of Islam were beginning to take shape early on; Waqf was established, and the public treasury (*Bayt al-Māl*) was established. Famously, the direction of prayer was altered: from Jerusalem to Makkah.

In these initial two years in Madinah, the Muslims were granted permission to protect and defend themselves from the constant provocation and attacks by the disbelievers of Makkah. The historic Battle of Badr occurred subsequently in the 2nd year, where Muslims decisively triumphed despite numbering three-hundred and thirteen, whilst the opposition outnumbered them by three-to-one, numbering one thousand.

In the 3rd year after *Hijrah*, the Battle of Uhud occurred, where the disbelievers of Makkah marched to Madinah with an army of three thousand, seeking to attack the Muslims again. The Muslims strategically withdrew after taking injuries from what was initially a battle in their favour. Immediately after regrouping, the Muslims pursued the opposition, and the opposition fled after hearing that the Muslims had regrouped at *Hamrā’ al-Asad*. Many lessons were learnt from the Battle of Uhud, such as the importance of following the commands of the Prophet ﷺ, in addition, the masks of the hypocrites had fallen. In this year, drinking alcohol and wine was completely prohibited.

The 4th year after *Hijrah* involved the treachery of *Rajī`* and *Bir Ma‘unah*, in which over seventy companions of the Prophet ﷺ were martyred. These treacherous people invited the Muslims, pretending to be interested in Islam, but then murdered the companions. In this year, the laws of *Hijāb* and modesty were revealed.

In the 5th year after *Hijrah*, the event of *Muṣṭaliq* occurred, where the Muslims launched a pre-emptive strike, gaining huge spoils including two-thousand camels and five-thousand goats. In *Shawwāl*, the battle of ‘Aḥzāb (confederates) occurred, where a coalition united to attack Madinah, numbering approximately ten thousand. The Muslims dug trenches around Madinah. The opposition were unable to attack and were rooted after Almighty Allah sent a gale-force wind on their camps.

In the 6th year after *Hijrah*, the Prophet ﷺ desired to perform ‘Umrah after seeing a dream of performing ‘Umrah. However, en-route to Makkah, he was prevented and denied entry for ‘Umrah by the non-Muslims of Makkah. In a place called Ḥudaybīyyah, a truce was signed between the Muslims and non-Muslims, which involved a cessation of hostilities for ten years. It is during this year that the Prophet ﷺ sent letters to empires and rulers across the world inviting them to Islam.

The 7th year after *Hijrah* witnessed the growth of Islam exponentially, as Muslims travelled freely, traded, and interacted with different tribes and communities. People saw the power and benefits of Islam, and thousands embraced Islam. The Prophet ﷺ performed ‘Umrah this year as per the agreement with the people of Makkah. *Sayyidunā* Bilāl famously called the ‘Adhān aloud on top of the *Ka’bah*, with all the people of Makkah observing this spectacle.

It was in the 8th year after *Hijrah* that the historic conquest of Makkah occurred, where the people of Makkah acted deceptively and treacherously, breaching the treaty they had signed with the Muslims. The Prophet ﷺ led ten thousand Muslims from Madinah and marched towards Makkah. The people of Makkah surrendered, and Makkah was conquered without any war, and everyone submitted to the Prophet ﷺ. The Prophet ﷺ entered Makkah with utmost humility and humbleness, acknowledging the sanctity and sacredness of this blessed place. He forgave the people, and they all embraced Islam.

In the 9th year after *Hijrah*, the Muslims travelled to Tabuk with thirty thousand soldiers. No battle occurred, but many agreements were signed with tribes on the outskirts of Arabia, and the Muslims gained further strength and togetherness. A small group of believers from Madinah went to Makkah to perform Ḥajj.

In the tenth year after *Hijrah*, approximately sixty delegations from across the Arabian Peninsula came to Madinah to meet the Prophet ﷺ and to learn about Islam. The Prophet ﷺ sent companions to Yemen to convey the message of Islam and teach the Muslims. In this year, the Prophet ﷺ went for Ḥajj, wherein over a hundred thousand companions accompanied him. This was the largest gathering ever of believers thus far.

In the eleventh year after *Hijrah*, after twenty-three years of conveying the message of Islam, the Prophet ﷺ became ill in Madinah. After almost a fortnight, he left this temporary abode, and was buried in his resting place at his home. That might have been his departure from the physical world, but his teachings and his name are remembered across the world. The number of believers in Allah and those affirming him as the final messenger of Allah have grown year-on-year. The current Muslims in the world number over two billion, a quarter of the world population.

His Character

The Prophet ﷺ was a person whose honesty was common knowledge to those around him. In fact, all the people had officially titled him *al-‘Amin* (the trustworthy). The Prophet's ﷺ simple lifestyle was in stark contrast to the lavish lifestyles of many other religious leaders. Despite being the leader of an empire, he lived in a modest home and wore simple clothes. He ate simple food and did not indulge in luxuries. This suggests that he was not motivated by personal gain, but rather by a genuine desire to serve Allah and humanity. The most telling narration of this reality is the following: The Messenger of Allah ﷺ passed away whilst his shield was in pledge with a Jewish trader for thirty *ṣā‘* of barley that he ﷺ had purchased for his family [Ṣaḥīḥ al-Bukhārī]. In contrast to many leaders who depart this world leaving behind substantial estates and detailed succession plans, he left with nothing to his name. Here are some specific examples of the Prophet ﷺ simple lifestyle:

- He lived in a simple house that was made of mudbricks and had a thatched roof.
- He wore simple clothes made of coarse cloth.
- He ate simple food, such as dates, bread, and water.
- He did not own many personal possessions.
- He worked hard and earned his own living.
- He was always willing to help others, even if they were poor or marginalised.
- He readily sacrificed his resources and provisions for others.

The Prophet's ﷺ simple lifestyle is a powerful reminder that true leaders are not motivated by personal gain, but rather by a desire to serve others. It is also a reminder that material possessions are not important, and that true happiness can be found in simplicity and contentment. There were no signs of luxury in his personal life or even withholding of huge sums of wealth. When he passed away, he left absolutely nothing. The *Hadīth* informs us:

“Allah's Messenger ﷺ did not leave a Dinar or a Dirham or a male or a female slave. He left only his white mule on which he used to ride, and his weapons, and a piece of land which he gave in charity for the needy travellers” [Ṣaḥīḥ al-Bukhārī].

Sayyidunā ‘Umar ‘Ibn al-Khaṭṭāb (Radiallāhu ‘anhu) reported that he once entered the room of the Messenger of Allah ﷺ and found him lying down and noticed that the coarseness of the straw mat under him had left marks on his side. Upon noticing that, and the insufficient amount of barley and leaves, and the leather bag hanging in the corner, his eyes welled with tears. The Prophet ﷺ said, “What makes you weep, O son of al-Khaṭṭāb?” He said, “O Prophet of Allah, how can I not cry after seeing how the mat has left these marks on your side, and how little you have in your food cupboard? Caesar and Chosroes live surrounded by fruits and springs of water, while you are the Messenger of Allah and His chosen one, and yet this is your condition.” The Prophet ﷺ said, “O son of al-Khaṭṭāb, does it not please you that these [luxuries] are for us in the Hereafter and for them in this world?” I said, “Of course.” In another narration, he began his response with, “Are you in doubt, O son of al-Khaṭṭāb? These are a people whose pleasures have been expedited in the life of this world” [Ṣahīḥ al-Bukhārī].

In regard to his caring nature, the Prophet ﷺ once said, “Verily, at times I begin the prayer and I intend to prolong it, but then I hear the crying of an infant, and therefore I shorten the prayer as I know his crying will distress his mother” [Ṣahīḥ al-Bukhārī].

His gentle approach and excellent conduct are clearly demonstrated from the following incident, which *Sayyidunā ‘Anas (Radiallāhu ‘anhu)* reports, “I was walking with the Messenger of Allah ﷺ, and he was wearing a *Najrānī* cloak with a rough collar. A Bedouin caught up with him, then violently pulled him by his cloak, causing the cloak to tear, and leaving its collar hanging on the neck of Allah’s Messenger ﷺ. I looked at the Messenger of Allah’s ﷺ neck, and the cloak’s collar had left marks from how roughly he had snatched it. Then, he said, ‘O Muhammad, instruct them to give me from Allah’s wealth that you hold!’ The Messenger of Allah ﷺ turned to him, smiled, and then ordered that he be given something” [Ṣahīḥ al-Bukhārī].

He was always positive and smiling. One of the companions stated, “I have never seen a man who smiled as much as the Messenger of Allah ﷺ” [Sunan al-Tirmidhī].

He was not a burden on anyone, and nor was he dependent on anyone. When Sayyidah ‘Ā’ishah (Radiallāhu ‘anhā), the dear wife of the Prophet ﷺ, was asked how he occupied himself when he was at home, she said he helped with household duties, patched up his clothes, mended his shoes, and was a kind and affectionate companion [Musnad Ahmad].

His teachings had always been one of being grateful and humble. From the thousands of profound advice and instructions which are read, taught, and practiced today, one such advice is, “Look at those who are less fortunate than yourselves, not those who are better off than yourselves, so you will not belittle the bounties of Allah” [Ṣahīḥ al-Bukhārī].

His Loftiness

The Prophet ﷺ is no ordinary person. His rank and status transcend all other creation. He is the leader of all prophets and the most eminent of humans. On the Day of Judgement, the Prophet ﷺ will be the first person to be resurrected [Ṣahīḥ Muslim]. He will be the leader of all of mankind on the Day of Judgement [Ṣahīḥ al-Bukhārī]. The Prophet ﷺ will be a witness and support for all other prophets against their people as the following verse informs us:

“The day will come when We raise up in each community a witness against them, and We shall bring you [Prophet] as a witness against these people, for We have sent the Scripture down to you explaining everything, and as guidance and mercy and good news to those who devote themselves to God” [Quran 16:89].

The Prophet ﷺ will be granted The Praised Station known as *al-Maqām al-Mahmūd*, which is a status where he will intercede on behalf of the creation to Almighty Allah [Ṣahīḥ al-Bukhārī].

The Prophet ﷺ will have a special fountain on the Day of Judgement from which the believers will drink. The water will be cooler than ice, sweeter than honey and there will be vessels to drink from more numerous than the number of stars [Ṣahīḥ Muslim].

All the prophets were told to believe in the Prophet ﷺ, as Almighty Allah informs us:

“Allah took a pledge from the prophets, saying, ‘If, after I have bestowed Scripture and wisdom upon you, a messenger comes confirming what you have been given, you must believe in him and support him. Do you affirm this and accept My pledge as binding on you?’ They said, ‘We do.’ He said, ‘Then bear witness and I too will bear witness’” [Quran 3:81].

Another evident sign of his position is the following verse, which is unique to the Prophet ﷺ from all the prophets:

“Indeed, Allah confers blessing upon the Prophet, and His angels [ask Him to do so]. O you who have believed, ask [Allah to confer] blessing upon him and ask [Allah to grant him] peace” [Quran 33:56].

Allah and the angels constantly send *Salawāt* upon the Prophet ﷺ. This involves Almighty Allah praising him in front of the angels and having his name raised in the world from east to west, raising his ranks even further, and sending His special mercy upon him. As far the angels are concerned, it involves the angels praying for him, seeking forgiveness for him, and honouring him.

Scholars have written entire books on the *Dalā'il* (evidences) and *Khaṣā'iṣ* (specialities) of the Prophet ﷺ. To name a few: Imam al-Suyūṭī (d.911 AH) has authored al-Khaṣā'iṣ al-Kubrā, and the al-Ṣughrā. Imam ‘Ibn al-Mulaqqin (d.804 AH) authored Ghāyat al-Sūl Fī Khaṣā'iṣ al-Rasūl. al-Ḥāfiẓ al-Bayhaqī (d.458 AH) wrote Dalā'il al-Nubūwwah. al-Qādī Iyād (d.544 AH) authored al-Shifā bi-Ta'nf Ḥuqūq al-Muṣṭafā. ‘Ibn al-Jawzī (d.597 AH) wrote al-Wafā li-Aḥwāl al-Muṣṭafā. ‘Ibn Kathīr (d.774 AH) discussed the virtues of the Prophet ﷺ in his illustrious al-Bidāyah wa al-Nihāyah.

Our Obligation to Him

The Prophet ﷺ did so much for us in his lifetime and will do so much for us in the next life too. He loved us more than anything. He desired to see the people that would follow him after his life. He would sacrifice his nights of sleep and stand in prayer crying for our salvation to Almighty Allah. He taught the people throughout the day so that the future generations are rightly guided. We owe him *everything*. Some of the obligations and duties towards him include:

1. **Belief in His Existence and Message:** Recognising his historicity as a figure from the seventh century Arabia, affirming his prophethood (*Nubūwwah*), and embracing the divine revelation (*Risālah*) granted to him by Allah is the first obligation and right he holds on all humans that came after him. The Quran declared, “Therefore, have faith in Allah and His Messenger, and the enlightenment We have bestowed” [Quran 64:8].
2. **Adherence to His Guidance:** Merely recognising his existence is inadequate. We must also accept and abide by his teachings as encapsulated in the verse: “O you who have faith! Obey Allah and His Messenger, and do not ignore him when he addresses you” [Quran 8:20]. The Prophet ﷺ told us that all his followers would find their way to Paradise unless they choose not to, with disobedience being an act of refusal [Ṣaḥīḥ al-Bukhārī].
3. **Adopting His Exemplary Behaviour:** Allah acknowledged the impeccable conduct of His chosen Prophet ﷺ, which is reflected in His words, “Your character is truly noble” [Quran 68:4]. This calls for our sincere efforts to emulate His behaviour. Following the Prophet's ﷺ path is advised for those who profess their love for Allah [3:31, 33:21]. Anyone who distances themselves from His way is not from His followers [Ṣaḥīḥ al-Bukhārī].
4. **Loving Him:** The Quran states: “If your fathers, your sons, your brothers, your wives, your tribe, the wealth you have gained, the trade you fear may slacken, and the home you delight in are more loved by you than Allah and His Messenger and striving in His cause, then wait till Allah brings about His command. Allah guides not the corrupt”[Quran 9:24]. Love for the Prophet ﷺ is what sets believers apart in their perfection of faith, as one *Hadīth* declares: “None of you believes until he loves me more than his father, his children, and all of mankind” [Ṣaḥīḥ al-Bukhārī].

5. **Honouring Him:** True faith demands not only loving the Prophet ﷺ, but also honouring and revering him. The Quran declares, "Those who believe in him, honour him, support him, and follow the light that was sent down with him: those are the successful" [Quran 7:157].
6. **Acknowledging the End of Prophethood with Him:** The Quran categorically declares, "Muhammad is not the father of any man among you, but he is the Messenger of Allah and the Seal of the Prophets; and Allah has knowledge of all things" [Quran 33:40]. When something is "sealed," it is complete, and no further addition is possible. Similarly, the Prophet Muhammad ﷺ sealed the cycle of prophethood, bringing it to a close; he is the last prophet, after whom there will be no prophet. From this point on, the followers of the Prophet ﷺ will continue to spread his teachings and guidance, but never again prophets. That our Prophet ﷺ is *Khātam al-Nabīyīn* – "the Seal of the Prophets" – is also confirmed in numerous narrations; one of which states: "There will arise among my nation thirty liars, all of them claiming to be a prophet. But I am the final prophet; there will be no prophet after me" [Ṣaḥīḥ Muslim].
7. **Bestowing Blessings (*Salāt*) and Salutations of Peace (*Salām*) Upon Him:** While informing us that Allah and His angels continually elevate the rank, status, and honour of the Prophet ﷺ, the Quran declares: "Allah and His angels send blessings upon the Prophet. O you who believe! Send blessings upon him and salute him with a worthy salutation" [Quran 33:56]. The *Hadīth* literature states: "Whoever invokes one blessing upon me, Allah will send ten blessings on him" [Ṣaḥīḥ Muslim]. And: "Those closest to me on the Day of Resurrection are those who invoke the most blessings upon me" [Sunan al-Tirmidhī]. And: "The miser is he who, whenever I am mentioned in his presence, does not invoke blessings upon me" [Sunan al-Tirmidhī].

Concluding Thoughts

The Prophet ﷺ is the reference for all Muslims, and his guidance informs all of our practice. To establish a genuine and authoritative framework for Islamic Finance grounded in Sharī'ah principles, it is imperative to retrace our steps to the Prophet ﷺ himself. By examining the Prophet's ﷺ life, teachings, and practices, we can discern the essence of Sharī'ah and its application in contemporary society. The Prophet ﷺ embodied a unique blend of spirituality, morality, and practicality, making him both a beloved figure and a model for generations to come. His physical appearance, characterised by radiant beauty, reflected the inner light of faith and piety. His life story, marked by trials and triumphs, serves as a testament to human resilience and the transformative power of faith. As the final Messenger of Allah, the Prophet ﷺ provided humanity with a clear path on how to power and enhance all dimensions of life. His legacy remains intergenerational, providing a timeless foundation for the growth and prosperity for the society and the economy. Through the study and application of the Prophet's ﷺ guidance, we can create a robust and equitable economic system that promotes justice, fairness, and harmony between

individuals and communities. Thus, the next chapter zooms into the *Sunnah*, or the Prophetic practice, which is the foundation for developing a genuine Shari‘ah-Powered Framework for Islamic Finance.

Chapter 11: What is the *Sunnah*?

Chapter Summary

- This chapter builds upon the foundational knowledge of the Prophet's ﷺ life and essence, focusing on the *Sunnah*, which encompasses his teachings, practices, and conduct.
- The chapter aims to explore how the *Sunnah* acts as a dynamic force capable of transforming various aspects of life, including the Islamic Finance sector.
- The *Sunnah* is more than a collection of traditions; it represents the practical manifestation of the Quran's teachings through the life of the Prophet ﷺ, providing tangible examples and actionable guidance.
- In Islamic Finance, the *Sunnah* can play a crucial role, imparting ethical dimensions and moral principles that elevate financial transactions beyond mere commercial activity.
- The linguistic roots of the word *Sunnah* (*Sīn, Nūn, Nūn*) signify smoothness, ease, and continuous flow, indicating the natural and easy integration of the *Sunnah* into one's life.
- In Sharī'ah, the *Sunnah* specifically refers to the practices of the Prophet ﷺ and his companions, encompassing beliefs, actions, statements, and advice.
- The *Sunnah*'s technical meaning varies in different disciplines, such as *Hadīth*, *Fiqh*, and *'Aqīdah*, each focusing on different aspects of Sharī'ah.
- The actions and practices of the Prophet's ﷺ companions are included in the *Sunnah*, providing additional insights for its application.
- The *Sunnah* is seen as a form of revelation, with all actions of the Prophet ﷺ being praiseworthy and worthy of emulation.
- Sunnah practices are categorised into *Sunan al-Hudā* (practices of guidance) and *Sunan al-Zawā'id* (supplementary practices), each with distinct characteristics.
- The *Sunnah* extends beyond aspects of worship, covering a wide range of life's concepts, guidance, and teachings.
- The Prophetic way includes not just specific actions but also the underlying principles and objectives of the Prophet's ﷺ actions.
- The *Sunnah* has multiple layers: specific actions observed by the Prophet ﷺ, actions with identical meaning, and foundational concepts and principles that underpin the Prophetic actions.
- Implementing the *Sunnah* in Islamic Finance involves understanding the Prophet's ﷺ specific financial practices, extracting underlying ethical principles, and adapting these to contemporary financial challenges.
- The goal is to develop a *Sunnah*-inspired framework for Islamic Finance, ensuring a system that is both Sharī'ah-compliant and reflective of the Prophet's ﷺ wisdom.

Introduction

In the preceding chapter, we embarked on a journey to understand the life and essence of the Prophet ﷺ. Building upon that foundational knowledge, this chapter steers us into the heart of the *Sunnah*—a term that encompasses the Prophet's ﷺ teachings, practices, and exemplary conduct. Our exploration here aims to unravel the reality of the *Sunnah* and reveal how it is the dynamic force which has all the elements of transforming various aspects of life, including the Islamic Finance sector.

The *Sunnah* represents more than just a collection of traditions; it is the practical manifestation of the Quran's teachings through the life of the Prophet ﷺ. It serves as a living commentary on the Quranic text, providing tangible examples and actionable guidance. In the realm of Islamic Finance, the *Sunnah* functions as a crucial component, imparting ethical dimensions and moral principles that elevate financial transactions beyond mere commercial activity and exchange of value, but acts of impact and experiential value.

This chapter will illuminate how the *Sunnah*, infused with wisdom and foresight, offers a comprehensive framework that harmonises economic prosperity with ethical, sustainable, and impactful considerations. We will delve into the multifaceted nature of the *Sunnah*, examining how its principles can be adeptly applied to contemporary financial challenges, thereby ensuring that Islamic Finance remains not only economically viable but also the most ethical way to do business and finance.

Furthermore, we will explore the pivotal role of the *Sunnah* in shaping behaviours, attitudes, and decision-making processes in financial matters. The *Sunnah*'s influence extends beyond theoretical concepts; it is an active, living guide that continuously shapes the Islamic financial landscape. By understanding the *Sunnah* in its entirety—its origins, development, and practical applications—we can better appreciate its significance in empowering a financial system that is not only Shari‘ah-compliant but also *Sunnah*-inspired.

The Linguistic Meaning of *Sunnah*

Ibn Faris (d.395 AH) states that the root letters of the word *Sunnah*, the letter *Sīn*, *Nūn* and *Nūn* have a single, related origin, which signifies smoothness and continuous flow of something. This root meaning is evidenced by the classical Arab saying, "I directed water onto my face with ease (*sannan*)," when you let it flow smoothly. From this meaning, a man with a "*masnūn*" face is described, as if his skin had been smoothed onto his face. The smoothly flowing mud is also called "*masnūn*", as though it was poured smoothly. *Sunnah* is called *Sunnah* because it is smooth, easy and flows part of one's nature. Khālid ibn ‘Utbah al-Hudhalī said:

"Do not be afraid of a *Sunnah* you have embarked upon... The first to be content with a *Sunnah* is the one who walks it." From this, they say, "proceed upon your *Sanan* and *Sunan*," meaning, direction [Lisān al-‘Arab].

The meaning of smoothness is manifest also in the way winds are described in the Arabic language. The wind comes in "*Sanā'in*" when it comes in one direction as a smooth gust. From this perspective, the Prophetic *Sunnah* has clear direction and force like the smooth gusts.

When something is smooth, it has a sharpness and precision to it. Hence, the root letters of the word *Sunnah* are used for a whetstone (*Sinān*), which is used to sharpen iron. The *Sinān* is the sharpening stone. Similarly, "*Sanāsin*" refers to the tips of the vertebrae, as if they have been sharpened. From this category, the human tooth and others are likened to the *Sinan* of a spear. The "*Sanūn*" is what is used to clean the teeth, because it is used to clean the teeth with ease. Considering the sharpness and precision meaning that stems from the root letters of *Sunnah*, we also learn that the Prophetic *Sunnah* is impactful and penetrates the hearts. It has a smooth entry that melts the hearts. The Prophetic *Sunnah* cleanses and purifies people, just as the *Sanun* purifies and cleanses the teeth.

Imam al-Azharī (d.370 AH) mentions that the *Sunnah* refers to the straight, praised path [Tahdhīb al-Lughah]. Al-Azharī further states that the root letters refer to carving out a path by earlier people and thereafter becomes a well-trodden path and route by those that follow.

Al-Khaṭṭābī (d.388 AH) describes *Sunnah* as a praiseworthy course of action and path [‘Irshād al-Fuhūl]. Lane's Lexicon describes *Sunnah* as 'a way, course, rule, mode, or manner, of acting or conduct or life of the like' [An Arabic-English Lexicon].

The word *Sunnah* conveys different meanings depending in which context it is used in. In its original sense, *Sunnah* refers to a normative way of acting, conduct, practice, usage, rule, course, institution, and behaviour. It denotes a way or manner of acting that has been instituted and practiced by people in the past, and it has become the way or the manner that is adopted by those after them. Some have further distinguished between *Sunnah* and *Sīrah*, in that *Sunnah* refers to the actions itself, whilst the *Sīrah* refers to the habitual practice and walking, travelling on the path and doing the action. This is based on the linguistic root of the word *Sīrah* which comes in the meaning of walking, travelling, and doing.

The Technical Meaning of *Sunnah* in Shari‘ah

When Arabic words are used in the context of Shari‘ah, they have an advanced or modified meaning to that what is meant linguistically and literally. In the context of Shari‘ah, *Sunnah* has been narrowed to the practice of the Prophet ﷺ and his companions. Sayyidunā ‘Uthman (*Rađiallāhu*

'anhu) states, “A *Sunnah Ḥasanah* is that practice which was practiced by the Prophet ﷺ and his two successors thereafter” [al-Ṭabarī].

Ibn Rajab (d.795 AH) states, “*Sunnah* refers to the well-trodden path and manner of doing things, as such, it incorporates everything practiced by the Prophet ﷺ and his rightly guided successors including beliefs, actions, statements, and advice. This is the *Sunnah* in its complete sense. The scholars of the past would use the word *Sunnah* for all these elements” [Jāmi‘ al-‘Ulūm wal-Ḥikam].

The word *Sunnah* has further modifications and specification in meaning when used in particular disciplines and areas of knowledge. The exact application of the word *Sunnah* is different in what is meant in *Hadīth* studies to that what is used in *Fiqh*, as these disciplines focused on different aspects of Shari‘ah. Similarly, the word *Sunnah* is used with a specific connotation in *Aqīdah* (creedal matters).

Imam al-Sakhawī (d.902 AH) states that *Hadīth* refers to everything ascribed to the Prophet ﷺ in terms of speech, action, tacit approval, and characteristics, to the extent that even his motions and moments of stillness whilst awake or asleep are included in the context of *Hadīth*. This is broader than *Sunnah*, however, scholars of *Hadīth* use *Hadīth* and *Sunnah* interchangeably [Fath al-Mugīth].

Imam al-‘Aynī (d. 855 AH) states that *Sunnah* refers to the rightly-guided path and correct methodology. Imam al-Kirmānī states that *Sunnah* refers to the *al-Tarīqah al-Muhammadīyyah* (the Prophetic way) which includes the Shari‘ah, its compulsory matters, desirable matters and beyond [‘Umdat al-Qārī].

In *Hadīth* studies, *Sunnah* is typically described as any statement, action, confirmation, or attribute ascribed to the Prophet ﷺ. In ‘Uṣūl al-Fiqh, *Sunnah* is typically described as any statement, action or confirmation that is ascribed to the Prophet ﷺ. However, the personal attributes and characteristics of the Prophet ﷺ are not part of the technical definition of *Sunnah* in ‘Uṣūl al-Fiqh. Of course, the objective of scholars in ‘Uṣūl al-Fiqh was to deduce law and set precedent from the Quran and *Sunnah*; Features and attributes like the handsomeness and build of the Prophet ﷺ did not result in legislation, and hence were not part of the definition in this regard. In *Fiqh*, *Sunnah* encompasses actions that were either performed by the Prophet ﷺ to perfect the Shari‘ah-ordained practices, or performed as personal habits in matters of worship or otherwise. In *Aqīdah*, *Sunnah* is typically used to refer to the correct *Aqīdah* and is used in contrast to *Bid‘ah*.

Imam al-Shāṭibī (d.790 AH) mentions that *Sunnah* is used in multiple meanings, as follows:

- a. That which has been narrated to us from the Prophet ﷺ that is not in the Quran.
- b. In contrast to that which is *Bid‘ah*.

- c. That action and practice upon which the companions were on [al-Muwāfaqāt].

Imam al-Shāfi‘ī (d.204 AH) describes three functions of the *Sunnah* of the Prophet ﷺ as the following:

1. **Emphasis:** The Prophet ﷺ emphasised and highlighted what Almighty Allah explicitly revealed in the Quran.
2. **Exposition:** The Prophet ﷺ clarified, explained, and demonstrated what Almighty Allah revealed.
3. **Establish:** The Prophet ﷺ taught and inaugurated practices that were not explicitly referenced in the Quran [al-Risālah].

The Practice of the Companions is included in the Sunnah

The actions and practices of the noble companions are also included within the definition and understanding of *Sunnah*. ‘Alā’ al-Dīn al-Bukhārī (d.730 AH) mentions that the *Šahābah* had two attributes which nobody else had:

1. The blessings of companionship with the Prophet ﷺ. This gave the *Šahābah* a greater accuracy in their opinions, statements and understanding.
2. The possibility that any and all their actions or statements could very likely be heard, observed, or learned directly from the Prophet ﷺ [Kashf al-‘Asrār Sharḥ ‘Uṣūl al-Bazdawī].

Imam al-Sarakhsī (d.483 AH) said, “The *Sunnah* is that which was practiced by the Prophet ﷺ and the *Šahābah* after him” [‘Uṣūl al-Sarakhsī].

Ibn Malak (d.854 AH) said, “The *Sunnah* refers to the words, actions, and tacit approval of the Prophet ﷺ. It also refers to the way of the *Šahābah*” [Sharḥ ibn Malak ‘alā al-Manār].

Mullā Jīwan (d.1130 AH) said, “The *Sunnah* also refers to the sayings and practices of the *Šahābah*” [Nūr al-‘Anwār]. Ibn Nujaym narrates the same concept in Fath al-Ghaffār and Abd al-Aliyy al-Laknawī state the same in Fawātiḥ al-Rahamūt. This is all strengthened and evidenced by the saying of the Prophet ﷺ, “I enjoin you to follow my companions, then those after them and those after them” [Sunan al-Tirmidhī]. Sayyidunā ‘Abdullah ibn Mas‘ūd said, “People will continue to be virtuous as long as they take knowledge from the companions of Muhammad ﷺ and their elders. If they take their knowledge from the young, that is when they will be ruined” [al-Zuhd wal-Raqā‘iq]. The Prophet ﷺ said, “My Companions are like the stars, whichever of them you follow you will be rightly guided” [al-Bayhaqī].

Following the *Sunnah*

The word *Sunnah al-Nabī* or *Sunnah al-Rasūl*, that is, the Prophetic *Sunnah*, does not occur in the Quran as such. But the phrase '*Uswah Hasanah* (excellent conduct) is mentioned in the Quran in *Sūrah al-‘Ahzāb* (33:21) in reference to the exemplary conduct of the Prophet ﷺ. This is the nearest Quranic equivalent of the *Sunnah*. The verse in question addresses the believers in the following terms: 'Certainly you have, in the Messenger of Allah, an excellent example' [Quran 33:21]. The Quran also uses the word '*Hikmah*' (wisdom) as a source of guidance that accompanies the Quran itself. Imam al-Shāfi‘ī (Rahimahullah) quotes at least seven instances in the Quran where *Hikmah* occurs next to *al-kitāb*, and in all these instances, *Hikmah* refers to the *Sunnah*. For instance, in *Sūrah al-Jumu‘ah* (62:2), we read that Almighty Allah sent a Messenger to educate and to purify the people by 'teaching them the Book and the *Hikmah*'.

The *Sunnah* is a form of revelation (*Wahy*), and by virtue of being a type of revelation, it is legislative and meaningful. Ibn ‘Abd al-Barr (d.463 AH) states that it is praiseworthy and admirable to emulate and follow all the actions of the Prophet ﷺ. He writes:

"All the actions of the Messenger of Allah ﷺ are praiseworthy, and are to be emulated in every situation, unless the Messenger of Allah ﷺ informs that it is exclusive to him, or the Quran states that. Otherwise, following him is, at the very least, recommended in all his sayings. Among the people of knowledge, there are those who believe that emulating all his actions is obligatory, just like the obligation of following his commands. And the evidence that all his actions are good to be emulated in them is Allah's saying, "Indeed, in the Messenger of Allah, you have an excellent example" [Quran 33:21]. This is unconditional, except when there is evidence for the exclusivity of something from it, then it is necessary to submit to it. He ﷺ said about continuous fasting, "I am not like you; I spend the night while my Lord feeds me and gives me drink." So he informed of the exclusivity of the position, although there are scholars who did not make continuous fasting exclusive to him, and interpreted this statement as an expression of kindness and ease for his nation. Allah said, "Indeed, you guide to a straight path, the path of Allah." And he said ﷺ, "Take your rituals from me," and he said, "Pray as you have seen me praying." ‘Abdullah ‘Ibn ‘Umar said, "Indeed, Allah sent Muhammad ﷺ to us while we did not know anything, so we only do as we saw him doing." The Prophet ﷺ also said, "I was only sent as a teacher and a bringer of glad tidings, and I was sent as a guiding mercy." May Allah's blessings and peace be upon him. So, it is not permissible to claim exclusivity for him in anything except in what has become apparent by his exclusivity in the Quran or in the established *Sunnah* or consensus because we have been commanded to follow him, emulate him, and be guided by his actions and obey him unconditionally. It is not permissible for him to be singled out in something and then remain silent about it for his nation and leave explaining it to them while they are commanded to follow him" [al-Tamhīd].

The *Fiqh* Categorisation of the *Sunnah*

The scholars have examined the practices of the Prophet ﷺ and classified them into two categories: those that are a building block in perfecting an act of worship, whose neglect would constitute misguidance and be considered sinful, and those that, while not building blocks of Islamic practices, represent personal habits, behaviour, and conduct. Neglecting the latter is not deemed sinful, but it represents a missed opportunity and a disadvantage.

Considering this, the jurists typically divide the *Sunnah* as follows:

1. *Sunan al-Hudā* (the practices of guidance) refers to those Prophetic practices that bring completeness and enhancement to established Islamic practices. They are essentially value-adding in the complete sense. They are the building blocks to take particular practices to perfection and optimality. By omitting these value-adding practices, it is disliked and blameworthy. Examples of this include *Ṣalāh* in congregation and the call to prayer ('Adhān). The Prophet ﷺ practiced these to get close to Almighty Allah and were deemed integral in getting close to Allah and organising Shari'ah practice. These *Sunnah* make actions wholesome. They bring shape and order to fundamental observances in Shari'ah. As such, they are inherently part of Islamic rituals, and form part of sacred actions and traditional practice of Islam. They are all formed around a particular obligatory action in Islam. Every obligatory action and core practice in Islam has a framework of *Sunnah* encapsulating it. *Sunan al-Hudā* empower us with this framework and teaches us how to perform a practice in the most optimal and proper way. It decorates the obligatory practice with enhancements that add finesse and perfection to the action.
2. *Sunan al-Zawā'id* (supplementary practices) refers to practices that are not formed around a particular obligatory action as such, and they are not integral or intrinsic elements of any Islamic practice or obligation. Rather, they are the personal habits and the generic lifestyle of the Prophet ﷺ. These typically include all the actions performed outside of 'Ibādat (worship), in the personal life of the Prophet ﷺ. The manner in which the Prophet ﷺ specifically dressed, slept, ate are all part of *Sunan al-Zawā'id*. This category also includes habitual practices of the Prophet ﷺ in Islamic practices and worship. In other words, the Prophet ﷺ himself would like to further enhance his worship, and would engage deeply in performances from his own liking and love, such as prolonging recitation of the Quran in his *Ṣalāh* and lengthy prostrations. These were his habitual practice in prayer [Hāshiyah 'Ibn 'Ābidīn].

'Ibn 'Ābidīn (d.1252 AH) writes that there is no difference between voluntary (*Nafl*) acts and the *Sunnah al-Zawā'id* (supplementary practices) in terms of ruling, because it is not disliked to omit

any of them. The only difference is that the former is related to acts of worship, while the latter is related to daily practice. They have given the example of the *Sunnah al-Zawā'id* of the Prophet's ﷺ lengthening recitation, bowing, and prostration. There is no doubt that this is an act of worship. So, the meaning of the *Sunnah al-Zawā'id* being a custom is that the Prophet ﷺ consistently performed it until it became a habit for him, and he only left it occasionally. The *Sunnah* is the established path *in religion*, so it is, in itself, an act of worship and part of *Dīn*, but is called a daily practice for the reasons mentioned. Since it is not part of the religion's perfection and its rituals, it is deemed to be a supplementary *Sunnah*, unlike *Sunan al-Hudā*, which is the emphasised *Sunnah* that is close to being obligatory, and its abandonment leads to misguidance because leaving it is taking the religion lightly" [Hāshiyah 'Ibn 'Ābidīn].

Following the *Sunnah* Holistically

Our practice of the *Sunnah* is often confined to aspects of worship, neglecting to consider the broader scope of the Prophet's ﷺ practices and interactions. It's worth reflecting on how frequently we truly delve into the life of the Prophet ﷺ to derive strategies or action plans inspired by his teachings and approaches. Islamic Finance can benefit immensely from delving and contemplating on the *Sunnah* holistically. The *Sunnah al-Zawā'id* incorporates the Prophetic way in his daily practices. This is where the personal practices in financial transactions of the Prophet ﷺ are captured. This is how the *Fiqh* shapes a value-adding framework for Islamic Finance that is authentic and authoritative.

Whilst discussing the holistic adherence to the Prophetic way, Prophetic thought, and Prophetic strategy, the following narration, often cited and at times, misunderstood, leads some to mistakenly believe that we do not need to consider the Prophet's ﷺ practice in matters outside of worship. However, this understanding is not accurate. The *Sunnah* encompasses a wide range of concepts, guidance, and teachings of the Prophet ﷺ, extending far beyond the realm of worship, and it's crucial to recognise and incorporate these diverse aspects into our daily lives. The *Hadīth* is as follows: Rāfi‘ Ibn Khadīj (*Rađiallāhu ‘anhu*) reported that Allah's Messenger ﷺ came to Madinah and the people had been grafting the trees. He said: "What are you doing?" They said: "We are grafting them," whereupon he said: "It may perhaps be good for you if you do not do that." So they abandoned this practice (and the date-palms) began to yield less fruit. They mentioned it to the Prophet ﷺ, whereupon he said: "I am a human being, so when I command you about a thing pertaining to religion, do accept it, and when I command you about a thing out of my personal opinion, keep it in mind that I am a human being" [Ṣaḥīḥ Muslim].

Does the above narration discourage us from looking at the life of the Prophet ﷺ holistically? There has been a lot of discussion among classical scholars on the above narration and the essence of Prophetic advice in purely worldly matters. Imam al-Munāwī (d.1031 AH) comments that the

implication of the above narration is specific to worldly affairs that have no relationship with religious matters [Fayd al-Qadīr]. Imam ‘Abū al-‘Abbās al-Qurṭubī (d.656 AH) states that this refers to purely worldly benefits which have no connection to matters of *Dīn* [al-Bahr al-Muhīt al-Thajjāj].

Perhaps another way to understand this narration is that of a humble admission by the Prophet ﷺ, emphasising his humanness and non-divine nature. It reflects his role as a Prophet of Allah, endowed with the responsibility to be comprehensively informed about all matters pertaining to Sharī‘ah. His knowledge was exhaustive in aspects that influence humanity's relationship with Allah across all facets of life. This encompassed everything essential for understanding the oneness of Allah, *Īmān*, the Hereafter, Islamic practices, moral values, and other Sharī‘ah-related subjects. However, this profound knowledge did not extend to everyday worldly affairs, which were not central to his role in conveying Sharī‘ah. This distinction underscores the Islamic belief in monotheism, recognising that only Almighty Allah possesses omniscience. Therefore, opinions of the Prophet ﷺ on worldly matters were just that – opinions, with the true knowledge of outcomes known only to Almighty Allah. This is reflected in his statement, 'I am a human being,' highlighting that knowledge of mundane outcomes and worldly activities are not within the domain of Prophetic knowledge.

Nevertheless, it is essential to acknowledge that Sharī‘ah provides guidance for all aspects of life. There is always some element of guidance in the *Sunnah* for every situation. Adopting the guidance from any of the Prophetic practices always has benefit and meaning. Even if it had no meaning, no apparent benefit, just the mere emulation would be praiseworthy and of spiritual value. For instance, in the context of investments, while the profitability of an investment is known only to Allah, the *Sunnah* offers guidance on the structuring and execution of the investment. This guidance directs us towards creating investments that are fair, equitable, positive in experience, and value driven. The *Sunnah*, in this sense, represents the optimal process, offering a comprehensive framework that extends beyond spiritual matters to include practical, everyday affairs.

The Layers of the *Sunnah*

Many people assume the *Sunnah* to be the apparent practice narrated regarding the Prophet ﷺ, but in reality, the *Sunnah* is far more comprehensive and deeper. The *Sunnah* is multi-layered; each specific action performed by the Prophet ﷺ was not merely a physical act but a manifestation of a deeper philosophical idea and intent. These underlying principles are reflected in various practices, teachings, and even revelations associated with the *Sunnah* and *Sīrah*. For example, the use of *Siwāk* (a traditional tooth-stick) for cleaning teeth is a physical practice, but it is underpinned by the broader principle of cleanliness and purity. This underpinning meaning is then echoed in other narrations and teachings from the Prophet ﷺ, demonstrating that *Sunnah* encompasses not just actions but also a holistic way of being. *Sunnah* is not just doing, but *a way of being*. The *Sunnah*,

therefore, possesses multiple layers, depths, meanings, and elements, all aimed at providing a comprehensive framework for living a life that is pleasing to Almighty Allah, transcending time, and space.

Delving further into the practice of using *Siwāk*, scholars have identified multiple layers within this single act. They have explained that using the twig as a tooth-stick is a *Sunnah* in itself, while the broader act of cleansing represents another layer of *Sunnah*. Shaykh Muhammad Yunis Jownpuri (d.1438 AH) emphasised that there are two aspects to the *Sunnah* of *Miswāk*: one is the cleansing aspect, and the other is the use of the specific tool employed by the Prophet ﷺ. Mufti Muhammad Taqi Uthmani has made a similar distinction [al-Arba‘īn Fī Hubb al-Nabī al-‘Amīn].

Mufti Khalid Saifullah states that the objective and purpose of the *Siwak* was to clean the teeth and remove odour from the mouth. Whatever method fulfils this objective, will suffice. However, since the Prophet ﷺ specifically used the *Siwak*, the *Sunnah* of the tool will only be fulfilled by using the stick itself, whilst the *Sunnah* act will be fulfilled by using a toothbrush and toothpaste [Kitāb al-Fatāwā].

‘Ibn Māzah al-Bukhārī (d.616 AH) writes that the *Siwāk* is from the *Sunnah*. It is better for it to be from the *Murrah* tree as it is more effective in fragrancing the mouth, and strengthening the teeth and gums. The *Siwāk* should be fresh, and its thickness should be equivalent to a small finger, and its length should be equal to a handspan. A finger does not replace the stick. If the stick is not found, then only will a finger suffice and be a substitute of the stick [al-Muhīṭ al-Burhānī].

In Sharḥ al-Muhaddhab, it is stated that anything that eliminates unpleasant odour from the mouth, and removes plaque and tarter from the teeth, will suffice. Imam Zakarīyyā al-Anṣārī (d.927 AH) states, “Regarding what is the most virtuous to use, the miswak which comes from the arak tree has a special status because the Prophet Muhammad ﷺ used it. One will be rewarded for using it, as it is following the Sunnah” [Asnā al-Maṭālib].

Maulānā Yūsuf Ludyānwī (d.1421 AH) states that it is better to use the *Siwāk* stick itself, however, using a toothbrush fulfils the *Sunnah* according to some scholars. Dr Ṣalāh Abū al-Ḥāj discusses how the classical and contemporary scholars discuss this issue, and states that scholars are of the view that using a finger in the presence of the stick would not fulfil the *Sunnah*. In the presence of the *Siwak*, it is far superior to use the stick itself as is more effective in cleansing than the finger [‘Ifādāt al-Khayr]. In Marāqī al-Falāḥ, al-Shurunbulālī (d.1069 AH) enumerates the ‘act of *Siwāk*’ even if it is with the finger or coarse material, when the stick is unavailable, or there is some harm being experienced in the mouth. Mullā Khusru (d.885 AH) mentions that if something other than the stick is used due to necessity, one will receive the reward of *Sunnah*, however, in the presence and

availability of the *Siwak*, if a person simply used their finger, they would not receive the reward [Durar al-Hukkām].

Shah Waliullah (d.1176 AH) in his commentary on al-Muwatṭa', al-Muṣaffā, states, "The scholars have discussed how cleansing with the *Siwāk* can be done with anything that removes dirt from the teeth, even if it is a piece of cloth, except for the finger. This is because the Prophet ﷺ and his companions, despite the possibility of using their fingers, sought the *Siwāk*. The best type of *Siwāk* is from the *arak* tree, this is because of there being greater 'Ittibā' (emulation) in this practice" [al-Muṣaffā]. This is interesting to show that there is a meaning in doing the specific thing performed by the Prophet ﷺ as it has a greater connection and closeness to the Prophet ﷺ, even though any other tool can be used to achieve the purpose of the Prophetic practice, which was cleanliness. The more one can align with the Prophet ﷺ, even in matters of habits, there is a greater spiritual meaning, closeness to the Prophet ﷺ and in that, there is great elevation and benefit for one's Hereafter. A similar idea is shared by even other scholars. Imam al-Nawawī (d.646 AH) mentions: "Using any object that removes impurities for *Siwāk* is acceptable, such as a rough piece of cloth" [Sharḥ Muslim].

These discussions bring to light the concept of various levels within the *Sunnah*. Consider the example of *Siwāk*: we explored not just the *Siwāk* itself, but also its alternatives like using a finger or a toothbrush, and the broader principle of cleanliness. From this discussion, and similar examples, we can extrapolate the following layers in the *Sunnah*:

1. **Level 1:** This is the outermost layer in the *Sunnah* which reflects the actual practices of the Prophet ﷺ.
2. **Level 2:** This is the inner layer, which reflects similar practices and actions that are alternatives to the practice in level 1, while not identical to those in Level 1, carry the same underlying meaning or purpose.
3. **Level 3:** This is the deepest layer, and the core, which the foundational concepts and principles that inform and guide the practices detailed in Levels 1 and 2.

Whilst we know specific practices to be *Sunnah*, each *Sunnah* was underpinned by a meaning and the Prophetic being. Using the *Siwāk* was underlined by cleanliness. We know that the Prophet ﷺ loved cleanliness, and as a result, did various practices that resulted in cleanliness. This is also confirmed in other reports. The Prophetic practices embody a profound coherence, where the *Sunnah* encompasses both practices and meanings intricately intertwined and manifesting in diverse ways. It's akin to a systematic construct, where each connection is deeply coherent and reveals layered complexities upon thorough exploration. The *Sunnah* is not just specific practices, in addition to specific practices like eating with the right or sleeping on one's right side, there are

many overarching and underpinning principles that drive the practices of the *Sunnah*. They are also from the Prophetic way.

Another example is that the Prophet ﷺ was very particular about not wasting water and being economic with resources, as such, he completed *Wuḍū'* and *Ghusl* in a little amount of water without wasting water. Nowadays, we have running water in taps and do not use containers, however, the meaning of being resourceful and economic still stand, and we do our utmost not to waste water, even though the tools that we have at our disposal are different. Thus, regardless of which tools we use or how we perform *Wuḍū'* and *Ghusl*, the underpinning concept of being economic with resources is from the *Sunnah* and Prophetic way.

The idea of layers in the *Sunnah* can also be understood from what Shaykh al-Islam Mufti Muhammad Taqi Uthmani discusses in regard to Prophetic clothing, that the Prophetic clothing, in addition to its form, is also premised on specific meanings. He states:

“Islam does not neglect the topic of attire; instead, it addresses such concerns in harmony with the sound and pure nature of humans. It is understood that humans are inherently drawn to appreciate various types of clothing and food, and as a result, Islam does not impose a single specific form or uniform. Rather, it establishes principles and guidelines that every Muslim must follow. Once these principles are acknowledged, individuals are free to choose their preferred clothing. Shari‘ah does not forbid advancements in clothing styles as long as the underlying principles and foundations are observed” [Takmilat Fath al-Mulhim]. Thereafter, Mufti Muhammad Taqi Uthmani outlines the following principles that underpin the *Sunnah* of clothing:

1. Clothing should cover the private areas of one's body.
2. Clothing serves as a form of adornment.
3. Pride, ostentation, and boasting through clothing are all prohibited.
4. Intentionally wearing garments that emulate inappropriate practices or individuals with immoral behaviour is not allowed.
5. Silk clothing should not be worn by men. [Takmilat Fath al-Mulhim]

The above points indicate to a layering in the *Sunnah* that at the surface we ascribe certain clothing to be closer to the *Sunnah*, but the above principles are another layer of the *Sunnah* sitting beneath the apparent clothing. Observing the above considerations are also from the *Sunnah*, and the Prophetic way.

When delving into the *Sunnah* and its various elements, it's important to recognise that these practices are not merely ritualistic acts but are deeply connected to meaningful objectives and tangible benefits. The *Sunnah* is designed in such a way that each practice contributes to a broader,

beneficial purpose in real life. Taking the example of the *Sunnah* practice of *Miswāk*, we find that it offers a multitude of advantages that extend beyond the mere act of cleaning teeth. The use of *Miswāk*, a traditional tooth-stick, is not just about oral hygiene; it encompasses a holistic approach to dental care. This practice effectively cleans the teeth, but it also enhances oral aroma, promoting fresh breath. Beyond the physical benefits, it encompasses aspects of personal hygiene, which is a significant component in Islam's emphasis on cleanliness. The use of *Miswāk* also serves as a preventive measure for dental health issues, contributing to overall dental care and health maintenance. The practice of the *Miswāk* is underpinned by several principles, such as cleanliness, self-care, and the importance of maintaining one's health. These practices were not meaningless, and merely ritualistic, rather, they served meaningful benefits in real life. This intertwining of Prophetic practice with practical, worldly benefits is a hallmark of the *Sunnah*, exemplifying how these practices are meant to enhance not only our spiritual well-being but also our physical and mental health. Therefore, when engaging in *Sunnah* practices, it is beneficial to appreciate the depth and breadth of their significance. These practices are intricately designed to enrich our lives, providing spiritual fulfilment while also catering to our physical and psychological needs. The wisdom of the *Sunnah*, therefore, lies in its ability to seamlessly integrate spiritual practices with practical, everyday benefits, guiding us towards a balanced and wholesome way of life.

The layering idea and concept can further be gauged from what Shāh Walīullah discusses. He writes, regarding the meanings that underpin the prohibition and guidance on clothing, "Know, that the Prophet ﷺ observed and analysed the customs of non-Arabs and their deep-rooted attachment to worldly pleasures, and thus prohibited their main aspects and foundations, and disliked what was below that, because he knew that this would lead to the forgetfulness of the Hereafter and entail excessive pursuit of worldly desires. Among those aspects are luxurious clothing, which was their main pursuit in life and the source of their greatest pride, and that manifested in several ways, such as:

1. Trailing the garments, shirts, and trousers, for the purpose is not to cover or adorn oneself, which are the intended objectives of clothing, but rather to boast and seek wealth and the like. Adornment is only in the proportion that covers the body.
2. Wearing the fine, exotic type of garments; the Prophet ﷺ said: "Whoever wears silk in this world will not wear it in the Hereafter."
3. Wearing clothes dyed with colours that cause pride and ostentation, the Messenger of Allah ﷺ forbade wearing yellow and orange clothing.

There is no contradiction between his ﷺ statement, "Indeed, modesty is a part of faith", and his ﷺ statement, "Indeed, Allah loves to see the effects of His blessings on His servant"; for these are addressing two different things in reality that may be confusing at first, one is desirable, and the other is reprehensible. The desirable is to abandon miserliness, which differs according to the

different classes of people. What is considered miserliness among kings may be extravagance for the poor. It also includes abandoning the customs of the Bedouins and those who lived and spent their entire time overseeing animals. Similarly, it is desirable to adopt cleanliness and good manners. The reprehensible is indulging in extravagance, ostentation, boasting about clothes, breaking the hearts of the poor, and the like. In the wording of the *Hadīth*, there are indications to these meanings, as is not hidden from the attentive observer” [Hujjat Allah al-Bālighah].

The Importance of Following the *Sunnah* in all Affairs

In more than one place, the Quran enjoins obedience to the Prophet ﷺ and makes it a duty of the believers to submit to his judgment and his authority without question. The following verses are all explicit on this theme:

“And whatever the Messenger gives you, take it, and whatever he forbids you, abstain from it” [Quran 59:7].

“Obey Allah and obey the Messenger and those who are in charge of affairs among you. Should you happen to dispute over something, then refer it to Allah and to the Messenger” [Quran 4:58-59].

Imam al-Ghazālī (d.505 AH) states, "Know that the key to all virtue and goodness is to follow the *Sunnah* and to emulate the Prophet of Allah ﷺ in every facet, action, in movements, and stillness, even in the manner of his eating, standing, sleeping, and speaking. I'm not saying this only in terms of his etiquette in worship, as there's no reason to neglect the *Sunnah* mentioned therein, but in all matters and habits. In doing so, absolute emulation is achieved... It's inappropriate to be lenient in matters like these, saying: 'this is related to habits, hence there's no meaning in following it', because this would close a great door of virtue and goodness for you" [al-Arba‘īn Fī al-‘Uṣūl al-Dīn].

Muhammad al-Khādimī (d.1156 AH) mentions that what is desired from us is that we give full regard and commit to fulfilling all that which the Prophet ﷺ brought and taught, just like Sayyidunā ‘Ibn ‘Umar did [al-Barīqah al-Mahmudīyyah]. The following twenty-two narrations and reports emphasise the power of the *Sunnah* and highlight the importance of following the *Sunnah*:

1. *Sunnah* is the ark

‘Ibn ‘Asākir reported that Imam Mālik (Rahimahullah) said, “The *Sunnah* is like the Ark of Nūh. Whoever boards it will be saved, and whoever does not board it will drown” [Tarīkh Dimashq].

2. Do not dispute with the *Sunnah*

Sayyidunā Abū Hurayrah (*Radiallāhu ‘anhu*) reported that the Messenger of Allah ﷺ said, “Leave me with what I have left for you. When I narrate a saying to you, take it from me. Verily, those before you were only ruined because they excessively interrogated and disputed their prophets” [Sunan al-Tirmidhī].

3. Actions conflicting with the *Sunnah* are rejected

Sayyidah ‘Ā’ishah (*Radiallāhu ‘anhā*) reported that the Messenger of Allah ﷺ said, “Whoever performs a deed that is not in accordance with our matter, it will be rejected” [Ṣahīḥ Muslim].

4. Evil of innovations

Imam al-Awzā‘ī reported that Ḥassan Ibn ‘Atīyyah (Rahimahullah) said, “No people fabricate an innovation in their religion but that Allah will remove a *Sunnah* from like it, then it will never come back to them until the Day of Resurrection” [Sunan al-Darimī].

5. What the Prophet ﷺ forbids has authority

Al-Miqdām ‘Ibn Ma’dikarib reported that the Messenger of Allah ﷺ said, “Verily, what the Messenger of Allah has forbidden is like what Allah has forbidden” [Sunan al-Tirmidhī].

6. The *Sunnah* is evidence of guidance

Imam al-Awzā‘ī reported that Sayyidunā ‘Umar (*Radiallāhu ‘anhu*) said, “O people, we do not find any excuse after the *Sunnah* for anyone to be on misguidance, embarking upon it and considering it guidance, nor to be in guidance, embarking upon it and considering it misguidance. The matters have been explained, the proof has been established, and the excuses have ended” [Tārīkh al-Madinah li-Ibn Shabbah].

7. Reviving the *Sunnah* is blessed

‘Amr ‘Ibn ‘Awf (*Radiallāhu ‘anhu*) reported that the Messenger of Allah ﷺ said, “Verily, the religion began as something strange and it will return to being strange, so blessed are the strangers who revive my *Sunnah* which the people after me had distorted” [Sunan al-Tirmidhī].

8. *Sunnah* practice will be rare

Imam al-'Awzā'ī (Rahimahullah) said, "A time will come to people in which the rarest thing of that era will be a friendly brother, or a lawfully-earned coin, or a practice from the *Sunnah*" [Hilyat al-'Awliyā'].

9. Deviating from *Sunnah* is ruin

Al-'Irbāq ibn Sāriyah (*Radiallāhu 'anhu*) reported that the Prophet ﷺ said, "I have left you upon a clear path, its clarity is the same by night or day. No one deviates from it after me but that he will be ruined" [Sunan Ibn Mājah].

10. Following every practice is true love

Nāfi' reported that Sayyidunā 'Ibn 'Umar (*Radiallāhu 'anhuma*) would come to a tree between Makkah and Madinah, and he would take a nap under it. He told people that the Prophet ﷺ had done so [Musnad al-Bazzār].

Mujāhid reported that he was with Sayyidunā 'Ibn 'Umar (*Radiallāhu 'anhuma*) on a journey. He says, "We passed by a place, and he kept to the side away from it. He was asked, "Why did you do that?" He replied, "I saw the Messenger of Allah ﷺ do that, so I did that" [Musnad Ahmad].

Ibn 'Umar would trace the footsteps of the Prophet ﷺ and would perform prayer in every place that the Prophet ﷺ performed prayer. [Siyar 'A'lām al-Nubalā]

11. Holding firm to the *Sunnah*

'Ibn 'Abbās (*Radiallāhu 'anhuma*) reported that the Messenger of Allah ﷺ addressed the people during the farewell sermon, saying, "Satan has despaired that he will ever be worshipped in your lands. Rather, he is pleased for you to obey him in matters beside that, among your deeds you consider insignificant. Beware, O people! Verily, I have left among you what you must hold firmly to, for you will never be led astray again: the Book of Allah and the *Sunnah* of His Prophet. Verily, a Muslim is the brother of another Muslim, and the Muslims are brothers. It is not lawful for a man to take the wealth of his brother, unless he gives it freely and willingly. You may not wrong each other. Do not turn back to the ways of unbelievers after me, striking the necks of each other" [al-Mustadrak].

Sayyidunā ‘Umar Ibn al-Khaṭṭāb (*Raḍiallāhu ‘anhu*) came to the black stone and he kissed it. He then said, “Verily, I know you are only a stone with no power to harm or benefit me. Were it not that I saw the Prophet ﷺ kiss you, I would not have kissed you” [Ṣahīḥ al-Bukhārī].

12. Convey the *Sunnah*

Al-Haytam ‘Ibn Jamīl reported: ‘I said to Malik, “O servant of Allah, if a man has knowledge of the *Sunnah*, should he argue to defend it?” Imam Mālik (*Raḍiallāhu ‘anhu*) said, “No, rather he should convey the *Sunnah* if they might accept it from him, otherwise he should remain silent” [Jāmi‘ al-‘Ulūm al-Ḥikam].

13. Actions that are in accordance with the *Sunnah* are correct

Ibn al-Qayyim reported that Fuḍayl ‘ibn ‘Iyād said, “Allah purifies good deeds and makes them correct. Indeed, if deeds are sincere and incorrect, they will not be accepted. If deeds are correct and insincere, they will not be accepted, but rather they are only accepted if they are both sincere and correct. Sincere means they are done for Allah alone and correct means they are done according to the *Sunnah*.” Then, Fuḍayl recited the verse, “So whoever hopes in the meeting with his Lord, let him work righteousness and associate none in the worship of his Lord” (Quran 18:110) [‘Ilām al-Muwaqqi‘īn].

14. Following the *Sunnah* is the true miracle in life

Once, a person exclaimed to Imam al-Shāfi‘ī (Raḥimahullah), “Our companion Layth ‘Ibn Sa‘d would say: If you see a man walking on water, do not be amazed by him until he shows that he follows the command of the Book and the *Sunnah*.” Imam al-Shāfi‘ī said, “Even less, may Allah have mercy on him. Rather, if you see a man walking on water and flying in the air, do not be amazed by him until he shows that he follows the command of the Book and the *Sunnah*” [Ṭabaqāt al-Shāfi‘īyyin].

15. Warning against disregarding the *Sunnah*

Aslam al-Qibṭī (*Raḍiallāhu ‘anhu*) reported that the Messenger of Allah ﷺ said, “Let me not find one of you reclining on his couch, when a command or prohibition of mine comes to him and he says: I do not know, we only follow what we find in the Book of Allah” [Sunan al-Tirmidhī].

16. *Sunnah* is clear as day

Sayyidunā Abu al-Dardā (Radiallāhu ‘anhu) reported that the Messenger of Allah ﷺ came out to us when we were mentioning poverty and how much we feared it. The Prophet ﷺ said, “Is it poverty that you fear? By the one in whose hand is my soul, the world will come to you in great abundance to the point that nothing will deviate one of your hearts but it. By Allah, I have left you upon a clear path; its clarity is the same by night or day” [Sunnah Ibn Mājah].

17. The way of the *Sunnah* is the path to salvation

‘Abdullah ‘Ibn ‘Amr (Radiallāhu ‘anhu) said that the Messenger of Allah ﷺ said, “What comes over my nation will surely be what came over the children of Isrā’īl, step by step until if one of them fornicated with his mother, one from my nation would do the same. Verily, the children of Isrā’īl split into seventy-two sects and my nation will split into seventy-three sects; all of them are in the Hellfire except for one denomination.” They said, “Who are they, O Messenger of Allah?” The Prophet ﷺ said, “Those who follow my way and my companions” [Sunan al-Tirmidhī].

18. Reviving *Sunnah* grants companionship with the Prophet ﷺ in Paradise

Sayyidunā ‘Anas ‘Ibn Mālik (Radiallāhu ‘anhu) reported that the Messenger of Allah ﷺ said to me, “Young man, if you are able every morning and evening to remove any malice in your heart towards anyone, do so.” Then, the Prophet ﷺ said to me, “Young man, that is my *Sunnah*. Whoever revives my *Sunnah* has loved me, and whoever loves me will be with me in Paradise” [Sunan al-Tirmidhī].

19. Following the *Sunnah* to the best of one’s ability

Sayyidunā Abū Hurayrah (Radiallāhu ‘anhu) reported that the Prophet ﷺ said, “What I have prohibited for you, avoid it. What I have commanded you, do it as much as you can. Verily, those before you were ruined only due to their excessive questioning and contradicting their prophets” [Sahīḥ al-Bukhārī].

20. The *Sunnah* is the explanation of the Quran

Once, Imam Aḥmad ‘Ibn Ḥanbal (Raḥimahullāh) responded to a question on the opinion that the *Sunnah* overrules the Quran. Imam Aḥmad said, “I do not dare say that. Rather, the *Sunnah* is the explanation of the Book and its clarification” [al-Bahr al-Muhiṭ].

21. Neglecting the *Sunnah* distances one from the Prophet ﷺ

Sayyiduna ‘Anas ‘Ibn Mālik (*Radiallāhu ‘anhu*) narrates that some of the companions of the Prophet ﷺ asked the wives of the Prophet ﷺ about deeds that he performed in private. These companions remarked thereafter, “I will not marry women.” And some said, “I will not eat meat.” And some said, “I will never sleep.” The Prophet ﷺ praised and glorified Allah, and he said, “What is the matter with some people who say this? I pray and I sleep, I fast and I break fasting, and I marry. Whoever does not have an interest my *Sunnah* is not part of me” [Ṣaḥīḥ Muslim].

22. Disobeying the Prophet ﷺ results in refusal from Paradise

Sayyidunā ‘Abū Hurayrah (Radiallāhu ‘anhu) reported that the Messenger of Allah ﷺ said, “Everyone from my nation will enter Paradise except those who refuse.” They said, “O Messenger of Allah, who will refuse?” The Prophet ﷺ said, “Whoever obeys me enters Paradise, and whoever disobeys me has refused” [Ṣaḥīḥ al-Bukhārī].

What does it mean to Implement the *Sunnah* in Islamic Finance

In the context of Islamic Finance, the multifaceted nature of the *Sunnah* - the teachings, practices, and conduct of Prophet ﷺ - provides a rich and dynamic framework for financial operations. The *Sunnah* can be effectively operationalised to build a robust, ethical framework that powers Islamic Finance with Prophetic guidance. In Islamic Finance, following the *Sunnah* means adhering to its principles at various levels: from specific actions observed by the Prophet ﷺ to the underlying principles that these actions represent. The *Sunnah*, with its multi-layered nature, offers guidelines that extend beyond mere financial transactions to encompass broader ethical concerns.

The *Sunnah* can be operationalised as follows:

Level 1: Specific Actions of the Prophet ﷺ - These include explicit financial practices observed and advocated by the Prophet ﷺ, serving as direct models and practices for Islamic Finance operations.

Level 2: Actions with Identical Meaning - This layer includes practices that, while not identical to Level 1, share the same underlying principles and intentions of practices in level 1.

Level 3: Foundational Principles - The deepest layer, addressing the core maxims, ethical principles, and legal meanings that underpin the *Sunnah*. These principles form the philosophical foundation of Islamic Finance, guiding decision-making and policy formulation.

Operationalising the *Sunnah* in Islamic Finance involves several steps:

1. **Understanding Prophetic Practices:** Studying the specific financial practices of the Prophet ﷺ to understand their application in contemporary contexts.
2. **Extracting Underlying Principles:** Delving deeper into the *Sunnah* to extract underlying ethical principles that can inform modern financial practices.
3. **Applying Principles in Contemporary Contexts:** Adapting these principles to contemporary financial challenges, ensuring that Islamic Finance remains economically viable, ethically sound, and socially responsible.
4. **Developing a *Sunnah*-Inspired Framework:** Building a comprehensive framework for Islamic Finance that aligns with the multi-layered nature of the *Sunnah*, ensuring adherence to both specific practices and broader Prophetic practice and guidance.

The *Sunnah* offers a rich and dynamic source of guidance for Islamic Finance, providing not only specific practices but also overarching principles that ensure financial operations align with the Prophetic way, a value adding, wholesome and impactful experience. By operationalising the *Sunnah* at various levels, Islamic Finance can create a system that is not only Shari'ah-compliant but also reflective of the Prophet Muhammad ﷺ's wisdom and teachings. This approach fosters a financial environment that is equitable, transparent, and socially responsible, contributing to the well-being of the community and the economy at large. In essence, a *Sunnah*-inspired framework in Islamic Finance is a powerful tool for achieving economic prosperity while maintaining moral integrity and ethical responsibility, truly embodying the spirit of Islam in financial matters.

The following chapters will highlight how this meaning of *Sunnah*, with its multi-layered reality, will be used to develop a *Sunnah*-inspired framework to power Islamic Finance to operate in a Prophetic way.

Chapter 12: Prophetic Transactions

Chapter Summary

- The Prophet's ﷺ practices provide a comprehensive framework for ethical financial transactions and market activities.
- Emphasis on transparency and honesty in transactions is fundamental, fostering trust and preventing misunderstandings in business dealings, and underpinning a culture of integrity essential for economic stability and growth.
- Prioritising the interests of others in transactions, a principle demonstrated by the Prophet ﷺ, enhances transaction quality, and cultivates generosity and mutual respect, leading to equitable and sustainable economic practices.
- The Prophet's ﷺ approach to social enterprise and charitable giving exemplifies how economic success can align with social responsibility, benefiting the community and encouraging a balance between profitability and social impact.
- Adherence to fairness and equity, compliance with laws and regulations, and maintaining high moral standards and empathy in transactions set a benchmark for ethical business conduct.
- The *Sunnah* emphasises quality and excellence in service, advocating for a strong work ethic and respect for various forms of labour, promoting self-reliance and integrity.
- Responsible financial practices and living a modest lifestyle, as modelled by the Prophet ﷺ, encourage responsible consumption and equitable resource distribution.
- Valuing employee welfare, recognising their efforts, and ensuring fair treatment, including adequate compensation and safe working conditions, are highlighted.
- Promoting collaboration and teamwork, as well as economic empowerment and responsible resource management, are key principles in the Prophet's ﷺ teachings.
- Financial literacy is encouraged, with an emphasis on educating and supporting others in ethical business practices, fostering fair and transparent dealings.
- Encouraging youth entrepreneurship and recognising their potential are important for nurturing future leaders and entrepreneurs, essential for long-term economic sustainability.
- The *Sunnah* provides a holistic view of economic activities where integrity, compassion, and responsibility towards others are central, offering a blueprint for a balanced and ethical economic system.

Introduction

The preceding chapter delved into the critical role of the *Sunnah*, and how it can be instrumental in developing a framework for economic and financial practices. In fact, it *must* be the source of any framework for it to be Islamic. This current chapter shifts focus to the specific practices of the

Prophet ﷺ, particularly those that have direct relevance to transactions and market activities. Essentially, this chapter represents the first layer of the *Sunnah*, encompassing practices directly attributed to the Prophet ﷺ, each carrying profound underlying significance.

The Prophet ﷺ taught us not only the rules and principles of fair transacting, but he also demonstrated excellence in transacting. He showed us how to be the best version of ourselves in the markets. Greatness is not in amassing wealth or getting the best return on investment, greatness is being the best version of ourselves and the best we can be. The values that will bring out the best version of us are as follows:

1. Transparency and Honesty

Always be clear and honest about the terms, conditions, and nature of transactions. The Prophet ﷺ was the most transparent of people and ensured all his transacting were free of any ambiguity.

'Abd al-Majid 'Ibn Wahb narrated to us, he said: al-'Addā' Ibn Khālid Ibn Hawdhah said to me: "Shall I not read to you a letter that was written for me on the instruction of the Messenger of Allah ﷺ ?" He said: 'I said: "Of course." So he took out a letter for me: "This is what al-'Addā' Ibn Khālid Ibn Hawdhah purchased from Muhammad, the Messenger of Allah ﷺ: He purchased from him a servant, having no ailments, nor being a runaway, nor having any malicious behaviour. Sold by a Muslim to a Muslim" [Sunan al-Tirmidhi].

Transparency in business and financial dealings is a fundamental ethical principle emphasised by Prophet ﷺ. His practice of clearly stating the conditions of the subject matter, as is the case in the above narration, exemplifies the virtue of clarity and honesty in trade. This transparency builds trust, prevents misunderstandings, and ensures that all parties involved are fully aware of the terms and conditions. It is a practice that not only upholds ethical standards but also fosters long-term relationships and goodwill in business. This is beneficial for everyone in the long term.

2. Giving preference to one's counterparties and business partners

One of the common characteristics of the Prophet ﷺ was that he always gave preference to others. A defining trait of the Prophet ﷺ was his consistent prioritisation of others' needs and interests. This selfless approach was particularly evident in his financial dealings. Far from seeking personal advantage, he joyfully accorded others precedence. For him, transactions were more than mere exchanges of goods or services; they were opportunities to foster righteousness, win hearts, and cultivate an environment of trust and unity. He gave preference to experiential value over exchange value. His actions exemplified how commerce could be a conduit for strengthening communal bonds and uplifting moral values.

Suwaid Ibn Qays said, "Makhrafah al-'Abdī and I brought some cloth from Hajar, and the Messenger of Allah came to us while we were in Mina. The weigher of gold and silver for payment was present. The Prophet ﷺ bought some trousers from us, and said to the man who weighed (the payment): "Weigh it, and give them the preference" [Sunan al-Nasa'i].

On another occasion, a man came to the Prophet ﷺ demanding his debts and behaved rudely. The companions of the Prophet ﷺ intended to harm him, but Allah's Messenger ﷺ said to them, "Leave him, for the creditor (i.e. owner of a right) has the right to speak." Allah's Messenger ﷺ then said, "Give him a camel of the same age as that of his." The people said, "O Allah's Messenger ﷺ! There is only a camel that is older than his." Allah's Messenger ﷺ said, "Give it to him, for the best amongst you is he who pays the rights of others handsomely" [Ṣaḥīḥ al-Bukhārī].

Sayyidunā Jābir (Raḍi اللَّهُ عَنْهُ) had a debt due from the Messenger of Allah ﷺ, which he paid back and gave more than what was due [Ṣaḥīḥ al-Bukhārī].

Sayyidunā Anas (Raḍi اللَّهُ عَنْهُ) said that Abū Ṭaybah cupped the Prophet ﷺ and he ordered that a *ṣā‘* of dates be given him, also ordering his people to remit some of his dues [Ṣaḥīḥ Muslim]. Abū Ṭaybah was a servant of Banū Ḥārithah. It was the custom for a servant to hand over to his master part of what he earned. Here the Prophet ﷺ suggested that the masters of Abū Ṭaybah should reduce the amount they took from him.

Sayyidunā Jābir (Raḍi اللَّهُ عَنْهُ) reports, "I went out with the Prophet ﷺ on an expedition, but my camel delayed me. Allah's Messenger ﷺ came to me and said to me: Jābir, I said: Yes. Allah's Messenger, (here I am at your service and call) He said: What is the matter with you? I said: My camel has delayed me and is tired, so I have lagged behind. The Prophet ﷺ got down and motivated it with a crooked stick and then said: Mount it. So I mounted and (to my great surprise) I saw it (moving so quickly that) I had to restrain it (from going ahead of) Allah's Messenger ﷺ... The Prophet ﷺ said: Do you want to sell your camel? I said: Yes. So he bought it from me for one 'Ūqīyyah, Then Allah's Messenger ﷺ arrived at Madinah and I arrived in the evening. I went to the mosque and found him at the door of the mosque, and said: Is it now that you have arrived? I said: Yes, He said: Leave your camel, and enter the mosque and offer prayer. So I entered and offered prayers, and then returned. The Prophet ﷺ then instructed Bilāl to weigh one 'Ūqīyyah for me. Bilāl weighed that out for me (lowering the scale of) balance. So I proceeded and as I turned my back he said: Call for me, Jābir. So I was called back, and I said (to myself): He is definitely going to (want a refund and) return the camel back to me, and nothing was more displeasing to me than this. He said: "Take your camel and keep its payment with you, also" [Ṣaḥīḥ Muslim].

The *Sunnah* of the Prophet ﷺ teaches us the power and importance of giving preference to the counterparty in transactions. This principle, demonstrated in the above narrations underlines the

value of fairness and generosity in business dealings. It encourages fulfilling the rights of others in a manner that exceeds their expectations, thereby cultivating a culture of benevolence and respect in the economic sphere. This principle of going beyond the basic requirements of a deal fosters a spirit of generosity and gratitude. It shows a commitment to not just fulfilling obligations but doing so with excellence and kindness.

Ibn ‘Umar (*Radiallāhu ‘anhumā*) reported that the Prophet ﷺ entered into an agreement with the people of Khaybar that they share the produce in fruits and harvest [Ṣahīḥ Muslim]. They had agreed terms with the people of Khaybar. One of the conditions was that they were to leave their land. They came to the Prophet ﷺ and requested that they be allowed to stay and cultivate their land, in return, they would give half of the produce to him. The Prophet ﷺ agreed to this. Each year, when the time to harvest the crops arrived, the Prophet ﷺ would send ‘Abdullah Ibn Rawāḥah. He would divide the produce into two shares and then tell the people of Khaybar to take whichever share they wanted. This act really impressed the people of Khaybar. It was in Khaybar that an agreement like this was first made in which the crops would be shared. Henceforth, the name attributed to such agreements was ‘Mukhabarah’.

The practice of the Prophet ﷺ in Khaybar, where he established a partnership with the people and shared agricultural produce, highlights the virtues of collaborative efforts and fair sharing. This model, known as ‘Mukhabarah’, exemplifies a sustainable approach to agricultural production, where both parties benefit equitably from their joint efforts. It encourages investment in land development and ensures that those working the land receive a fair share of the produce. This system can lead to improved agricultural output, economic upliftment of farmers, and a stronger, more resilient agrarian economy. Perhaps the greatest feat in this transaction was that the Prophet ﷺ would give first right to the people of Khaybar to select which share of the produce they wanted. Further, they were non-Muslims, and the Prophet ﷺ was always interested in bringing people closer to Islam.

3. Values driven

When the Prophet ﷺ went on a journey, the last member of his family he saw was Fāṭimah (*Radiallāhu ‘anhā*), and the first he visited on his return was Fāṭimah (*Radiallāhu ‘anhā*). Once when he returned from an expedition, she had hung up a hair-cloth, or a curtain, at her door, and adorned al-Ḥasan and al-Ḥusayn with silver bracelets. However, when the Prophet ﷺ arrived, he did not enter. Thinking that he had been prevented from entering by what he had seen, she tore down the curtain, unfastened the bracelets from the boys and cut them off. They went weeping to the Prophet ﷺ, and when he had taken them from them, he said, “Take this to so and so’s family. In Madinah, these are my family, and I did not like them to enjoy their good things in the present life. Buy Fatimah a necklace, Thawban, and two ivory bracelets” [Sunan al-Tirmidhi].

Preferring the Hereafter over worldly gains, as exemplified by the Prophet ﷺ in the above narration, instils a sense of modesty and contentment in economic activities. This principle encourages individuals to prioritise the long term over the short term. By focusing on the Hereafter, individuals and societies can cultivate an environment where wealth is viewed as a means to achieve higher ethical and spiritual goals, rather than an end in itself. This approach fosters a balanced lifestyle, reduces extravagant consumption, and promotes the equitable distribution of resources. Further, this gives longevity, and a society that has a long-term preference.

4. Social enterprise

Once, the Prophet ﷺ sent Ḥakīm Ibn Ḥizām with a Dinar to buy an animal for ‘Uḍḥīyyah. He purchased an ‘Uḍḥīyyah animal which he then sold and made a profit of one Dinar, so he purchased another in its place. Thereafter, he returned to the Prophet ﷺ with an ‘Uḍḥīyyah and another Dinar, so he said, “The sheep is for sacrifice and Dinar is for charity” [Sunan al-Tirmidhī].

This narration highlights the principle of contentment and ethical profit-making in Islam. The Prophet’s ﷺ approval of using profits from a transaction for charity highlights the balance between earning a livelihood and maintaining ethical standards in business. This principle teaches that while seeking profit is permissible, it should be balanced with a sense of contentment and a commitment to using wealth for the greater good.

Social enterprises represent a transformative model in the economic landscape, blending profitability with social good, much in the spirit of the actions of Ḥakīm Ibn Ḥizām (*Radiallāhu ‘anhu*) as directed by the Prophet ﷺ. This narrative encapsulates the essence of a social enterprise: conducting business activities that not only generate financial profits but also contribute positively to the community. In this instance, Ḥakīm Ibn Ḥizām’s (*Radiallāhu ‘anhu*) entrepreneurial action not only fulfilled the immediate need for an ‘Uḍḥīyyah but also generated additional resources for charitable purposes. Such a model illustrates the profound economic benefit of social enterprises, where financial gains are reinvested or utilised to address social issues, leading to a sustainable cycle of growth and community development.

Moreover, the social benefits of this approach are manifold. By aligning business goals with social objectives, social enterprises foster a more inclusive economy where the benefits of growth are more widely shared. This not only helps in alleviating poverty and addressing societal needs but also promotes social cohesion and stability. In the long term, this model is conducive to sustainable growth. It encourages innovation and problem-solving aimed at social challenges, leading to a resilient economic structure where businesses and communities thrive together. The example set by the Prophet ﷺ endeavours is a timeless testament to the power of integrating economic activities with social and charitable goals, paving the way for a more harmonious and prosperous society.

4. Fairness and equity

Fairness and equity were a hallmark of all transactions that the Prophet ﷺ engaged in. Once, the Prophet ﷺ borrowed dates from a man, and when the man came to collect them, the Prophet ﷺ said, "We do not have anything today. If you could wait until we receive something, we can then pay you back." The man exclaimed, "What betrayal!" Umar stood up, but the Prophet ﷺ said, "Let him be, O 'Umar, for the one who has a right is entitled to speak." He then instructed them to seek dates from Khawlah bint Ḥakīm al-Anṣārīyyah. They did, and she said, "O Messenger of Allah, we only have *Dhukhrāh* dates." The Prophet ﷺ said, "Take and pay him." After they paid him, the man came to the Prophet ﷺ and asked, "Have I been fully paid?" He replied, "Yes, you have been paid and treated kindly." The Prophet ﷺ then said, "Indeed, the best of Allah's servants in this *Ummah* are those who fulfil their obligations and treat others kindly" [al-Ṭabarānī].

Respecting and valuing others, especially in financial dealings, is a key principle derived from the Prophet's ﷺ interaction with the man who lent him dates. This approach highlights the importance of acknowledging the rights of others and addressing their concerns with empathy and understanding. By prioritising respect and fairness in economic transactions, a culture of mutual respect and trust is fostered, which is essential for long-term economic stability and growth.

5. Compliance with laws and regulations

The Prophet ﷺ was the most compliant and performed all transactions in their optimal manner within the boundaries of Shari'ah principles. The Prophet ﷺ borrowed thirty or forty thousand from a companion when he went to the battle of Hunayn, and in another narration by Ahmad, eighty or forty thousand. When he returned, he paid him back and then said, "May Allah bless your family and wealth. The reward for a loan is its repayment and praise" [Sunan al-Nasa'i].

Giving anything in addition to the loan would have been *Ribā*. Nevertheless, the Prophet ﷺ was grateful and thankful as a person. Expressing gratitude and blessing others in financial interactions, as the Prophet ﷺ did after repaying a debt, underscores the value of appreciation and goodwill. This attitude reinforces positive relationships and encourages a culture of generosity and kindness. Recognising and appreciating the contributions of others not only strengthens social bonds but also promotes a healthy and supportive economic environment.

6. High morals and empathy with transacting parties

Treating business partners, clients, and customers with respect and understanding was another outstanding feature of the Prophet ﷺ. al-Sā'ib narrates, "I came to the Prophet ﷺ, and the people began to praise me and make a mention of me. The Messenger of Allah ﷺ said, "I am well aware of

him more than any of you. I said, 'You speak the truth. My father and mother be sacrificed for you! you were my partner and how good a partner; you neither disputed nor quarrelled'" [Sunan Abū Dāwūd].

Sayyidunā al-Sā'ib's (*Radiallāhu 'anhu*) narration about his partnership with the Prophet ﷺ highlights the importance of good manners in business relationships. Avoiding disputes and quarrels, and maintaining a cooperative and respectful demeanour, are key to successful business partnerships. This approach leads to harmonious business relationships, fosters trust and loyalty, and creates a positive business environment.

'Urwah al-Barīqī (*Radiallāhu 'anhu*) states, "The Messenger of Allah ﷺ gave me one Dinar to purchase a sheep for him. So I purchased two sheep for him, and I sold one of them for a Dinar. So I returned with the sheep and the Dinar to the Prophet ﷺ, and I mentioned what had happened and he said: 'May Allah bless you in your business dealings.' After that we went to *Kunāsah* in Kufa, and he made tremendous profits. He was among the wealthiest of the people in Kufa" [Sunan al-Tirmidhī].

The above reflects the Prophet's ﷺ practice of wishing well for his business partners and blessing their endeavours. This demonstrates the importance of positive intentions and goodwill in business partnerships. By hoping for the success and prosperity of business partners, a collaborative and supportive business environment is fostered, contributing to collective success.

7. Integrity and trustworthiness

Upholding integrity in all business interactions and being trustworthy in dealings is another teaching from the Prophet ﷺ. Integrity is everything. Just before the migration of the Prophet ﷺ to Madinah, the people of Makkah surrounded his house with the evil intention to assassinate him. They abused him, insulted him, plotted everything to harm him throughout the years. Nevertheless, he held all their assets as a trust and in his protection. He never once violated this trust. When he was about to leave secretly under the protection of Almighty Allah alone, the Prophet ﷺ ordered Sayyidunā 'Alī (*Radiallāhu 'anhu*) to remain behind in Makkah so that he can discharge and return people's entrusted assets that were with the Prophet ﷺ for safekeeping [Ma'rifah al-Sunan wa al-Āthār].

The Prophet's ﷺ instruction to Sayyidunā 'Alī to return entrusted assets to their rightful owners in Makkah illustrates the utmost level of trustworthiness and ethical conduct, even towards adversaries. Upholding trust and fulfilling commitments, regardless of personal differences or conflicts, establishes a foundation of integrity and reliability in all forms of interactions. This

principle is essential for building and maintaining trust in personal, professional, and commercial relationships.

8. Social responsibility

The Prophet ﷺ prioritised the welfare of his community and always put his people first before himself. Jābir narrates that when ‘Abdullah Ibn ‘Amr Ibn Ḥarām passed away, he was in debt to others. I asked the Prophet ﷺ to intercede with his creditors for some reduction in the debts. The Prophet ﷺ requested them (to reduce the debts) but they refused. The Prophet ﷺ said to me, “Go and put your dates (in heaps) according to their different kinds. The ‘Ajwa on one side, the cluster of Ibn Zaid on another side, then call me.” I did that and called the Prophet ﷺ. He came and sat at the head or in the middle of the heaps and instructed me to measure the dates for the people. I measured for them till I paid all the debts. My dates remained as they were, nothing had been diminished from them!” [Ṣaḥīḥ al-Bukhārī]

9. Charitable giving

The Prophet ﷺ was among the most charitable people. He always had the interests of others in his heart. Sayyidunā Ibn ‘Abbās (*Radiallāhu ‘anhumā*) narrates that the Prophet ﷺ purchased a calf from a caravan, but he had no money with him. He then sold it with some profit and gave the profit in charity to the poor and widows of Banū ‘Abd al-Muṭṭalib. He then said: “I shall not buy anything after this but only when I have money with me” [Sunan Abū Dāwūd].

The earlier narration of Ḥakīm ibn Ḥizām, where he doubled his charitable activities alongside his business venture, exemplifies the integration of philanthropy with commerce. This principle encourages businesspersons to consider the wider social impact of their activities and to use their commercial success as a means to benefit society. Engaging in charitable activities alongside business ventures not only fulfills social responsibilities but also fosters a sense of community and compassion in the business world.

Prioritising the needs of the less fortunate is a key feature in Prophetic transactions. The Prophet’s ﷺ action of using profits from a transaction to support the poor and widows shows a commitment to social responsibility and charitable giving. This approach encourages using economic gains to address social inequalities and support the vulnerable segments of society.

10. Quality and excellence in service

Whatever the Prophet ﷺ did, he did it with the highest quality and with the highest value. This teaches us to strive for excellence and high quality in products and services offered. The Prophet ﷺ

said, “Nobody has ever eaten a better meal than that which one has earned by working with one’s own hands. The Prophet Dāwūd used to eat from the earnings of his manual labour” [Ṣahīḥ al-Bukhārī].

The Prophet ﷺ said, “No doubt, it is better for any one of you to cut a bundle of wood and carry it over his back rather than to ask someone who may or may not give him” [Ṣahīḥ al-Bukhārī]. The companions of Allah’s Messenger ﷺ used to work for themselves and do intense labour and would end up sweating profusely. [Ṣahīḥ al-Bukhārī]

The Prophet ﷺ said, “Allah did not send any prophet but that they tended to sheep.” His companions asked him, “Did you do the same?” The Prophet ﷺ replied, “Yes, I used to shepherd the sheep of the people of Makkah for some *Qirāt* as payment” [Ṣahīḥ al-Bukhārī].

Sayyidah ‘Ā’ishah (*Rađiallāhu ‘anhā*) said that Prophet ﷺ said, “Verily Allah loves it when one of you performs excellently in any task that they do” [Musnad Abu Ya’lā].

The Prophet’s ﷺ acknowledgment of the importance of shepherding, a task he and other prophets undertook, underscores the value of experience and expertise in any profession. Recognising and valuing the skills and knowledge acquired through practical experience is crucial for personal development and professional excellence. This principle encourages lifelong learning, skill development, and respect for various forms of labour, fostering a skilled and versatile workforce. The Prophet’s ﷺ emphasis on a strong work ethic, as highlighted in his teachings, advocates for the dignity and value of earning one’s livelihood through honest effort. This principle promotes self-reliance, responsibility, and integrity, which are crucial for individual growth and societal prosperity. A strong work ethic leads to greater productivity, innovation, and economic development, benefiting both individuals and the community at large.

11. Responsible financial practices

The Prophet ﷺ was very prudent with his wealth. In fact, he would give more to others and leave nothing for himself. He was patient and content with very little of this world. ‘Abdullah al-Hawzānī narrates, I met Bilāl, the Mu’addhin of the Messenger of Allah ﷺ at Aleppo and asked regarding the financial position of the Prophet ﷺ. He replied that he had nothing, and that it was him who personally managed the financial affairs on behalf of the Prophet ﷺ since the day Allah made him Prophet of Allah ﷺ until he passed away. When a Muslim man would come to him and found him without clothing, he would instruct Bilāl to clothe him (with his wealth). Bilāl would go, borrow (some money), and purchase a cloak for him. He would then clothe him and feed him” [Sunan Abū Dāwūd].

'Abdullah al-Hawzani's account of the Prophet's ﷺ modest lifestyle, despite managing the financial affairs of a community, serves as a model of humility and responsible financial management. Living a modest lifestyle, regardless of one's financial status, encourages responsible consumption, prevents extravagance, and promotes equitable resource distribution. This principle helps in building a sustainable and just economy where resources are utilised wisely and shared equitably.

12. Valuing employee welfare

The Prophet ﷺ valued the people that worked with him. He always ensured fair treatment of employees, including adequate compensation and respect for their rights. 'Urwah narrates that the Prophet ﷺ gave him one Dinar to buy a sheep for him. 'Urwah bought two sheep for him with the money. Then he sold one of the sheep for one Dinar, and brought one Dinar and a sheep to the Prophet ﷺ. On that, the Prophet ﷺ invoked Allah to bless him in his deals. So 'Urwah used to gain from any deal even if he bought dust! [Ṣaḥīḥ al-Bukhārī]

The Prophet's ﷺ praise for 'Urwah's smart and profitable transaction demonstrates the value of appreciating and praising employees and partners. Recognising and acknowledging the efforts and achievements of employees and business partners can significantly boost morale, motivate higher performance, and foster a sense of belonging and loyalty. This practice contributes to a positive work culture where individuals feel valued and motivated to excel.

13. Promoting collaboration and teamwork

The Prophet ﷺ encouraged collaboration, networking, and supporting each other. He once said, "He who has land should cultivate it himself, but if he does not cultivate it himself, then he should let his brother cultivate it" [Ṣaḥīḥ Muslim].

The Prophet's ﷺ guidance on land cultivation embodies the principle of economic empowerment and responsible resource management. Encouraging landowners to cultivate their land or lend it to others who can reflects a proactive approach towards productivity and community welfare. This practice prevents resource wastage, promotes food security, and ensures that land, a vital economic resource, is used effectively. It also fosters a sense of community and cooperation, as landowners are urged to support others by providing them with the means to earn a livelihood.

14. Increasing financial literacy

A man mentioned to the Messenger of Allah ﷺ that he was deceived in a business transaction, whereupon Allah's Messenger ﷺ said, "When you enter into a transaction, say: There should be no attempt to deceive" [Ṣaḥīḥ al-Bukhārī].

The Prophet's ﷺ advice to avoid deception in business transactions underlines the importance of educating and supporting others in ethical business practices. This principle not only fosters fair and transparent dealings but also contributes to the overall integrity of the economic system. By educating and supporting each other in ethical practices, individuals and businesses can create a more equitable and sustainable economic environment.

15. Encouraging entrepreneurship and the young

'Abdullah Ibn Hishām (*Radīl-lāhu 'anhu*) narrates that his mother Zaynab bint Ḥumayd took him to the Prophet ﷺ and said, "O Allah's Messenger! Take the pledge of allegiance from him." But he said, "He is still too young for the pledge," and passed his hand on his head and invoked for Allah's blessing for him. Zuhrah Ibn Ma'bād stated that he used to go with his grandfather, 'Abdullah bin Hishām, to the market to buy foodstuff. Ibn 'Umar and Ibn al-Zubayr (*Radīl-lāhu 'anhūmā*) would meet him and say to him, "Be our partner, as the Prophet ﷺ invoked Allah to bless you." So, he would be their partner, and very often he would win a camel's load and send it home" [Ṣaḥīḥ al-Bukhārī].

The Prophet's ﷺ interaction with the young 'Abdullah Ibn Hishām (*Radīl-lāhu 'anhu*) illustrates the importance of encouraging and nurturing the young. Providing opportunities for youth to participate in economic activities, recognising their potential, and blessing their endeavours can lead to a more dynamic and innovative economy. Investing in the youth, who are the future leaders and entrepreneurs, is essential for long-term economic growth and sustainability.

Concluding Thoughts

The teachings, and practices of Prophet Muhammad ﷺ, as outlined in this chapter, offer a comprehensive framework for conducting financial transactions and market activities with integrity, fairness, and compassion. These principles, deeply rooted in the *Sunnah*, are not mere historical anecdotes but timeless guidelines that provide a moral compass for economic dealings in the contemporary world. If we want to enhance Islamic Finance, every stakeholder within the Islamic Finance should be encouraged to adopt these *Sunnah* practices. This is how transformation occurs.

The Prophet's ﷺ emphasis on transparency and honesty in transactions serves as a fundamental pillar for building trust and preventing misunderstandings in financial interactions. His approach underscores the importance of clear communication and ethical conduct in all business dealings, fostering a culture of integrity that is crucial for the stability and growth of any economic system.

Moreover, the *Sunnah* of the Prophet ﷺ in giving preference to others over oneself in transactions is a powerful testament to the values of selflessness and empathy in business. This principle of prioritising the interests of others not only enhances the quality of transactions but also cultivates

a spirit of generosity and mutual respect within the community. Such an approach can lead to more equitable and sustainable economic practices, where the welfare of all parties is considered.

The Prophet's ﷺ practice of valuing social enterprise and charitable giving integrates economic success with social responsibility. This model of social entrepreneurship, as demonstrated by the Prophet ﷺ, shows how business activities can be aligned with the greater good, benefiting not just individuals but the entire community. It encourages a balance between profitability and social impact, leading to a more inclusive and compassionate economic system.

The Prophet's ﷺ adherence to fairness and equity, compliance with laws and regulations, high moral standards, and empathy in transactions sets a benchmark for ethical business conduct. These principles ensure that economic activities are not only profitable but also just and beneficial for all stakeholders involved.

Additionally, the *Sunnah* highlights the importance of quality and excellence in service, responsible financial practices, valuing employee welfare, promoting collaboration and teamwork, increasing financial literacy, and encouraging entrepreneurship among the youth. These teachings provide a holistic view of economic activities, where each aspect is interlinked and contributes to the overall well-being and prosperity of society.

In essence, the *Sunnah* of Prophet ﷺ offers a blueprint for a balanced and ethical economic system, where transactions are conducted with integrity, compassion, and a deep sense of responsibility towards others. By adhering to these principles, individuals and businesses can not only achieve financial success but also contribute to the creation of a just, equitable, and thriving economic environment. This timeless wisdom from the *Sunnah* has the potential to transform our economic landscapes, making them more humane, sustainable, and beneficial for all. Integrating these practices at a micro level will revolutionise the Islamic economic system and take it to the next level.

Chapter 13: The Prophetic Macro Economy

Chapter Summary

- The Islamic economic system integrates market dynamics within the Shari‘ah framework to foster a just and sustainable world.
- It prioritises the welfare of the people and aims to develop a meaningful civilisation, restricting harmful economic activities.
- This system has parallels with capitalism in recognising private property and encouraging entrepreneurship but diverges significantly in underlying values and practices.
- The Islamic model contrasts with Financial Capitalism's focus on deregulation and speculative investments, emphasising asset-backed investments and real economic activities.
- It challenges Financial Capitalism's reliance on debt-fuelled growth, particularly interest-based debt, which contradicts Islamic principles.
- The system promotes equitable wealth distribution and social justice, emphasising moral and ethical dimensions in economic activities.
- It seeks to prevent economic disparities and power concentration among a wealthy elite, advocating a just and sustainable system.
- The Islamic economic system promotes equitable wealth distribution and social justice, focusing on moral and ethical dimensions in economic activities.
- It aims to counteract economic disparities and the concentration of power among a wealthy elite, advocating for wealth circulation through mechanisms like Zakat.
- The system discourages high-risk speculative investments, aligning with the principle of risk-sharing and ethical investment.
- The Islamic economic model balances market efficiency with ethical considerations, aiming for material prosperity and societal well-being.
- It stands as a viable alternative to capitalism and socialism, emphasising market efficiency and social justice for sustainable development.
- In Madinah, the Prophet Muhammad's ﷺ economic model demonstrated the importance of a market-driven economy, ethical business practices, and social welfare.
- The pillars of an Islamic economy include sound monetary policy, asset-backed transactions, sustainable development, virtuous industries, prohibition of *Ribā*, lower barriers to market entry, less monopolisation, equitable wealth distribution, robust institutions, and free markets within ethical constraints.

The Islamic Economic System

In an Islamic economic system, the production, management, and distribution of resources are allocated by the market within the Shari‘ah framework. This system aims to create a just, fair, and sustainable world where everyone's material needs are adequately met. By doing so, it allows individuals to concentrate on fulfilling their existential purposes. The Islamic economic system has two foundational purposes:

1. Maintaining the interests of the people (*Maṣāliḥ al-Ibād*)
2. Developing a productive and meaningful civilisation (*Imārat al-Bilād*)

The Islamic economic system is designed to restrict and diminish any economic activity that is harmful in any way, shape, or form, whether physically, mentally, spiritually, societally, or financially. Capitalism, as an economic system, shares certain similarities with the Islamic economic framework, particularly in its recognition of private property rights, the encouragement of entrepreneurial activities, and the functioning of market-driven economies. Both systems value the role of individual initiative and the efficient allocation of resources through market mechanisms. However, despite these overlaps, there are significant differences in the underlying values and practices of the two systems, especially when considering the contemporary form of capitalism known as Financial Capitalism.

Financial Capitalism is characterised by the predominance of financial markets, institutions, and instruments in the economy. This version of capitalism is marked by a heavy emphasis on deregulation, speculative investment, and the use of debt and credit as primary drivers of economic growth. While it has contributed to rapid financial innovations and the expansion of credit, this form of capitalism raises several concerns, particularly from an Islamic economic perspective. This dominance often means that financial sector growth becomes disconnected from the real economy, focusing more on trading existing assets rather than creating new wealth or tangible assets. The Islamic economic system, on the other hand, emphasises asset-backed investments and real economic activities. It advocates for a strong link between financial transactions and productive, real-world economic activities, ensuring that financial growth is aligned with actual economic development and societal progress.

One of the key issues with Financial Capitalism is its reliance on debt-fuelled growth. The extensive use of interest-based debt contradicts the prohibition of *Ribā*. In Islam, financial transactions are meant to be underpinned by real economic activities and assets, not merely the exchange of money or credit. This principle is in place to ensure economic stability and prevent the kind of speculative bubbles and financial crises often associated with high levels of debt and leverage.

Furthermore, Financial Capitalism often leads to significant economic disparities and social inequities. The focus on maximising shareholder value and profits, sometimes at the expense of broader societal concerns, can lead to neglect of issues such as workers' rights, environmental sustainability, and social welfare – areas that are of paramount importance in the Islamic economic framework. The Islamic model emphasises the moral and ethical dimensions of economic activities, promoting social justice, equitable distribution of wealth, and responsible stewardship of resources.

A notable criticism of Financial Capitalism is its tendency to disproportionately favour the wealthy, often leading to widening income and wealth gaps. Wealth accumulation in a few hands can result in economic power being concentrated among a small elite, influencing policies and economic directions to their advantage. In contrast, the Islamic economic system seeks to distribute wealth more equitably among society's members. Mechanisms like Zakat and prohibition of hoarding are designed to circulate wealth and assist the less fortunate, ensuring a more balanced and just economic system.

In the realm of Financial Capitalism, high-risk speculative investments are commonplace. This approach is often driven by the pursuit of quick, high returns, disregarding the underlying risk. Such behaviour and solely profit orientation is not encouraged in the Islamic economic system. The proliferation of complex and synthetic financial products is a hallmark of modern Financial Capitalism. These products, often derived from various layers of securitisation and financial engineering, can obscure the true risk and value of underlying assets. This complexity contradicts the Islamic economic principle of transparency and the reduction of information asymmetry in financial transactions. The Islamic economic system promotes straightforward, asset-backed financial products that are easy to understand and assess in terms of risk and return, ensuring greater transparency and fairness for all participants.

Another critical aspect where Financial Capitalism diverges from Islamic principles is in its approach to risk and speculation. The Islamic economic system does not permit excessive speculative behaviour. In contrast, Financial Capitalism often embraces high-risk speculative investments, which can lead to market volatility and economic instability.

Moreover, the regulatory environment in Financial Capitalism, characterised by significant deregulation, can sometimes lead to a lack of accountability and transparency in financial transactions. The Islamic economic model, on the other hand, advocates for a balance between market freedom and regulatory oversight to ensure fairness, transparency, and the protection of all stakeholders' rights.

While there are areas of overlap between Capitalism and the Islamic economic system, this variant of Financial Capitalism presents several challenges and contradictions to Islamic principles. The

Islamic economic model offers an alternative that balances the efficiency and dynamism of market economies with a strong emphasis on ethical considerations, social justice, and sustainable development. By focusing on these values, the Islamic economic system aims to achieve not only material prosperity but also societal well-being and ethical integrity. Socialism struggles because it lacks a market for economic capital resources, centralising ownership, and decision-making. This absence of market mechanisms for capital allocation leads to inefficiency and economic collapse.

In the Islamic system, you are part of a super production engine and a social order, where millions of strangers are cooperating and essentially building this production structure together, all because of being incentivised individually to gain value in the market by giving something of value. It is far more productive to add value in the market to acquire what you need, than to do everything yourself.

Humanity's greatest superpower lies in our ability to collaborate and cooperate, forming a global civilisation that significantly amplifies our collective productivity. This interconnected system allows us to produce outputs far more valuable and useful than any individual could achieve alone. No single person can match the quality of life attainable within this global division of labour and capital system. Here, everyone contributes, trades, and specialises, leading to a dramatic increase in overall productivity. To be a part of this system requires civilised interactions, respecting others and their property rights, and engaging in trade based on mutual consent and benefit. Mastering self-control over our basic, animalistic impulses to take from others is key to becoming a civilised individual capable of cooperation. In this cooperative framework, everything you desire is obtained through serving others.

The Principles of the Islamic Economic System

The principles of the Islamic economic system, which are learned from the Prophetic guidance and *Sunnah*, involve the following:

- 1. Ethical ownership and property rights :** Individuals and businesses have the right to own and control property and resources, which encourages investment, innovation, and personal responsibility. While recognising private property rights, the Islamic economic system emphasises that ownership is a trust ('Amānah) and should be exercised within the ethical boundaries set by Shari'ah. This encourages responsible investment and use of resources.
- 2. Market-based economy with moral oversight:** Prices for goods and services are determined by supply and demand in the market rather than by government intervention, leading to more efficient allocation of resources. In the Islamic economic system, prices are largely determined by market

forces of supply and demand, but within the boundaries of moral and ethical considerations. Unethical practices like hoarding and manipulation are prohibited.

3. Fair competition: An Islamic economic system encourages healthy competition but prohibits unethical practices and monopolies, ensuring that businesses operate on a level playing field and that consumer rights are protected. Competition among businesses leads to more choices for consumers, better quality products, and lower prices.

4. Balanced economic freedom: Individuals have the freedom to choose their profession, where to work, what to buy, and where to invest, promoting personal liberty and entrepreneurship. While individuals are free to choose their profession and engage in trade and commerce, their choices are guided by Islamic ethical norms, promoting a balance between economic freedom and social responsibility.

5. Profit within ethical limits: The potential for profits drives innovation, efficiency, and economic growth as businesses and entrepreneurs seek to improve and develop new products and services. Profit is recognised as a legitimate motive but is balanced against the need for fairness and social justice. Unethical means of profit, such as exploitation and *Ribā*, are strictly prohibited.

6. Government role in welfare and justice: The government in an Islamic system plays a role in ensuring social welfare, justice, and equitable distribution of wealth, notably through mechanisms like Zakat and public spending for the needy. While regulations exist, they are typically less restrictive than in socialist economies, allowing for more flexible and responsive economic decisions.

7. Consumer rights and ethical consumption: Consumers drive the economy through their purchasing choices, directing businesses to produce what is in demand. Consumers are encouraged to exercise their choices responsibly, with an emphasis on ethical consumption and avoidance of wastefulness, aligning with Islamic principles.

8. Ethical investment and wealth circulation: The Islamic economic system encourages saving and investment, leading to capital accumulation and increased productivity. Investments should be made in *Halāl* sectors, and wealth should not be hoarded but circulated in the economy, ensuring broader participation and benefit.

9. Economic diversity and inclusivity: An Islamic economic system allows for a variety of business structures, from small enterprises to large corporations, providing different pathways for economic success. Islamic economy supports a diverse range of economic activities and structures within the boundaries of Sharī'ah.

10. Adaptable and dynamic: The Islamic economic system is generally more adaptable to technological and market changes, fostering innovation and dynamic economic growth. The Islamic economic system is adaptable to changes and stresses resilience through ethical practices, social justice, and emphasis on long-term sustainability rather than short-term gains.

The Islamic economic system is often seen as a viable alternative to capitalism and socialism, offering a unique blend of market efficiency and social justice. It aims for sustainable development, equitable wealth distribution, and the integration of ethical values into economic practices, addressing both material and spiritual aspects of human life.

The Islamic Economy in Madinah

Madinah, the city of the Prophet ﷺ, is a manifestation and blueprint of a Prophetic economy. The earliest Muslims suffered and persisted for thirteen years in Makkah until the instruction from Allah was revealed to migrate to a small town up-north then known as Yathrib . Finally, a small band of Muslims could worship Allah freely without persecution. The time had come to lay down the foundations of a prosperous civilisation which would eventually number over two billion in 1400 years. The Prophet Muhammad ﷺ arrived in Madinah to the rapture and jubilation of the emigrants and citizens of Madinah and set his sight on developing an Islamic economy. In fact, Madinah was divinely selected and the economic factors in the selection were clear; it was the nexus for all trade caravans coming from the north and south; it was not too far from the coast, and it had something which Makkah did not, a booming agro-economy.

The Islamic economy immediately began to take shape as the Prophet ﷺ laid the foundations of three Mosques; namely Masjid Qubā', Masjid Banū Sālim and al-Masjid al-Nabawī . The landscape was redrawn with these Mosques, allowing people to envisage change and a new direction. The Mosques proved to be a cornerstone of the Islamic economy as they provided education on activities within an Islamic economy, as well as instilling virtuous traits within market participants. Any economy can crash without political stability, thus the Prophet ﷺ quickly did two feats of absolute ingenuity; he established treaties with the wider communities in Madinah, and created brotherhood pacts between the Muslim emigrants and native Muslims. This pact was a pact of social and financial solidarity. Reports show how the native Muslims gifted their own wealth and possession for their migrant brothers and sisters. It was almost an encouragement to the locals to be angel investors and seed capital providers to the newly emigrated cohort of Muslims from Makkah.

Madinah had many markets, such as *Sūq Qaynuqā'*, *Sūq al-Nabat* and *Sūq al-Zuhr*. These markets were administered by the Jewish and pagan tribes, and were located in different parts of the cluster towns across Madinah. They were known for their high barriers to entry, high taxes, and

unscrupulous practices. The Prophet ﷺ knew that the growth of the Islamic economy depended on the markets, and the current markets were rife with injustices. He immediately set out to establish a market. The narrations mention that he himself conducted a land survey to designate the ideal location. He went to two different sites which did not meet his standards and criteria. Thereafter, a companion came and requested the survey of a site he had come across. Upon viewing this proposed site, the Prophet ﷺ decreed “This is your market; trading should not be suspended, nor should anyone be prevented from trading, there should be no unfair practices and no taxes will be levied” [Sunan Ibn Majah]. The location of this was economically strategic in the west of the city. It was a vast open space where trade caravans usually came and disembarked. The market was situated in close proximity to the “natural main entrance” to the city next to the mountain pass. This particular spot not only facilitated local trades, but it also opened up the doors to international trade, imports and exports. The Prophetic decree outlined some key economic principles in how the Islamic market of Madinah functioned:

1. Market forces were left to operate freely within defined Sharī‘ah parameters without complete subjugation to central planners.
2. Barriers to entry which blocked potential entrants from entering the market were abolished. Thus, the Prophet ﷺ negated the need for regulatory clearances, licences and did not permit favouring existing firms by protecting their revenues. He opened up a level playing field for all market participants by allowing everyone free and open access to launch a business in the market.
3. Removing the barriers to entry symbolised another key economic principle: incentivising. The Prophet ﷺ displayed how people respond to potential rewards. He taught how an economy needs to incentivise. The free access to the market was a key incentive to entrepreneurs. The other markets in Madinah had barriers to entry in place making it difficult to start a trade.
4. Unfair practices were banned and the first signs of a true regulatory approach to consumer protection was enshrined in law.
5. Taxing one another in the market was banned. The other markets in Madinah had entry tariffs as well as taxes on trades. These were private taxes filling the coffers of the market owners. Such taxes were not designated to protect civil institutions or citizens, neither were they being redistributed among the people. Such selfish taxation regimes were banned in the Islamic market. This allowed people to enjoy more disposable income which was ultimately spent, invested, or used in trade, increasing GDP, boosting economic growth for the overall benefit of society.

The establishing of this new market and international trade centre necessitated a regulatory framework. The Prophet ﷺ immediately installed a regulatory framework and regulators to oversee the market operations. This institution was called the *Hisbah*, which was another cornerstone of the

Prophetic economy. The role of the regulator was to maintain law, order, and fair trading in the market.

The Prophet ﷺ was well aware that the dynamic state of economics meant that there would be people caught in financial distress, debt, hardship, and emergency situations. The public treasury of the Prophetic government allocated most of the resources to help those in need and those struggling to make ends meet. These resources were Zakat, *Şadaqah*, *Luqaṭah* (lost and found items), *Kharāj* (land tax), *Jizyah* (payment for protection), *Ghanīmah* and *Fay'* (war booty). Every citizen was guaranteed a baseline provision and support to give them more opportunities to break out of the cycle of poverty. A shelter in the form of *Waqf* (endowment) was introduced in the Masjid where the homeless could come and reside. This was called *al-Suffah*. The Prophet ﷺ allocated one of the funds in the public treasury for infrastructure development and maintenance. He demonstrated the importance of good infrastructure for the development of the economy.

Waqf powered the entire economy of Madinah. All the mosques in Madinah were all established and functioned as *Waqf*. The mosques were the spiritual base, judicial headquarters, and educational centres. The irrigation and water systems were *Waqf*; the well of *Rūmā* was dedicated as *Waqf* by Sayyidunā ‘Uthmān (*Radiallāhu ‘anhu*), who purchased it for thirty-five thousand Dirhams. Sayyiduna ‘Alī (*Radiallāhu ‘anhu*) gave his property in *Yanbū‘* as *Waqf* for the poor and needy. This land consisted of scattered springs. A Jewish man that was very fond of the Prophet ﷺ dedicated seven gardens that he owned as *Waqf* and handed their administration to the Prophet ﷺ. Khālid Ibn Walīd (*Radiallāhu ‘anhu*) designated his defence assets as *Waqf*. Dozens of houses were designated as *Waqf* and given for various uses in the Islamic economy. The dominance of *Waqf* created a sustainable base for the development of the Islamic economy.

The Prophet ﷺ demonstrated how a strong economy is the backbone to the preservation of faith and the faithful. What is most telling in this development is that he was very keen to establish the market and other economic institutions immediately after establishing the places of prayer. We learn that faith not only requires prayer, but a strong and functioning economy.

The Prophetic Macro Economy

The Sharī‘ah is just not a code of compliance, rather it is a way of being, behaving and growing. The reality is, the financial principles are not just beneficial for Muslims, they are beneficial for everyone. Each policy and principle that the Sharī‘ah advocates has intelligible and rational benefits. The Sharī‘ah guidance is not just ritualistic and spiritual feats, it incorporates value-adding operations and frameworks to run a smooth economic and financial system. Every guidance and policy in the Sharī‘ah have a clear reason and rationale which can be demonstrated in the real world. Thus, the Sharī‘ah guidance for financial and economic matters is not Muslim centric, it can be adopted and

implemented by anyone. Of course, being a faith-based framework and a values-based system, the entirety of the Sharī‘ah guidance will only truly make sense for a person who accepts the entire guidance in the framework it is presented in, and from a faith-based lens. The following is a sketch of the pillars of an Islamic economic system, and the Sharī‘ah vision for an economy. The Prophetic macro economy should be built on the following:

1. Sound Monetary Policy

In an Islamic economic system, sound monetary policy is of paramount importance. The Islamic economic model disapproves the use of money as a commodity and defines its role as a medium of exchange. This means that the creation and supply of money should be carefully regulated to prevent inflation or deflation, both of which can have detrimental effects on an economy. The central bank – if such a model was adopted - in a Sharī‘ah-compliant setting, would be responsible for ensuring that the money supply aligns with the real assets and productive capacities of the economy, thereby maintaining its intrinsic value. Money ought to be hard money, something that cannot be created easily and over supplied.

The concept of *Ribā* is strictly prohibited in Sharī‘ah, which has implications for monetary policy. Traditional central banking mechanisms often involve interest rate adjustments to control money supply, a practice not permissible in Sharī‘ah. Similarly, creating money from *Ribā*-based lending is another prohibited activity. Alternative tools must be developed to manage liquidity in the market that align with Islamic principles. These instruments can serve as the basis for a monetary policy that not only ensures economic stability but also adheres to ethical standards.

Sound monetary policy in a Sharī‘ah framework also emphasises transparency and accountability. Monetary policy should operate in a manner that is transparent and accountable to a higher ethical and legal standard. This fosters trust in the financial system and ensures that the monetary policy is implemented for the greater good of society, rather than for the benefit of a select few.

2. Asset-Backed and Less Financialisation

Sharī‘ah advocates for asset-backed transactions, steering clear of the excessive financialisation that characterises many modern economies. In conventional systems, financial derivatives and complex instruments often become so detached from real assets that they contribute to economic instability, as seen in the 2008 financial crisis. In contrast, Sharī‘ah principles insist that every financial transaction must be tied to a tangible asset or a specific service, adding a layer of security and reducing systemic risk.

The focus on asset-backed transactions also encourages real, productive economic activities. When financial transactions are tied to real assets, it ensures that capital is being used for creating value in the economy, whether it's through goods, services, or employment. This is in stark contrast to speculative activities that may not necessarily add value to the economy but can lead to volatile market conditions.

Less financialisation in an Islamic economic system also means potentially less income inequality. When finance serves real economic activities, the wealth generated is more likely to be distributed across various sectors and communities. This aligns well with the Islamic principles of social justice and equitable distribution of wealth, making the economy more inclusive and resilient.

3. Sustainable Development

The Quran and Prophetic narrations emphasise the importance of stewardship of the Earth, making environmental consciousness integral to Islamic economic principles. Businesses and industries are encouraged to adopt sustainable practices, not just to comply with international standards but also to fulfil religious obligations.

Muslims are always encouraged to adopt '*Ihsān* (excellence) in their affairs, which is a highest station and rank. This guidance should push everyone to incorporate the best standards for ethical and sustainable business practices. Companies are encouraged to look beyond short-term profits and consider the long-term impact of their actions on the community and the environment. This could manifest in various ways, from ethical sourcing of materials to responsible waste management, and even to the kind of projects that are deemed worthy of investment.

Environmental concern is already embedded within the Sharī'ah principles. Sharī'ah can play a pivotal role in promoting sustainable through financial instruments that help mobilise the significant capital needed to invest in renewable energy, sustainable agriculture, and other projects that contribute to environmental sustainability. By aligning financial incentives with sustainable development goals, an Islamic economic system can be a driving force in solving some of the world's most pressing environmental issues.

4. Virtuous Industries

In an Islamic economic system, the focus is not just on profit-making but also on the ethical implications of business activities. A business that harms in any way, shape or form must not exist in the eco-system. Sharī'ah advocates that only ethical businesses should operate in an economy and be invested in. A business must prioritise ethical practices that are committed to enhancing the well-being of people and the communities they are a part of. This involves steering clear of any

actions that could negatively impact them spiritually, financially, mentally, morally, socially, physically, or physiologically. Industries that are considered *Harām* (forbidden) such as gambling, alcohol, and those that exploit human vulnerabilities are all banned in a Shari‘ah eco-system, as they clearly are harmful to individuals and communities. Instead, the emphasis is on virtuous industries that add value to peoples’ lives in this world and the next, as healthcare, education, and social welfare.

The concept of *Maslahah* (public interest) is often invoked to determine the virtue of an industry. Industries that serve the public good and contribute to the well-being of the community are highly valued in an Islamic economic system. This encourages entrepreneurs and investors to channel their resources into sectors that have a positive social impact, thereby aligning economic incentives with moral and ethical considerations.

Moreover, virtuous industries often go hand-in-hand with sustainable practices. For example, an industry focused on renewable energy not only aligns with Islamic principles of stewardship of the Earth but also serves the public interest by addressing climate-related matters. By promoting virtuous industries, an Islamic economic system can achieve a harmonious balance between economic growth, social welfare, and environmental sustainability.

5. No *Ribā*

The prohibition of *Ribā* is one of the most distinguishing features of an Islamic economic system. The Quran explicitly forbids transactions that involve interest, as they are considered exploitative and lead to unjust enrichment. In a world where debt cycles and interest payments can trap individuals and nations in poverty, the Islamic model offers an alternative focused on equity, non-tradeable and non-compounding debt, and social justice.

The absence of interest in Shari‘ah finance leads to innovative financial products based on risk-sharing and asset-backed transactions. For example, instead of interest-based loans, Islamic financial institutions offer profit-sharing schemes where both the financier and the customer share the risks and rewards. This creates a more equitable financial system where the focus is on mutual benefit rather than exploitation.

The prohibition of *Ribā* also has macro-economic benefits. It discourages pumping the economy with speculative debt, and promotes a stable and resilient financial system. When financial transactions are based on real assets and shared risks, it creates a buffer against economic downturns and financial crises. This makes the Islamic financial system inherently more stable and less prone to the boom-and-bust cycles seen in conventional economies.

6. Less Barriers to Entry

One of the goals of an Islamic economic system is to make the market accessible to everyone, regardless of their financial status. High entry barriers, whether in the form of hefty fees, complex regulations, or the need for collateral, are discouraged. Lowering barriers also fosters innovation and competition, essential elements for a thriving economy. When more people can participate in the market, it leads to a diversity of products and services, benefiting consumers and driving economic growth. This is particularly important in developing countries where access to financial services can be limited.

Moreover, less restrictive entry to the market aligns with the Islamic principles of social justice and equal opportunity. By making it easier for people to start businesses or invest, an Islamic economic system can be a powerful tool for poverty alleviation and social mobility. It allows for a more inclusive economy where success is not just reserved for those with existing wealth or connections.

7. Less Monopolisation

The Sharī‘ah discourages monopolistic practices and encourages a free and competitive market. Monopolies and oligopolies often lead to unfair pricing and limit consumer choices, which is contrary to the principles of fairness and equity in Islamic law. Regulatory bodies in an Islamic economic system would be tasked with ensuring that markets remain competitive and that no single entity has disproportionate control over an industry.

Less monopolisation also means more opportunities for small and medium-sized enterprises (SMEs), which are often the backbone of an economy. When markets are open and competitive, SMEs have a better chance of succeeding, leading to job creation and economic diversification. SMEs can play a significant role in economic development. Furthermore, less monopolisation fosters innovation. When companies have to compete, they are incentivised to innovate and improve their products and services. This not only benefits consumers but also drives economic growth and development. In an Islamic economic system, the focus is on creating a level playing field where businesses compete based on the quality and value they provide, rather than their ability to dominate the market.

8. Distribution of Wealth

One of the fundamental objectives of an Islamic economic system is the equitable distribution of wealth. Islamic principles like Waqf and Zakat are institutionalised forms of wealth redistribution. These are not just individual acts of piety but are integrated into the financial system to ensure that the benefits of economic growth are shared widely.

The focus on wealth distribution also extends to business practices. Profit-sharing models like Mudarabah and Musharakah ensure that not just the business owners but also the employees and investors get a fair share of the profits. This creates a more balanced and just economic environment where wealth is not concentrated in the hands of a few.

Moreover, the equitable distribution of wealth is not just a social good but also has economic benefits. When wealth is distributed more evenly, it leads to higher levels of consumer spending, better access to education, and improved healthcare, all of which contribute to long-term economic stability and growth. An Islamic economic system aims to create a virtuous cycle where economic prosperity leads to social welfare, and social welfare, in turn, contributes to economic prosperity.

9. Institutions

Institutions play a critical role in shaping the economic landscape in an Islamic economic system. These range from regulatory bodies that ensure compliance with Islamic principles to financial institutions that provide various financial services. Further, the role of educational institutions that promote financial literacy and awareness about good governance and best practices are crucial. The aim is to create a robust institutional framework that can support the unique features of an Islamic economy, such as the prohibition of interest and the focus on asset-backed transactions.

Strong institutions also contribute to market confidence and stability. When there is a trusted body ensuring compliance with Sharī‘ah principles, it attracts more participants to the market, both Muslim and non-Muslim. This can be particularly beneficial for attracting foreign investment and integrating the Islamic financial market with the global economy.

Moreover, institutions in an Islamic economic system are not just regulatory bodies but also serve as agents of social change. They are tasked with promoting ethical business practices, sustainable development, and social welfare, aligning the economic system with the broader goals of Islamic social justice. This makes institutions not just enforcers of law but also promoters of ethical and moral values.

10. Free Markets

While the Islamic economic system places several ethical and moral constraints on business activities, it is fundamentally supportive of free markets. The idea is to create a market environment where ethical considerations and business activities can co-exist. Free markets encourage competition, innovation, and efficiency, all of which are in line with Islamic principles as long as they are achieved through ethical means.

However, the concept of a 'free market' in an Islamic system is not an unregulated one. While businesses are free to compete, there are ethical guidelines that they must adhere to. This creates a unique blend of market freedom with moral responsibility, aiming to achieve the best of both worlds: economic efficiency and social justice.

An Islamic economic system envisions a free market that is not just a space for capital accumulation but also a platform for achieving social good. By balancing economic freedom with ethical constraints, it aims to create a market that serves not just the interests of business owners but also the broader community. This aligns well with the Islamic vision of a just, equitable, and sustainable economic system.

Concluding Thoughts

The Islamic economic system offers a profound paradigm shift from conventional economic models, positioning itself as a holistic framework integrating ethical, social, and economic dimensions. This system, deeply rooted in the principles of Shari'ah, not only challenges the foundational premises of modern capitalism and socialism but also proposes a sustainable alternative that harmonises material wealth with wholesome wellbeing. It advocates for an equitable distribution of resources, ethical business conduct, and the nurturing of a community-oriented economy. This model, exemplified in the economic practices of the Prophet ﷺ in Madinah, serves as a compelling blueprint for a just and balanced economic order. It beckons a deeper reflection on how contemporary economies can imbibe these timeless principles to create a more inclusive and responsible global economic system. The Islamic economic system, therefore, extends an invitation to reimagine our economic structures, underscoring the potential of a value-driven economy in addressing the complex challenges of our time.

Chapter 14: The Prophetic Micro Economy

Chapter Summary

- The Prophet's ﷺ microeconomic principles emphasise efficient resource allocation, ensuring resources meet the greatest economic benefit and are available to those in need.
- Consumer protection is vital, with teachings against unfair practices and hoarding, balancing market freedom and moral responsibility.
- Price mechanisms serve as key market signals, with prohibitions against market manipulation and insider trading.
- Encouragement of competition and ease of market entry fosters innovation and fair pricing.
- A balance of supply and demand ensures efficient market functioning.
- Flexibility and adaptability in economic transactions are crucial, accommodating new business models and evolving trade practices.
- Informed decision-making is promoted, with transparency in transactions reducing risk and fostering trust.
- Investment in human capital, through education and training, enhances workforce skills and productivity.
- Entrepreneurship is encouraged for self-sustainability, driving economic growth and community development.
- Financial responsibility and accessible credit and investment opportunities spur economic activity.
- Risk management strategies are implemented for economic stability and sustainable growth.
- Sustainability practices, including environmental stewardship, are integral for long-term viability.
- Local community engagement strengthens microeconomy resilience.
- Fair labour practices ensure equitable wages, reasonable working conditions, and motivated workforce.
- Effective regulatory frameworks balance economic freedom with consumer protection and market integrity.

Introduction

By studying the life of the Prophet ﷺ, we can unearth the behaviour of individuals and firms in making decisions regarding the allocation of limited resources that align with Prophetic guidance. A better understanding can be gained on the optimal and appropriate interactions that should occur between individual buyers and sellers and the factors that influence the choices made by these agents. By looking at the Prophetic micro-economy, we can further understand how these

behaviours and decisions affect the supply and demand for goods and services, which in turn determines prices. Here are fifteen principles for a strong, productive, and powerful Prophetic microeconomy:

1. Efficient Resource Allocation

The Prophet's ﷺ microeconomics gives us an insight into the power of efficient resource allocation. The Prophet ﷺ used resources where they were most valued and provided the greatest economic benefit.

The Prophet ﷺ encouraged allocating resources to those who were most in need of them. He told us, "One who strives to support the widows and the poor is like one striving in the way of Allah, or one who regularly prays at night and fasts during the day" [Ṣahīḥ al-Bukhārī]. He further told us, "Speak kind words, offer peace, and feed the hungry" [Ṣahīḥ Ibn Ḥibbān].

The Prophet ﷺ decided to embark on an expedition, so he said, "O *Muhājirūn* and *'Anṣār*, there are among you people who have no property or family. Let everyone of you take along with him two or three men." Nobody had a spare animal, except that they shared the animals and took turns to ride [Sunan Abū Dāwūd].

2. Consumer Protection and Sovereignty

The Prophet ﷺ respected consumer preferences and choices, as that would ultimately drive demand and inform production decisions, but at the same time, his teachings were there to protect consumers from being harmed.

The Prophet ﷺ was keen on protecting consumers from unfair practices. He forbade the sale of what one does not own, which is an early form of consumer protection against deceptive practices [Ṣahīḥ Muslim]. He also condemned the act of hoarding goods, especially food items, to manipulate market prices [Sunan al-Tirmidhī]. These teachings highlight the need for regulations to prevent market manipulation and ensure the availability of essential commodities at fair prices.

While emphasising fair practices, the Prophet ﷺ also encouraged free enterprise and market competition. He said, "May Allah show mercy to a person who is kind when he sells, when he buys, and when he makes a claim" [Ṣahīḥ al-Bukhārī]. This encouragement of kindness and compassion in business dealings reflects a balance between economic sovereignty freedom and moral responsibility.

3. Price Mechanism and Market Signals

The Prophet ﷺ understood the importance of prices as signals for the scarcity or abundance of goods and services, guiding production and consumption choices. Therefore, his instructions to not tamper and nor manipulate pricing is very clear. He informed us, “Verily, it is Allah who regulates the price; Allah is the one who contracts, expands and provides” [Sunan Abū Dāwūd].

Another example of market manipulation prohibited by the Prophet ﷺ is insider trading and intercepting supply chains designated for the market. This was a commercial practice in early Arabia. Traders would, on hearing of a merchandise caravan, proceed out of the city to meet the caravan on the way for buying the entire merchandise. They would then sell in the city market at a higher price.

Sayyidunā ‘Umar Ibn al-Khaṭṭāb (Raḍi اللہ عَنْهُ) said, “There is no hoarding in our market; men who have excess gold in their hands should not buy up one of Allah’s provisions which he has sent to us, and then hoard it up against us” [al-Muwaṭṭa’]. Hoarding becomes problematic when the intention is to resell later and profit from creating an artificial shortage and panic buying in the market.

4. Competition and Market Entry

The Prophet ﷺ established the market in Madinah to encourage competition and ease of market entry to foster innovation, quality improvement, and fair pricing. Prior to that there were many barriers to entry into the market, impacting competition. Prices rose during the time of the Prophet ﷺ, and they said: “O Messenger of Allah, prices have risen, so fix the prices for us.” He said, “Indeed Allah is the one who sets prices, the Restrainer the Extender, the Provider” [Sunan Ibn Mājah]. The Messenger of Allah ﷺ went to the market of *Nabīt*, and looked at it, and said, “This is not a market for you.” Then we went to another market and looked at it and said, “This is not a market for you.” Then he came back to this market and walked around in it then he said, “This is your market. It will always be your market and no duty will be levied on it” [Sunan Ibn Mājah].

5. Supply and Demand Balance

The Prophet's ﷺ economic blueprint functioned to produce an equilibrium where supply meets demand, ensuring efficient functioning of markets. The Prophet ﷺ said, “An urban dweller must not impose himself to sell on behalf of the rural dweller. Let people move freely, Allah will sustain people through each other” [Ṣaḥīḥ Muslim].

Shaykh al-Islam Mufti Muhammad Taqi Uthmani (Hafizahullah) states:

"This means that Allah sustains and provides for the buyer through the seller, and the seller through the buyer. Hence, it is not permissible for anyone to impose themselves within this divine system of resource distribution and dictate pricing dynamics. The *Hadīth* indicates to the fact that Islam recognises market dynamics, in particular the forces of supply and demand. It is necessary for the market to be left to function naturally without any artificial intervention, just like it is not permitted to have monopolies and cartels overseeing the market operations and regulating prices autonomously. This is the system of Islam which is distinguished from Capitalism and Socialism" [Takmilat Fath al-Mulhim].

6. Flexibility and Adaptability

The *Fiqh* of *Mu‘āmalāt*, as exemplified by the Prophet ﷺ, shows remarkable foresight in its approach to economic transactions, embodying a high degree of flexibility and adaptability. This aspect is particularly crucial in today's rapidly evolving economic landscape. The principles laid down allow for the accommodation of new business models, innovative financial instruments, and evolving trade practices, all while maintaining ethical standards and fairness. This adaptability ensures that Islamic economic principles remain relevant and effective, irrespective of the changing dynamics of the global economy. It encourages entrepreneurial ventures and innovative solutions by providing a framework that can be adapted to meet the needs of contemporary economic activities, thus fostering a culture of growth and development that is both sustainable and ethically sound.

7. Informed Decision-Making

The Islamic economic principle of avoiding *Jahālah* (ambiguity) and *Gharar* (uncertainty) as taught by the Prophet ﷺ plays a pivotal role in promoting transparency and reliability in economic transactions. By mandating clarity and disclosure of all pertinent information, these principles ensure that all parties involved in a transaction are well-informed and aware of the terms and conditions. This approach reduces the risk of disputes and misunderstandings, leading to more stable and trustworthy business relationships. Furthermore, it empowers consumers and investors to make decisions based on accurate and comprehensive information, thereby fostering a more informed and responsible economic community. The emphasis on eliminating ambiguity and uncertainty not only aligns with ethical business practices but also aligns closely with modern financial regulations that advocate for transparency and full disclosure, thus bridging traditional Islamic teachings with contemporary economic practices.

8. Investment in Human Capital

The Prophet ﷺ encouraged us to learn. He said, "Seeking knowledge is an obligation upon every Muslim" [Sunan Ibn Mājah]. Sayyidunā ‘Umar (*Radiallāhu ‘anhu*) said, "No one should sell in our marketplace except those who have knowledge of Islam" [Sunan al-Tirmidhi]. Sayyidunā ‘Alī said, "Whoever engages in trade before learning will fall into *Ribā*, then fall into *Ribā*" [al-Faqīh wa al-Mutafaqqih]. Imam al-Nawawī said, "As for selling, marriage and the like – which are not obligatory per se – it is not permitted to engage in them until one has learned their conditions" [al-Majmū‘]. Imam al-Ghazālī said, "If a Muslim is a merchant and *Ribā* is widespread in the land, he must learn about the prohibition on *Ribā*. This is knowledge, which is an individual obligation, i.e., knowledge of how to do what is required" [Ihyā’ Ulūm al-Dīn]. Increasing the overall literacy, education, and training is essential to enhance the skills and productivity of the workforce.

9. Entrepreneurship and Innovation

The Prophet ﷺ encouraged entrepreneurship and taking the effort to be self-sustainable. He said, "By Him in whose hand is my soul, if one of you were to carry a bundle of firewood on his back and sell it, that would be better for him than begging a man who may or may not give him anything" [Ṣahīḥ al-Bukhārī]. He encouraged entrepreneurship and innovation to drive economic growth and development. The teachings of the Prophet ﷺ, particularly in regard to entrepreneurship and self-sufficiency, are profoundly relevant and inspiring, even in today's fast-paced economic world. His encouragement for individuals to engage in entrepreneurship goes beyond mere economic activity; it is a call for dignity, initiative, and personal responsibility. By emphasising the virtue in earning one's livelihood through hard work and effort, as in the example of carrying and selling firewood, he instilled a sense of self-reliance and honour in labour. This mindset fosters a robust work ethic and discourages dependency on others.

Furthermore, the Prophet's ﷺ encouragement of entrepreneurship is not limited to individual benefit but extends to the development and prosperity of the community as a whole. When individuals engage in entrepreneurial activities, they not only provide for themselves and their families but also create jobs, stimulate innovation, and contribute to the overall economic growth of their society. This approach to economic activity aligns seamlessly with the principles of modern economics, where entrepreneurship is recognised as a key driver of economic development, innovation, and social change.

10. Financial Responsibility and Credit Access

The Prophet ﷺ encouraged others to give credit and lend. He once told the people, "There was a merchant who used to lend the people, and whenever his debtor was in straitened circumstances, he would say to his employees, 'Forgive him so that Allah may forgive us.' So, Allah forgave him" [Ṣahīḥ al-Bukhārī].

'Abdullah al-Hawzanī narrates, I met *Sayyidunā* Bilāl, the Mu'addhin of the Messenger of Allah ﷺ at Aleppo, and said, "Bilāl, tell me, what was the financial position of the Prophet ﷺ?" He said, "He had nothing. It was I who managed his financial affairs on his behalf since the day Allah made him Prophet of Allah ﷺ until he passed away. When a Muslim man came to him and he found him naked, he ordered me (to clothe him). I would go, borrow (some money), and purchase a cloak for him. I would then clothe him and feed him" [Sunan Abū Dāwūd]. Maintaining financial responsibility and providing access to investment, credit, enables consumers and businesses to invest in opportunities that can spur economic activity.

11. Risk Management and Mitigation

The Prophet ﷺ implemented strategies to identify, assess, and manage economic risks to maintain stability and encourage sustainable growth. *Sayyidunā* Abū Hurayrah (*Radiallāhu 'anhu*) narrates that once the Prophet ﷺ distributed dates among his companions and gave each one seven dates. He gave me seven dates too, one of which was dry and hard, but none of the other dates was more liked by me than that one, for it prolonged my chewing it [Ṣahīḥ al-Bukhārī]. When the people of the Ash'arī tribe ran short of food during an expedition, or the food of their families in Madinah ran short, they would collect all their remaining food in one sheet and then distribute it among themselves equally by measuring it with a bowl [Ṣahīḥ al-Bukhārī].

12. Sustainability

The Prophet ﷺ taught us self-sustainability and discouraged waste of any sort. His life truly reflected a circular economy. He incorporated environmentally sustainable practices to preserve resources and ensure long-term economic viability.

Once the Prophet ﷺ passed by Sa'd while he was performing ablution. The Prophet ﷺ said, "What is this extravagance?" Sa'd said, "Is there extravagance with water in ablution?" The Prophet ﷺ said, "Yes, even if you were on the banks of a flowing river" [Musnad Ahmad]. In another narration, the Prophet ﷺ said, "Madinah is a sanctuary from this place to its

borders. Its trees should not be cut” [Şahih al-Bukhārī]. The Prophet ﷺ said, “No Muslim plants a tree or sows a seed and then a bird, or a human, or an animal eats from it but that it is charity for him” [Şahih al-Bukhārī]. In another narration, he told us, “Even if the Resurrection were established upon one of you while he has in his hand a sapling, let him plant it” [Musnad Ahmad].

Even during expeditions, the Prophet ﷺ taught his companions sustainability. Sayyidunā ‘Abū Bakr (*Radiallāhu ‘anhu*) dispatched expeditions to the Levante and said, “I give you ten instructions: Do not kill a woman, nor a child, nor a very old man. Do not cut down fruit-bearing trees, nor tear down inhabited buildings. Do not slaughter sheep or camels, except for food. Do not burn or drown bees’ nests. Do not steal from the spoils and do not act cowardly” [al-Muwatṭa’].

13. Local Community Engagement

The Prophet ﷺ was very much involved in his community. The Prophet ﷺ would be concerned of the welfare of the *Anṣār*, he would visit them and ask about their welfare [al-Hākim]. Once, the Prophet ﷺ asked regarding Thābit ibn Qays (*Radiallāhu ‘anhu*) as he was missing his presence [Şahih al-Bukhārī]. The Prophet ﷺ himself helped in the construction of the Masjid, and while he was carrying bricks to and from the quarry with the companions, he began reciting, ‘O Allah there is no good other than the good of the ‘Ākhirah, so have mercy on the ‘Anṣār and the *Muhājirūn*’ [Şahih al-Bukhārī].

14. Fair Labour Practices

The Prophet ﷺ said, “Give the worker his wages before his sweat dries” [Sunan Ibn Mājah]. Anas Ibn Mālik (*Radiallāhu ‘anhu*) narrates, “I served the Prophet ﷺ for ten years, and he never said to hard words to me, he never blamed me by saying, ‘Why did you do so or why didn’t you do so?’” [Şahih al-Bukhārī]

Sayyidunā ‘Abdullah Ibn Ja‘far (*Radiallāhu ‘anhu*) states that the Prophet ﷺ entered a garden among the ‘Anṣār. When a camel saw the Prophet ﷺ, it started weeping and making sounds as its tears flowed. The Prophet ﷺ came to it and patted it on the head, so it became silent. The Prophet ﷺ said, “Who is the master of this camel? To whom does it belong?” A young man from the ‘Anṣār came and said, “This is mine, O Messenger of Allah.” The Prophet ﷺ said, “Do you not fear Allah regarding this animal that Allah has put in your possession? Verily, she has complained to me that you keep her hungry and tired” [Sunan Abū Dāwūd].

The Prophetic way for workers and employees was to uphold fair labour practices, including equitable wages, reasonable working hours, and safe working conditions, to ensure a motivated and productive workforce.

15. Effective Regulatory Frameworks

The Prophet ﷺ emphasised fairness in transactions, as evidenced in his sayings and practices. He advocated for clear terms and conditions in trade and warned against deceit and fraud. For instance, he ﷺ said, "The seller and the buyer have the option of cancelling or confirming the bargain unless they separate, and if they spoke the truth and made clear the defects of the goods, then they would be blessed in their transaction, and if they told lies and hid some facts, their bargain would be deprived of Allah's blessings" [Ṣahīḥ al-Bukhārī]. This *Hadīth* underscores the importance of honesty and full disclosure in trade, forming a basis for fair trade regulations that protect consumers.

The Prophet ﷺ established principles for maintaining market integrity. He discouraged false oaths in trading, which were often used to mislead customers about the quality of goods [Ṣahīḥ Muslim]. He also forbade two kinds of sales known as '*Najsh*' (bidding up prices to cheat others) and '*Gharar*'. These prohibitions safeguarded the market from unethical practices and ensured a level playing field for all participants.

Concluding Thoughts

Delving into the Prophet's ﷺ microeconomic principles unveils a profound blueprint that intertwines ethical stewardship with economic pragmatism. These principles advocate for an economy where efficiency, justice, and compassion are not mutually exclusive but are intertwined. This holistic approach redefines success in economic terms, where the wellbeing of individuals and communities is as crucial as profit and growth. It challenges us to rethink contemporary economic systems, urging us to infuse ethical considerations into our market practices. This paradigm shift calls for a balanced interplay between individual ambition and communal welfare, fostering a resilient and equitable economy. Reflecting on these principles, we're inspired to envisage an economic system where every transaction is not just a financial exchange but a step towards a more just and sustainable world. This vision holds the potential to reshape our global economic landscape, guiding us towards a future where economic prosperity and ethical integrity coexist harmoniously.

Chapter 15: From Shari‘ah Compliance to Shari‘ah Powered

Chapter Summary

- The Shari‘ah-Powered Framework integrates Shari‘ah compliance and the *Sunnah*.
- Whilst Shari‘ah compliance focuses on *Fiqh* compliance, the Shari‘ah-powered approach incorporates Prophetic practices.
- The Shari‘ah-Powered Framework incorporates the holistic meaning of Shari‘ah, where ‘Aqīdah (beliefs) and ‘Ādāb (ethics) are operationalised.
- At a company and financial institution level, the Shari‘ah-Powered Framework utilises a dual approach for screening: negative screening excludes investments in inherently *Harām* and harmful industries, while positive screening adds Prophetic values to financial activity.
- At an economic and strategic level, the Shari‘ah-Powered Framework provides Prophetic goals and objectives that an Islamic economic system should strive to integrate and measure.
- The Framework encompasses sixteen domains, starting with the principle of having a virtuous vision. This initial area emphasises the importance of recognising the origin of resources, their intended purpose, and the responsibilities associated with managing these resources, which is fundamental to the Prophetic teachings.
- The Framework includes encouragement for sustainable practices, leveraging new technologies, concentrating on real assets and the real economy, having an impact-driven approach, embracing a circular economic model, being responsible in consumption, supporting emerging markets, conserving energy, adopting natural and wildlife conservation policies, having a zero debt and zero negative externalities focus, and striving to incorporate spiritual, emotional and psychological wellbeing of humans at the heart of all economic activities.
- Emphasising on development, this approach reflects the essence of the Prophetic mission from a financial and economic perspective.
- An optimal approach in Islamic Finance requires both negative and positive screenings to ensure that the full benefits of Shari‘ah guidance are delivered to the economy.

Introduction

Islamic Finance has evolved significantly over the years, adapting to the complexities of modern financial systems while maintaining its ethical and moral foundations. To take Islamic Finance genuinely to the next level, the focus should be on implementing the *Sunnah* and the Prophetic guidance. Integrating the Prophetic practice can bring significant enhancements and transformations in Islamic Finance. This integration is not merely a theoretical proposition but a practical pathway to infuse Islamic Finance with a deeper spiritual and ethical dimension. A

comprehensive *Sunnah*-inspired framework can be implemented through an industry-wide strategy, serving as a roadmap to grow Islamic Finance with impact and substantive value. This would provide a robust foundation for establishing and achieving macroeconomic discipline, setting strategic goals, and charting a course for sustainable growth. This Framework can then be distilled into practice at ground level, with companies and financial institutions incorporating it as positive screening for investments, ensuring that financial activities not only comply with *Fiqh* but also add Prophetic practices in business activity.

Understanding Sharī‘ah's Holistic Nature

As discussed previously, Sharī‘ah extends beyond *Fiqh* to encompass ‘*Aqīdah* (beliefs) and ‘*Ādāb* (ethics). Consequently, a Sharī‘ah-Powered Framework integrates both beliefs and ethics.

This Framework draws inspiration from the Prophetic life, encompassing the visible practices and lifestyle of the Prophet ﷺ, and the deeper meanings embedded within the Prophetic practices and conduct. As noted in the chapter 'What is *Sunnah*?', the Prophetic way represents multiple layers of practice and significance. Every component within the Sharī‘ah-Powered Framework aligns with a Prophetic practice, with some explicitly being a *Mustahabb* (recommended) act or from the *Sunan al-Zawā‘id*, the habitual practices of the Prophet ﷺ in his day-to-day life.

Actions that are *Mustahabb* or from the *Sunan al-Zawā‘id* hold greater value than practices simply deemed *Halāl* (permissible); and practices that are *Mustahabb* or from the *Sunan al-Zawā‘id* sit on the spectrum of *Halāl*, *Makrūh* (disliked), and *Harām* (forbidden) too. Hence, this framework is not in opposition to the *Fiqh*.

What makes this framework different to other approaches?

What sets this approach apart from others is possibly its authentic connection to the *Fiqh* and Prophetic teachings. Every component is traceable to a Prophetic teaching or practice, offering a unique and rooted perspective.

The benefit of this Framework is that it actually gives meaning and value to Muslims. When practicing upon an element of this Framework that embodies the Prophetic *way of being*, we hope to be rewarded for aligning with Prophetic practice. It strengthens our connection with the Prophet ﷺ as we find comfort in aligning our way of being with his. There is a spiritual connection through these practices, beyond just conforming to global goals or trends.

Unlike other frameworks that may come across as overriding or opposing established *Fiqh* rulings and principles, the Sharī‘ah-powered Framework does not override the *Fiqh*, rather it operates

within the *Fiqh* framework, and does not undermine *Fiqh*. Hence, the practices that are recommended are typically from the *Mustahabb* practices in Islam, and any actions that have been discouraged as part of the framework would either be *Makrūh*, *Khilāf al-‘Awlā* (*not the best course of action*) or *Lā Ba’s* (*acceptable*). All these judgements are found on the spectrum of *Halāl* and *Harām* in the books of *Fiqh*. Therefore, it does not compete with *Fiqh*, it is the *Fiqh* in a more complete way.

Positive Screening

The Prophetic guidance can be incorporated into the industry through a dual approach of negative and positive screening. Exclusionary screening, or negative screening, the first component of this dual approach, is a well-established practice in Islamic Finance. It primarily involves the exclusion of activities and strategies that are inherently *Harām* in Shari‘ah. This includes industries such as alcohol, gambling, pork, and conventional financial services that deal with *Ribā*. Negative screening is a must, as it ensures that the product or activities are not violating Shari‘ah principles at the very outset. It ensures that financial transactions are not promoting, investing, or supporting activities that are unethical and unlawful, and simply harmful to the world. Negative screening ensures that practices are aligned with *Fiqh*. Negative screenings make transactions permissible. It is the positive screening that makes the transactions *Sunnah*-inspired.

While negative screening is effective in filtering out unacceptable investments, it is inherently limiting, as it focuses solely on exclusion. Whilst we can never call an investment or financial activity as *Harām* if it passes the negative screening, nor can we say it is disliked or discouraged religiously, we are just limiting ourselves from practicing on the many value-adding features and guidance in the Shari‘ah as a whole; We are not Shari‘ah *powering* our investments! Practicing on the *Sunnah al-Zawā’id* may not be compulsory in many aspects, but it brings a level of optimality to life. ‘*Ihsān* (excellence in all practices) as a state is not obligatory on us, but we are actively encouraged to seek ‘*Ihsān*. The wisdom behind ‘*Ihsān* not being obligatory on us is the truth that many would fail in attaining ‘*Ihsān*, and therefore fall short in their servitude. As a result, we have a baseline that we must abide by, which is ‘*Imān* and Islam, but we have been encouraged to work towards attaining ‘*Ihsān*.

This is where the role of positive screening or inclusionary screening becomes pivotal. Positive screening in Islamic Finance involves strategies and economic activities that not only avoid *Harām* but also contribute positively, aligned with the Prophetic practice; there are multiple forms of return on investment, not just financial.

Prophetic practices provide a timeless and authentic framework for positive screening. It is not just about jumping on the bandwagon of the latest fad or headline-grabbing trends, the Prophet’s ﷺ life exemplifies not only abstinence from forbidden activities but also active engagement in beneficial

endeavours. His dealings in trade were marked by principles of fairness, honesty, and social welfare. He generally used transactions to do more good; he not only gave the price, he gave more than the price. Not only did he share profits, but he also gave preference to others whilst sharing profits. Not only did he do business, but he also gave a share of the profit in charity. He practiced social enterprise. He encouraged activity that was positive for the economy, environment, society, and for individuals. By aligning positive screening with Prophetic practices, Islamic Finance can ensure that economic activities are not only Shari‘ah compliant but also contribute to the overall well-being of society; effectively, they are Shari‘ah powered. Shari‘ah-powered finance is *Sunnah*-inspired finance.

Grounding positive screening in Prophetic practice ensures that it is not swayed by transient trends or contemporary fads. In a rapidly changing world where new investment themes and social causes emerge frequently, anchoring positive screening in the timeless teachings of the Prophet ﷺ provides stability and authenticity. It ensures that Islamic Finance remains true to its foundational principles while adapting to contemporary contexts.

Furthermore, a combined approach of negative and positive screening addresses the criticism often levelled against Islamic Finance: that it is overly focused on form over substance. By integrating positive screening rooted in Prophetic practice, Islamic Finance can demonstrate its commitment to not only avoiding the impermissible but also adding value to day-to-day life. This holistic approach enhances the appeal of Islamic Finance, positioning it as a spiritually and ethically robust alternative to conventional finance.

A positive screen should not be about passing or failing, rather, it should be based on scoring. The entire industry can implement the positive screen as a macro framework and measure progress. In addition, each economic activity, investment or product in the ecosystem should be rated and scored, and given a rating accordingly. Adding a scoring-based positive screening in Islamic Finance would be a significant advancement in how investments and products are evaluated. Unlike the binary pass-fail system, scoring introduces a nuanced, multi-dimensional approach to assessing the compliance and ethical quality of an investment or product. This system provides a more detailed and comprehensive analysis, offering several benefits to the industry and insights into the nature of the investments. Some of the benefits of this would include:

- 1. Nuanced Understanding of Shari‘ah Compliance:** A scoring system allows for a more granular understanding of how well an investment aligns with Prophetic practices and wider Shari‘ah guidance. Instead of simply deeming an investment *Halāl* or *Harām*, a score can indicate various degrees of desirability and praiseworthy practices in Shari‘ah.

2. **Encouraging Better Business Practices:** By providing a detailed score, Islamic financial institutions are incentivised to improve their practices in order to achieve a higher score. This can lead to a broader adoption of ethical, socially responsible, and environmentally friendly practices in the business world.
3. **Consumer Empowerment:** With scoring, consumers and investors are better informed about their choices. They can use these scores to align their investments with Prophetic and praiseworthy practices.
4. **Market Differentiation:** A scoring system can create a competitive landscape where companies strive not just for Sharī‘ah compliance but for higher ethical standards. This can lead to innovation in products and services, as companies seek to differentiate themselves through higher scores.
5. **Risk Mitigation:** A comprehensive scoring system can include assessments of financial stability and business risks, thus providing a more robust risk analysis framework. This can lead to more stable and sustainable investment choices.
6. **Standardisation and Transparency:** Implementing a scoring system can help standardise the assessment of Islamic financial products and investments. This can increase transparency in the market, making it easier for investors to understand and compare different options. If such a system is adopted by standard-setting bodies and pushed in the industry, this can revolutionise the financial landscape and the power of Islamic Finance.

The Sharī‘ah-Powered Framework

Whilst the following guidance and criteria are potentially rewarding if done with the right intention, the omission of these practices cannot be deemed *Makrūh* or sinful, unless a clear and direct violation can be attributed to an individual. For example, when a negative consequence arises not as a direct outcome of someone's actions, that individual cannot be considered sinful or at fault for the mishap. The application of *Fiqhī* rulings is tied to actions that are within one's control; it is these actions that may lead to reward or admonishment in the Hereafter. In *Fiqh*, rulings are applicable to deliberate actions, not situations beyond one's control. It would be unjust to hold individuals accountable for actions beyond their influence and not within the bounds of direct causality. Thus, in *Fiqh*, sin or reward is attributed to actions where there is a direct cause and effect relationship. Nevertheless, the following sixteen criteria can form the basis of a positive screening, which I call The Sharī‘ah-Powered Framework, inspired by the *Sunnah*.

1. Virtuous Vision

The holistic meaning of Shari‘ah incorporates ‘Aqīdah (beliefs). Whilst ‘Aqīdah relates to matters of creed and faith, there is an operational element to ‘Aqīdah in the management of all resources. ‘Aqīdah enlightens us with the proper perspective, guiding us to understand our existential purpose and ultimate objectives. It instils in us the knowledge and belief in the supreme authority of Almighty Allah over the Heavens and the Earth, empowering us with this profound understanding.

The principles of ‘Aqīdah dictate the management of wealth and economic resources with the understanding that all wealth is a trust from Almighty Allah. Allah is the ultimate owner of all wealth, with individuals serving as trustees tasked with utilising these assets in ways that are pleasing to Allah. The Quran instructs, “Believe in Allah and His Messenger and spend from what He has made you trustees. For those among you who believe and have spent, there will be a great reward” [Quran 57:7].

Furthermore, this perspective is reinforced by knowing that Almighty Allah is the source of all provisions. The Quran states, “Indeed, Allah is the All-Provider, Owner of Power, the Most Strong” [Quran, 51:58] and questions, “Is there any creator other than Allah, who provides for you from the heaven and earth? There is no deity except Him. How then can you turn away?” [Quran, 35:3].

Another key aspect in operationalising ‘Aqīdah is the belief that virtuous deeds lead to rewards in the Hereafter, while wrongdoing results in negative consequences. The Quran promises, “Those who believe and perform righteous deeds will be in the lush gardens of Paradise, receiving whatever they wish from their Lord. This is the ultimate favour” [Quran 42:22].

Lastly, believing in the Prophetic message and following the example of the Prophet ﷺ are central to operationalising ‘Aqīdah, offering unparalleled guidance and a model for living. As the Quran affirms, “The Messenger of God is an exemplary leader for those who hope in God and the Last Day and remember Him frequently” [Quran 33:21].

2. Sustainability

In the teachings of the Prophet ﷺ, there are profound lessons on the sustainable use of natural resources. The Prophet ﷺ demonstrated remarkable restraint in his use of water, performing ablution with just one *Mudd* of water (approximately less than one litre), and would perform *ghusl* with one *Şā‘* up to five *Mudd* (approximately less than three litres) [Ṣaḥīḥ al-Bukhārī].

This practice reflects a deep respect for water as a precious resource, emphasising the virtue of moderation and sustainable practice. This careful and considerate approach to water usage

exemplified by the Prophet ﷺ is a timeless lesson in sustainability. It teaches us the importance of being mindful in our consumption, using only what is necessary, and avoiding excess. This principle is especially pertinent in today's world, where water scarcity and environmental concerns are pressing issues. By adhering to this prophetic guidance, we can contribute to the conservation of vital resources and ensure their availability for future generations.

Additionally, the Prophet ﷺ instructed us to not withhold the superfluous water, for that will prevent people from grazing their cattle [Ṣaḥīḥ al-Bukhārī]. This instruction extends beyond the immediate context to underscore a broader principle of sharing and equitable distribution of resources. It highlights an awareness of the interconnected nature of ecological systems and the communal rights over natural resources. By adopting such a perspective, we not only uphold a key tenet of sustainability but also foster a sense of collective responsibility and care for the environment and for each other. The practice of conservation does not only maintain the ecological balance, but it also may lead to the preservation of animal habitats and ecosystems.

Sustainability, in its broadest sense, refers to the ability to maintain various systems and processes—ecological, social, and economic—over the long term. It's a concept that has gained significant traction over the past few decades, becoming a central focus for global discourse, policies, and practices. Its importance lies not only in preserving environmental resources but also in ensuring social equity and economic viability for future generations.

The essence of sustainability is rooted in the recognition that our current ways of living, consuming, and producing have far-reaching impacts. The rapid depletion of natural resources, accelerating climate change, and widening social inequalities are stark reminders of the unsustainable trajectory of human activities. Sustainability offers a path forward that respects the limitations of our planet while striving for economic and social development.

One of the key benefits of sustainability is the preservation of the environment for future generations. This involves responsible management of natural resources, reducing pollution, protecting ecosystems, and combating climate change. By adopting sustainable practices, we can ensure that future generations inherit a world that is not depleted of its natural riches and is still capable of supporting a diverse range of life forms. The importance of this cannot be overstated, as the health of our planet is intrinsically linked to our own well-being.

Economically, sustainability can drive innovation and create new markets. As businesses and industries adapt to sustainable practices, they often develop new technologies and processes that can lead to greater efficiencies, cost savings, and competitive advantages. The shift towards renewable energy sources, for example, is not only imperative for environmental reasons but also presents significant economic opportunities in terms of job creation and energy security.

Sustainability also plays a crucial role in social equity and justice. Sustainable practices ensure that resources are used in a manner that is fair and equitable, addressing issues like poverty, health, education, and access to clean water and sanitation. By prioritising sustainability, we can work towards a world where all people have the opportunity to live healthy, productive lives without compromising the ability of future generations to meet their own needs.

Furthermore, sustainability fosters a sense of global interconnectedness and shared responsibility. The challenges of climate change, resource depletion, and social inequality are global in nature and require cooperative solutions. Embracing sustainability encourages a shift in perspective, from focusing on short-term gains to considering the long-term impacts of our actions on the planet and its inhabitants.

3. Leveraging New Technologies

Ibn Ḥajar (d.852 AH) and others write how Salmān al-Fārisī (*Raḍi'allāhu 'anhu*) advised the Prophet ﷺ to dig a trench when the coalition surrounded Madinah, saying, “In Persia, when we were surrounded by the enemy, we used to dig a trench around us” [Fath al-Bārī; Sirah Ibn Hishām]. This is a compelling example of how the Prophet ﷺ was open to leveraging new strategies and technologies. This incident demonstrates his willingness to consider and implement innovative solutions when faced with challenges, a trait that aligns closely with the modern concept of adopting new technologies.

In this instance, the Prophet ﷺ displayed his receptiveness to ideas that originated outside his immediate cultural context. Salmān al-Fārisī, coming from Persia, brought with him the knowledge of military tactics that were unfamiliar in the Arabian Peninsula at the time. The Prophet's ﷺ decision to adopt this strategy highlights his openness to new ideas, especially those that could effectively address the challenges faced by his community. This approach is indicative of a broader principle in Islamic teachings: the pursuit of knowledge and the adoption of beneficial innovations, regardless of their source.

The example of the Prophet ﷺ adopting the strategy of trench warfare on the advice of Salmān al-Fārisī serves as a historical precedent for embracing useful innovations. In the context of Islamic Finance, this principle can be extended to the adoption of new technologies. Such adoption not only aligns with Islamic principles of knowledge-seeking and innovation but also brings tangible benefits in terms of operational efficiency, transparency, risk management, and financial inclusion. These aspects, when considered in positive screening, can significantly enhance the impact, and reach of Islamic financial services.

Perhaps the integration of Web3 into Islamic Finance can revolutionise and propel Islamic Finance to the next level, offering a distinct advantage over traditional financial systems through its decentralised, transparent, and equitable framework. At present, Islamic Finance is forced to operate in frameworks that are designed primarily for conventional finance, with regulatory adaptations and modifications to cater for Islamic Finance. Web3 is like a blank canvas for Islamic Finance. We can literally design our products from ground-up. Web3 is underpinned by four pillars that can truly transform the financial landscape:

- **Property Ownership:** Web3 technology harnesses the power of blockchain to unequivocally confer individuals with immutable and irrevocable ownership of assets, without any custodianship or third-party involvement. This radical shift empowers people to own assets that are censorship-resistant, secure, and permanently theirs, challenging traditional notions of property rights and enhancing individual autonomy over their possessions.
- **Disintermediation:** Web3 and blockchain remove middlemen in transactions allowing value exchange to be carried out directly between parties without the need for banks, brokers, or other intermediaries. This not only speeds up transactions and reduces costs, but also democratises access to financial services. Through smart contracts, pre-agreed and self-executing deals can be made, enhancing trust, reducing friction, and providing a more efficient and streamlined system.
- **Borderless:** Web3 technology revolutionises financial systems by transcending geographical boundaries, ensuring universal access and inclusivity. By challenging discrimination based on nationality, Web3 enables individuals to participate in the financial ecosystem regardless of their location, background, or perceived status. Unlike traditional systems, Web3 eliminates restrictions that hinder access to financial services and cross-border transactions based on nationality or residency. This borderless approach of Web3 fosters financial inclusion on a global scale.
- **Access:** In conventional financial systems, the ability to participate is often hindered by various factors such as high entry barriers, regulatory restrictions, and geographical limitations. This exclusionary landscape prevents many individuals and businesses from fully engaging in the global economy. Blockchain technology provides an inclusive environment where anyone with internet access can participate in the global economy.

Another interesting development and invention is tokenisation. Tokenisation is the process of creating digital tokens that represent ownership rights or claims to an underlying asset, such as a stock, a commodity, a real estate property, or even a piece of art. Tokenisation can enable fractional ownership, meaning that an asset can be divided into smaller units or shares that can be bought and sold by investors. Tokenisation offers several advantages for both asset owners and investors. Tokenisation can make illiquid assets more liquid by lowering the barriers to entry and exit for

investors. Tokenised assets can be traded on secondary markets that operate 24/7, allowing investors to buy and sell tokens at any time and at lower transaction costs. Tokenisation can provide real-time information and verification of the ownership, value, and performance of the underlying assets. Tokenised assets can also be tracked and audited on the blockchain, reducing the risk of fraud, errors, or disputes. Tokenisation can eliminate intermediaries such as brokers, custodians, or registries that are involved in traditional asset transactions. Tokenised assets can be transferred directly between buyers and sellers on the blockchain, saving time and money for both parties. It can democratise access to global assets by enabling fractional ownership and lowering the minimum investment amount. Tokenised assets can also be offered to a wider range of investors across different jurisdictions, increasing the potential market size and demand for the assets. Tokenisation can create new opportunities for asset creation, diversification, and valuation. Tokenised assets can be combined into different portfolios or products that offer unique risk-return profiles for investors. Tokenised assets can also be embedded with smart contracts that automate certain functions or conditions for the tokens.

Tokenisation can power Islamic Finance across the world. Tokenisation can empower people in emerging markets by providing them with access to global assets that are otherwise inaccessible or unaffordable for them. For example:

- A farmer in Africa can invest in a tokenised agricultural commodity fund that invests in agriculture in different regions and countries.
- A student in Asia can invest in a tokenised education fund that supports scholarships and grants for students from different backgrounds and disciplines.
- A worker in Latin America can invest in a tokenised real estate fund that owns properties from different cities and continents.

By investing in tokenised assets, people in emerging markets can diversify their portfolios, hedge against inflation or currency fluctuations, participate in the growth and development of other markets, and achieve their financial goals.

Most importantly, tokenisation harnesses immense potential to curb *Ribā*. *Ribā* represents a deep-seated inequality, driven by the concentration of capital and assets in the hands of a few. *Ribā* is driven by two forces:

1. An imbalance of power, where substantial asset ownership rests with the few; a few control the market and dictate terms that may be unfair to others.
2. Limited opportunities, where the lack of ownership among the broader population limits opportunities for wealth growth, further exacerbating inequalities.

By distributing ownership of yielding, high-grade assets, tokenisation can tackle the core issues that drive *Ribā*. Tokenisation can disperse ownership across a broader population, reducing the

concentration that leads to *Ribā*. By providing access to developed market assets, tokenisation empowers those in emerging markets, allowing for more equitable global financial participation.

The real promise of tokenisation lies in its potential to level the playing field of asset ownership. By making high-grade assets accessible to all, regardless of their economic status or geographical location, tokenisation can help to curb some of the *Ribā* that exists in the world today. Tokenisation offers a model where wealth is not hoarded but shared, fostering a more equitable global economy. By embracing a model that discourages *Ribā*, tokenisation can boost Islamic Finance globally.

4. Real Assets and Real Economy Focus

Imam al-Bukhārī in his *al-Tārīkh*, Ibn Mājah, al-Ṭayālisī and others report a narration which states: “Whoever sells a house and does not put its price into something similar will not be blessed therein.” The above *Hadīth* narrated by Ḥudhaifah Ibn Yamān (*Radīallāhu ‘anhu*) advises on the reinvestment of proceeds from the sale of a house into a similar asset, sheds light on several key economic principles and insights within the context of Islamic Finance. This guidance underscores the importance of focusing on the real economy and tangible assets, aligning with the ethos of Islamic economics which places a high value on real, productive activities over speculative financial dealings.

The real economy, concerned with the production and exchange of goods and services, is inherently more stable compared to the often-volatile financial markets. By investing in tangible assets, such as property or other physical goods, there is a direct contribution to the actual economy, fostering growth and development in a more concrete and measurable way. Moreover, this approach to investment resonates with the broader Islamic principles of creating tangible value and contributing positively to society. Investments in real assets like property not only have intrinsic value but also serve practical purposes, such as providing housing or facilities for businesses. This kind of investment is likely to have a direct and positive impact on the community, creating jobs, and supporting essential services, which aligns with the Islamic ethos of social welfare and community development.

This narration also provides insights into the Islamic perspective on wealth circulation and asset utilisation. By advising the reinvestment of proceeds from asset sales back into similar assets, there's an implication of keeping wealth active and productive within the economy. This principle discourages hoarding and promotes the continuous flow of resources, ensuring that wealth is used effectively and benefits the broader community.

Additionally, the focus on real assets in Islamic Finance is a guard against speculation and economic bubbles, which can lead to financial crises. Real assets have a more stable value and are less

susceptible to speculative bubbles than financial instruments. This stability is crucial for creating a resilient and sustainable economic system, which is a core objective of Islamic Finance.

5. Impact Driven

A precedent for strategically managing economic resources can be found in the following incident narrated by the Prophet ﷺ to us: "While a man was in a barren tract of land (or a desert), he heard a voice proceeding from a cloud (saying) 'Water the garden of so-and-so.' Thereupon, the cloud drifted (in a certain direction), and water poured down there from over a rocky area. All the streamlets flowed into one large channel. The man followed the water and came upon a man standing in his garden, changing the course of the water with his spade. He said to him: 'O Slave of Allah, what is your name?' The man said: 'So-and-so.' It was that very name which he had heard from the cloud! The man said: 'O slave of Allah, why do you ask me my name?' He said: 'I heard a voice from the clouds which poured down this water, saying: "Water the garden of so-and-so," mentioning your name. What do you do with it (to receive such divine providence from Allah)?' The man said: 'Now that you ask me, I will tell you. I look at the produce of the garden, give one-third of it in charity, use one-third for myself and my dependents to eat therefrom, and invest (the remaining) third back into the garden.'" [Ṣahīḥ Muslim]

This narrative serves as a motivation to leverage our investments for significant impact, highlighting the importance of emulating such judicious use of resources.

The Prophet ﷺ not only encouraged impact, but he also practically demonstrated impact to us. Once, a man from the 'Anṣār came to the Prophet ﷺ and begged from him. The Prophet ﷺ said, "Have you nothing in your house?" The man said, "Yes, a piece of cloth, a part of which we wear and a part of which we spread on the ground, and a wooden bowl from which we drink water." The Prophet said, "Bring them to me." The man brought these articles to him and the Prophet ﷺ took them in his hands and he said, "Who will buy these?" Someone said, "I will buy them for one coin." The Prophet ﷺ said twice or thrice, "Who will offer more than one coin?" Someone said, "I will buy them for two coins." He sold them for two coins and the Prophet ﷺ said, "Buy food with one of them and give it to your family. Buy an axe and bring it to me." The man brought it to him. The Prophet ﷺ fixed a handle on it with his own hands and he said, "Go gather firewood and sell it, and do not let me see you for a fortnight." The man went away and gathered firewood and sold it. When he had earned ten coins, he came and bought a garment and food. The Prophet ﷺ said, "This is better for you than for begging to come as a blemish on your face on the Day of Resurrection. Begging is only appropriate for three people: one in grinding poverty, one in serious debt, and one who must pay a difficult compensation" [Sunan Abū Dāwūd].

Another relevant *Hadīth* that resonates with the concept of impact investing is reported in *Musnad al-Shihāb*, where the Prophet ﷺ said: “The best of people are those that bring most benefit to the rest of mankind.” This *Hadīth* highlights the importance of actions and investments that have a positive and beneficial impact on others. It underscores the value placed in Islam on contributing to the well-being of society, a core principle that aligns closely with the objectives of impact investing.

Managing resources with is closely aligned with the Prophetic way. As such, impact investing, which focuses on generating positive social and environmental impact alongside financial returns, has support from the Prophetic way of being. The Prophetic way was to have a positive impact and benefit wherever he went and whatever he did.

Moreover, impact investments often target sectors and projects that are essential for sustainable development but may be overlooked by traditional finance, such as renewable energy, sustainable agriculture, and affordable housing. By channelling funds into these areas, Islamic Finance can contribute to long-term sustainable development, which is in line with the Islamic principle of *Isti'mār* (civilisational development) and stewardship of the earth.

6. Circular Economy

Hishām (*Raḍi'allāhu 'anhu*) asked Sayyidah 'Āi'shah (*Raḍi'allāhu 'anhā*) what the Prophet ﷺ would do at home. She replied, “He did what one of you would do in his house. He mended sandals and patched garments and sewed” [al-'Adab al-Mufrad]. This narration subtly but profoundly encapsulates the essence of a circular economy. The depiction of the Prophet ﷺ engaging in repairing and reusing items offers a valuable lesson on resourcefulness and sustainability, principles at the heart of the circular economy concept. The circular economy model is based on three principles: reduce, reuse, and recycle. This model encourages the design of products and systems in a way that minimises waste, optimises resource use, and facilitates the recycling or repurposing of products at the end of their life cycle.

In contrast to the linear 'take-make-dispose' model, a circular economy emphasises the importance of keeping resources in use for as long as possible, extracting the maximum value from them while in use, and then recovering and regenerating products and materials at the end of their life cycle. The circular economy is not just an economic framework but also a response to the environmental and resource challenges facing our planet. It seeks to redefine growth, focusing on positive society-wide benefits by decoupling economic activity from the consumption of finite resources.

The Prophet's ﷺ practice of mending and repairing personal items is a practical demonstration of the circular economy. It shows an appreciation for the resources at hand and a reluctance to waste.

In fact, wasting is disliked altogether. The Prophet ﷺ informed us, “Allah does not like for you to waste wealth, nor ask many unnecessary questions, nor spread gossip” [Musnad al-Bazzār]. This behaviour encourages a mindset of conservation and sustainability, advocating for the repair and reuse of items rather than discarding and replacing them. Such practices reduce waste, save resources, and lessen the environmental impact, all key objectives of the circular economy.

The Quran further reinforces this concept through its numerous references to the cycles of nature. For instance, the Quran speaks of the water cycle and the growth and decay of vegetation as signs for those who reflect [Quran 2:164]. These natural cycles are prime examples of circular systems, where nothing goes to waste, and everything is reused or transformed. The water cycle, in particular, demonstrates how water evaporates, forms clouds, and falls as rain, continuously sustaining life on earth. Similarly, plants grow, die, decompose, and contribute to the nourishment of new life, illustrating the continuous cycle of renewal and regeneration.

The benefits of a circular economy are manifold. It helps in preserving the environment by reducing waste and pollution, conserving natural resources, and decreasing greenhouse gas emissions. Economically, it can lead to cost savings, create new business opportunities, and foster innovation in sustainable practices and products. Socially, it promotes a more equitable distribution of resources and a more sustainable way of living. A circular economy leads to a reduction in environmental pollution, conserves natural resources, and reduces greenhouse gas emissions, thus contributing to environmental sustainability. It also promotes economic efficiency by reducing costs associated with waste management and raw material procurement. Furthermore, a circular economy can drive innovation in product design and business models, leading to sustainable growth and job creation.

Examples of the circular economy in nature are abundant and are reflected in the verses of the Quran. The Quranic verse, “And there is a sign for them in the dead earth. We give it life, and We produce from it grains for their sustenance” [Quran 36:33], reflects the cycle of life, death, and renewal that is evident in natural ecosystems. This cycle ensures that nothing goes to waste and that every element serves a purpose in the ecosystem - a principle that is at the core of the circular economy.

Similarly, the water cycle, as mentioned in the Quran, "And We send down pure water from the sky," [Quran 25:48], is a perfect example of a closed-loop system. Water evaporates, forms clouds, and returns to the earth as rain, continuing the cycle. This natural process exemplifies how resources can be reused and recycled continually, a concept that is central to the circular economy.

The Quran and *Sunnah* offer valuable guidance on resource utilisation and conservation that aligns with the principles of a circular economy. By adopting a circular economy model, it aligns with the

Prophetic way of being. This approach allows for a harmonious balance between economic development, environmental sustainability, and societal well-being, reflecting the holistic vision of prosperity and balance advocated in Islam.

7. Social Enterprise

Once the Prophet ﷺ sent Hakim bin Hizam with a Dinar to buy an animal for 'Udhiyyah for him. He purchased an 'Udhiyyah which he then sold and made a profit of one Dinar, so he purchased another in its place. Thereafter, he returned to the Prophet ﷺ with an 'Udhiyyah animal and another Dinar, so he said, "The sheep is for Udhiyyah and the Dinar is for charity" [Sunan al-Tirmidhi].

The inclusion of social enterprise in strategising for the Islamic economy and as a component of positive screening in Islamic Finance can be significantly informed and inspired by the above narration. It provides a compelling illustration of how business transactions can be conducted in a way that not only generates financial returns but also creates additional social value. The Prophet's ﷺ response, where he designated the extra Dinar for charity, demonstrates a profound principle: economic activities can and should have a beneficial social impact. This narrative can be viewed as an early example of a social enterprise, where the primary transaction led to additional social good.

Drawing from this, in the context of Islamic Finance, considering investments in social enterprises as part of positive screening aligns perfectly with Islamic principles. Social enterprises are businesses that are primarily focused on generating a positive social or environmental impact, alongside financial returns. They operate with the goal of addressing various societal challenges such as poverty, education, healthcare, and environmental sustainability.

Investing in social enterprises as part of positive screening offers several benefits:

- a. **Alignment with Islamic Ethical Principles:** Social enterprises inherently aim to create societal benefit, which resonates with Islamic values.
- b. **Enhanced Social Impact:** Social enterprises often target underserved or marginalised communities, working to alleviate poverty, improve access to essential services, and enhance the quality of life. Islamic Finance, by supporting these enterprises, can play a direct role in creating positive social change.
- c. **Economic Empowerment:** Many social enterprises focus on empowering communities through job creation, skills development, and entrepreneurship.
- d. **Sustainable Development:** Social enterprises are often at the forefront of sustainable development, implementing innovative solutions to environmental challenges.
- e. **Community Engagement and Participation:** Social enterprises typically engage closely with the communities they serve, ensuring that their activities are responsive to the actual needs of these communities.

- f. **Market Innovation:** Social enterprises can drive innovation in the marketplace, developing new products and services that address social and environmental needs in creative ways. This innovation can stimulate further economic activity and inspire traditional businesses to incorporate social objectives into their operations.

Incorporating social enterprise into the positive screening framework of Islamic Finance not only provides a means to achieve financial returns but also to fulfil the broader objectives of Islamic teachings. It allows for a holistic approach to investing, where financial success is intertwined with social and environmental welfare, reflecting the multifaceted nature of Islamic ethics and the emphasis on the overall benefit to humanity.

8. Zero Debt

Islam does not prohibit debt; it recognises the fact that people may face circumstances that necessitate borrowing. However, it emphasises caution, responsibility, and diligence. The Prophetic approach to debt was one of caution. The Prophet ﷺ sought Allah's refuge from debt. 'Abdullah Ibn 'Umar (*Radiyallāhu 'anhu*) narrates, "When the Prophet ﷺ contracted a debt transaction, he would say: O Allah, I seek refuge in Thee from care and sorrow, from incapacity and laziness, from stinginess and cowardice, and I seek refuge in Thee from the burden of debt and from being humbled by people" [Sunan Abū Dāwūd].

The Prophet ﷺ said, "Whoever dies free of three things - arrogance, cheating and debt - will enter Paradise" [Sunan al-Tirmidhi]. This narration is clear in the benefit of living a zero-debt lifestyle. It encourages us to live a life free of debt. Ibn Ḥajar (d.852 AH) writes, after discussing the narration on Janāzah prayers for one who dies with debt, that this shows the severity of debt and that one should only take on debt for a necessity [Fath al-Bārī].

The Prophet ﷺ often made this supplication: "O Allah, I seek refuge with You from sin and heavy debt" Someone said to him: "How often you seek refuge from heavy debt!" He replied, "When a man gets into debt, he speaks and tells lies, and he makes a promise and breaks it" [Ṣaḥīḥ al-Bukhārī]. This *Hadīth* underscores the moral and psychological burdens of indebtedness, indicating that it can lead to unethical behaviour and spiritual distress. Not having debt is a blessing and a source of peace and happiness. It frees the person from worry, stress, and anxiety. It also enables him to focus on his worship, his family, and his personal development. It also protects him from lying, cheating, and breaking promises that may result from debt.

The obligation of prompt repayment of debts is emphasised throughout the teachings of the Prophet ﷺ. The Prophet ﷺ said, "Whoever takes a loan intending to repay it, Allah will help him, and whoever takes a loan intending to waste it, Allah will destroy him" [Sunan Ibn Mājah]. In

another *Hadīth*, it was reported: “The soul of the believer is suspended because of the debt until it is settled” [Sunan al-Tirmidhī]. This *Hadīth* indicates the serious implications of dying in a state of debt and underscores the urgency of repayment. The unjustified delay in settling a debt has severe warnings. *Sayyidunā Abū Hurayrah (Radiallāhu ‘anhu)* reported that the Messenger of Allah ﷺ said: “Procrastination (delay) in repaying debts by a wealthy person is injustice” [Ṣaḥīḥ al-Bukhārī]. In addition to the emphasis on prompt repayment, Islam encourages a lifestyle that avoids a geared and leveraged lifestyle. Living within one's means, practicing moderation, and resisting consumerist temptations are common themes in Islamic teachings.

The narrations and guidance mentioned underscore the importance of a macro-level strategy in the Islamic economy aimed at minimising debt. By limiting debt to essentials at the individual level, the collective result at the macro level would be minimal overall debt. This approach doesn't prohibit borrowing, but advises against incurring debt for non-essential, luxury items. These teachings offer profound insights into the psychology of money, emphasising that our focus should not be on accumulating worldly luxuries but on fulfilling our needs and working towards our existential purpose.

From an Islamic Finance perspective, the opposite of debt is equity financing. Equity financing, in which capital is raised through the sale of company shares, presents several economic and commercial advantages over debt financing. Firstly, it establishes a long-term partnership between the company and its investors. Shareholders, as part-owners, often have a deeper vested interest in the company's success compared to debt financiers, whose primary concern is typically the return and repayment of their loans.

The absence of repayment obligations in equity financing is particularly beneficial for startups or businesses in their early growth stages, where steady cash flows might not be guaranteed. This lack of repayment pressure allows for greater flexibility and focus on investing in growth opportunities and innovation. Moreover, equity can potentially provide access to larger sums of capital, especially for companies with high growth potential, which might not be able to secure similar amounts through debt due to lack of collateral or established cash flows.

Another significant advantage of equity financing is the reduced risk during economic downturns. Since equity does not require regular payments like debt, it offers businesses a cushion during periods of low revenue or financial stress, thereby mitigating the risk of insolvency. This is complemented by the alignment of interests between the company and its equity investors, who, apart from their financial investment, often bring additional support such as expertise, networking opportunities, and business development guidance.

Equity financing also benefits companies in terms of cash flow management. Without the burden of regular interest payments, businesses have more freedom to reinvest their earnings into operational growth and expansion activities. This approach helps avoid the pitfalls of over-leveraging, where excessive reliance on debt can lead to financial instability and even bankruptcy in extreme cases.

From a market perspective, successful equity raises often enhance a company's public perception and valuation. This is partly because such investment is frequently interpreted as a confidence vote in the company's future prospects. For investors, although equity investments carry higher risks compared to debt, they offer the potential for higher returns, especially if the company experiences significant growth.

Therefore, although equity offers advantages, these are primarily based on commercial and legal considerations. From a Shari'ah viewpoint, our goal is to limit debt to situations of necessity, that includes business too. As part of a broader strategy, minimising debt is a crucial piece of advice given to us by the Prophet ﷺ.

9. Uplifting Emerging Markets

During the time of the Prophet ﷺ, *al-Suffah* was a shelter located behind the Masjid. It was in this location where the poor and homeless companions were educated, clothed and fed. These companions were known as the '*Ashāb al-Suffah*.

Sayyiduna Abū Hurayrah (*Radiallāhu 'anhu*) narrates: "By Allah, none besides Him has the right to be worshipped, sometimes, I used to lay on the ground on my stomach because of hunger, and at times, I used to fasten a stone over my stomach because of severe hunger. One day, I sat outside on the path from where the Prophet ﷺ and his companions used to come out. When Abū Bakr (*Radiallāhu 'anhu*) passed by, I asked him about a verse of the Quran, and I asked him only that he might satisfy my hunger, but he passed by and did not enquire further. Then 'Umar (*Radiallāhu 'anhu*) passed by me and I asked him about a verse of the Quran, and I asked him only that he might satisfy my hunger, but he passed by and did not enquire further. Finally, the Prophet ﷺ passed by me and he smiled when he saw me, for he knew what was in my heart and on my face. He said, "O Abā Hirr!" I replied, "I am present, O Allah's Messenger ﷺ!" He said to me, "Follow me." He left and I followed him. Then he entered the house, and I asked permission to enter and was admitted. He found milk in a bowl and said, "From where is this milk?" They said, "It has been presented to you by such-and-such person." He said, "O Abā Hirr!" I said, "I am present, O Allah's Messenger ﷺ!" He said, "Go and call the people of *al-Suffah* to me." The people of *al-Suffah* were the guests of Islam who had no families, nor money, nor anybody to depend upon, and whenever anything was brought to the Prophet ﷺ, he would send it to them and would not take anything from it, and whenever any

present was given to him, he used to share it with the people of *al-Suffah*. The order of the Prophet ﷺ upset me, and I said to myself, "How will this little milk be enough for the people of *al-Suffah*? though I was more entitled to drink from that milk in order to strengthen myself" but behold! The Prophet ﷺ came to order me to give that milk to them. I wondered what will remain of that milk for me, but anyway, I could not but obey Allah and His Messenger, so I went to the people of *al-Suffah* and called them, and they came and asked the Prophet's ﷺ permission to enter. They were admitted and took their seats in the house. The Prophet ﷺ said, "O Abā Hirr!" I said, "I am present, O Allah's Messenger ﷺ!" He said, "Take it and give it to everyone." So I took the bowl of milk and started giving it to one man who would drink his fill and return it to me, whereupon I would give it to another man who, in his turn, would drink his fill and return it to me, and I would then offer it to another man who would drink his fill and return it to me. Finally, after the whole group had drunk their fill, I reached the Prophet ﷺ who took the bowl and put it on his hand, looked at me, smiled and said, "O Abā Hirr!" I replied, "I am present, O Allah's Messenger ﷺ!" He said, "There remain you and I." I said, "You have said the truth, O Allah's Messenger ﷺ!" He said, "Sit down and drink." I sat down and drank. He said, "Drink," and I drank. He kept on telling me repeatedly to drink, till I said, "No, by Allah, who sent you with the Truth, I have no space for anymore in my stomach." He said, "Hand it over to me." When I gave him the bowl, he praised Allah and pronounced Allah's Name on it and drank the remaining milk" [Ṣahīḥ al-Bukhārī].

The beauty and brilliance of the Prophet ﷺ is clearly manifest in the above narration. His emotional intelligence and love are unparalleled. He recognised the need of Abū Hurayrah immediately, and the manner in which he comforted him was truly remarkable. The attention the Prophet ﷺ paid to the people of *al-Suffah* offers a profound example of his care and consideration for those in difficulty or with fewer resources. This Prophetic practice and approach serve as an essential lesson on the importance and methodology of incorporating emerging markets and underprivileged communities into any comprehensive Islamic Finance strategy.

The people of *al-Suffah* were not only provided with basic necessities like food and shelter but were also included in the social and educational life of the community. This act of inclusion and support mirrors the principles essential to investing in emerging markets, which often encompass underdeveloped or developing regions with significant socio-economic challenges.

Strategising and investing in emerging markets aligns with the above concern and care. It supports the notion that financial and economic opportunities should be accessible to all segments of society, including those in less privileged regions. By channelling investments into these markets, Islamic Finance can contribute to poverty alleviation, social upliftment, and economic empowerment.

Investing in emerging markets can stimulate job creation and entrepreneurship, fostering economic independence and self-sufficiency. This is particularly important in regions where unemployment and underemployment are high. By supporting small and medium-sized enterprises, Islamic Finance can play a crucial role in driving economic growth and innovation in these regions. This would align with the Prophetic way of taking care of those who do not have the same opportunities and means as others, especially in the globalised world that we live in.

10. Energy Conservation and Renewable Energies

Once, the Prophet ﷺ passed by Sa'd (*Radiallāhu 'anhu*) while he was performing ablution. The Prophet ﷺ said, "What is this extravagance?" Sa'd said, "Is there extravagance with water in ablution?" The Prophet ﷺ said, "Yes, even if you were on the banks of a flowing river" [Sunan Ibn Mājah]. This narration provides an insightful perspective on resource conservation, particularly relevant to the discussion on renewable energies. This teaching, emphasising conservation even in the presence of abundant resources, can be extended to our contemporary understanding of energy use and sustainability.

Renewable energy sources like solar, wind, hydro, and geothermal power are essentially nature's equivalent of a "flowing river" – abundant, replenishing, and sustainable. The Prophet's ﷺ advice to avoid extravagance in the use of water, a renewable resource, underlines the importance of using even seemingly abundant resources responsibly and sustainably. This principle is directly applicable to renewable energy, which, while abundant and replenishable, demands wise and efficient use to ensure its sustainable management.

Renewable energy sources offer numerous benefits. They are environmentally friendly, producing little to no greenhouse gases or pollutants, thereby significantly reducing our carbon footprint and combatting climate change. Unlike fossil fuels, renewable resources are not finite and are less susceptible to market fluctuations, providing a more stable and predictable supply of energy. The use of renewable energies also reduces dependence on imported fuels, enhancing energy security for countries.

The Prophet's ﷺ teachings on resource conservation, as exemplified in the narration by 'Abdullah Ibn 'Amr, resonate with the principles of sustainable energy use and the adoption of renewable resources. As an industry, the conservation and proper use of energy must also be part of the overall strategy for the economy. Economies are driven by energy. By including renewable energy considerations in managing economic activity and in positive screening, Islamic Finance can contribute to the development of a more equitable and resilient global energy system.

11. Eco-conscious Initiatives

The Prophet ﷺ said, “There is none amongst the Muslims who plants a tree or sows seeds, and then a bird, or a person or an animal eats from it, but is regarded as a *Ṣadaqah* (charitable gift)” [Ṣaḥīḥ al-Bukhārī].

This *Hadīth* not only highlights the importance of caring for the environment but also underscores the broader Islamic principle that even the simplest acts of nurturing nature can have far-reaching charitable impacts. It emphasises the interconnectedness of all living beings and the responsibility humans have towards the environment.

This teaching from the Prophet ﷺ is reflective of a key concept in Islam: that humans are stewards of the Earth, entrusted by Allah to protect and preserve the natural world. The act of planting a tree or sowing seeds is seen not merely as an agricultural activity but as a means to contribute positively to the ecosystem, providing benefits to various forms of life, including humans, animals, and birds. This perspective aligns closely with modern understandings of environmental conservation and sustainability.

The Quran further reinforces this view with numerous verses highlighting the beauty, diversity, and balance of the natural world, and calling upon humans to reflect on and protect it. For example, in Quran 6:141, Allah advises moderation in consumption and forbids wastefulness, a principle that is key to environmental conservation. Similarly, Quran 30:41 warns of the corruption (*Fasād*) that has appeared on land and sea due to human actions, reminding believers of the consequences of the collateral damage of corruption.

Incorporating environmental considerations into a macro-economic strategy for Islamic Finance and into the positive screening framework is a rewarding action and one that is a form of *Ṣadaqah*. The environment is a sign from the signs of recognising Almighty Allah, and it supports life. It is for these reasons that economic activity should take care of this ecosystem.

12. Conservation of Nature and Wildlife

The Prophet ﷺ said, “There is a reward for serving any living being” [Ṣaḥīḥ al-Bukhārī].

Sayyidunā ‘Abdullah Ibn Mas‘ūd (*Raḍi اللّٰهُ عَنْهُ*) reported, “We were on a journey with the Messenger of Allah ﷺ and he went out to relieve himself. We saw a red sparrow that had two chicks with her and we took her chicks, so the sparrow started to flap her wings. The Prophet ﷺ came to us and he said, “Who has upset her by taking her children? Give her children back to her.” The Prophet ﷺ also saw an ant colony which we had burned and he said, “Who burned this?” We said

that we did it. The Prophet ﷺ said, “No one should punish with fire except the Lord of the fire” [Sunan Abū Dāwūd].

The Messenger of Allah ﷺ narrated the following incident, “A man suffered from thirst while he was walking on a journey. When he found a well, he climbed down into it and drank from it. Then he came out and saw a dog lolling its tongue from thirst and licking the ground. The man said: This dog has suffered thirst just as I have suffered from it. He climbed down into the well, filled his shoe with water, and caught it in his mouth as he climbed up. Then he gave the dog a drink. Allah appreciated his deed, so He forgave him.” They said, “O Messenger of Allah, is there a reward for charity even for the animals?” The Prophet ﷺ said, “Yes, in every living creature there is a reward of *Ṣadaqah*” [Ṣaḥīḥ al-Bukhārī].

Sayyidah ‘Ā’ishah (*Radiallahu ‘anhā*) reported, “I was on a camel that was misbehaving, so I started to beat it. The Messenger of Allah ﷺ said to me, “You must be gentle. Verily, gentleness is not in anything but that it beautifies it, and it is not removed from anything but that it disgraces it” [al-‘Adab al-Mufrad].

Sa‘īd Ibn Jubayr (*Radiallāhu ‘anhu*) reported, “I was with Ibn ‘Umar (*Radiallāhu ‘anhuma*) when we passed by a group who had tied down a chicken and they were using it as a target. When they saw Ibn ‘Umar, they fled and left it behind. Ibn ‘Umar said, “Who has done this? The Prophet ﷺ has cursed whoever does this” [Ṣaḥīḥ al-Bukhārī].

‘Abdullah Ibn Ja‘far (*Radiallāhu ‘anhu*) narrates that the Prophet ﷺ entered a garden among the ‘Anṣār. When a camel saw the Prophet ﷺ it started weeping and making sounds as its tears flowed. The Prophet ﷺ came to it and patted it on the head, so it became silent. The Prophet ﷺ said, “Who is the master of this camel? To whom does it belong?” A young man from the Ansar came and said, “This is mine, O Messenger of Allah.” The Prophet ﷺ said, “Do you not fear Allah regarding this animal that Allah has put in your possession? Verily, she has complained to me that you keep her hungry and tired” [Sunan Abū Dāwūd].

The above narrations profoundly encapsulate the Islamic perspective on the sanctity and value of all life forms. They reflect a deep-seated respect for all creatures, emphasising the interconnectedness of life and the human responsibility towards other living beings. The Prophet ﷺ was truly a mercy of the entirety of creation. He was so loving and concerned with not just humans, but also animals and the natural world.

The Quran invites believers to deeply reflect on the animal kingdom, recognising that creatures of all forms act as powerful signs of Allah's creative power and might. The Quran mentions bees, whose honey holds healing properties, cattle that provide us with sustenance, and birds whose flight

patterns were interpreted by prophets for guidance. This underscores a symbiotic relationship, where nature and its inhabitants support human existence.

Incorporating the conservation of nature and wildlife into the Shari‘ah-Powered Framework ensures that the Prophetic guidance towards wildlife, nature, and other creation is captured in all our economic activities. By including criteria that evaluate how investments impact ecosystems and wildlife, Islamic Finance can contribute to the preservation and enhancement of biodiversity.

The benefits of incorporating the conservation of nature and wild life in investment decisions are significant. Firstly, it promotes a sustainable approach to resource use, ensuring that economic activities do not lead to the degradation of habitats or the extinction of species. Secondly, protecting ecosystems often has direct and indirect benefits for humans, from maintaining air and water quality to preserving the genetic diversity necessary for agriculture and medicine.

Moreover, investments that focus on ecological sustainability and wildlife conservation can contribute to global efforts to combat climate change, protect biodiversity, and maintain ecosystem services. These investments can also provide opportunities for economic development, particularly in areas like ecotourism and sustainable agriculture, which rely on healthy ecosystems. world.

13. Zero Negative Externalities

The Prophet ﷺ said, “Whilst a man was walking along a path, he found a thorny branch of a tree on the way and removed it. Almighty Allah appreciated this deed and forgave him as a result” [Ṣaḥīḥ al-Bukhārī].

Another narration states, “Every joint of a person must perform a charity each day that the sun rises: to judge justly between two people is a charity. To help a man with his mount, lifting him onto it or hoisting up his belongings onto it, is a charity. And the good word is a charity. And every step that you take towards the prayer is a charity, and removing a harmful object from the road is a charity” [Ṣaḥīḥ al-Bukhārī].

Sa‘d Ibn ‘Abī Waqqāṣ (*Radi>Allāhu ‘anhu*) said, “Beware of engaging in actions that could lead to being cursed, such as littering in the streets. Whoever passes by could utter, ‘may Allah curse the one who did this’” [Masāwi al-Akhlāq].

The above narrations symbolise the importance of being mindful of our actions and their impact on others and the environment. In the above narrations, the act of removing an obstruction, a seemingly small deed, is recognised and rewarded due to its prevention of potential harm to others.

This reflects the wider discourse in Sharī‘ah, where actions are valued not just for their immediate outcomes but for their broader impact on society and the environment. Extrapolating from these narrations, we can draw parallels to the significance of considering negative externalities in economic activities, especially in the context of Islamic Finance.

Negative externalities are the unintended harmful effects that an economic activity or decision has on third parties who are not directly involved in the transaction. These can include environmental pollution, social dislocation, or public health issues, among others. For instance, a factory that pollutes a river not only affects its immediate surroundings but also harms communities and ecosystems downstream. The essence of reducing negative externalities lies in recognising and mitigating these unintended harms, ensuring that our actions and decisions do not inadvertently cause detriment to others or the environment.

The importance of considering negative externalities in macro-economic strategy and investment decisions aligns with the above guidance from the Prophet ﷺ, which emphasises the well-being of the community and the protection of the environment. In the sphere of Islamic Finance, these narrations can support activities and initiatives to reduce negative externalities.

Therefore, the *Hadīth* on the removal of a thorny branch encapsulates a significant lesson for Islamic Finance: It highlights the importance of considering the broader impacts of our actions, including financial transactions. In addition to the above, the concept of removing a thorny branch from a path also aligns closely with the idea of second-order thinking. Second-order thinking is a cognitive process that involves looking beyond the immediate effects of an action and considering the longer-term consequences and indirect effects. This type of thinking is crucial in decision-making, particularly in complex scenarios where actions can have wide-ranging and not immediately apparent impacts.

The *Hadīth* encourages a form of second-order thinking by highlighting the importance of considering the broader implications of our actions. The simple act of removing a thorny branch from a path may seem inconsequential, but its second-order effects include preventing harm to others, improving safety, and promoting a communal sense of care and responsibility. This demonstrates an awareness of the interconnectedness of our actions and their ripple effects on society and the environment.

Incorporating second-order thinking into positive screening in Islamic Finance involves looking beyond the immediate financial returns of an investment to consider its wider social, environmental, and economic impacts. This approach aligns with the Prophetic way. By applying second-order thinking, investors can identify investments that not only provide financial returns

but also contribute positively to the community and environment, or at the very least, do not cause harm.

For example, in evaluating an investment in a manufacturing company, second-order thinking would consider not just the potential profit but also the company's environmental practices, labour conditions, and the long-term sustainability of its business model. It involves assessing whether the investment might lead to negative externalities like pollution, worker exploitation, or resource depletion, and weighing these against the potential benefits.

14. Responsible Consumption

Once, the Prophet ﷺ saw a man with a large stomach. The Prophet ﷺ pointed to his stomach and he said, "If this had been placed elsewhere, it would have been better for you" [al-Mu'jam al-Kabīr]. Imam al-Ghazālī said, "Meaning, it would have been better if you had advanced it for your Hereafter and preferred others over yourself" [Iḥyā' 'Ulūm al-Dīn].

The Messenger of Allah ﷺ never ate to his fill of bread or meat unless he was eating with people [al-Shamā'il al-Muhammadiyyah].

The Prophet ﷺ said, "The son of Adam cannot fill a vessel worse than his stomach, as it is enough for him to take a few bites to straighten his back. If he cannot do it, then he may fill it with a third of his food, a third of his drink, and a third of his breath" [Sunan al-Tirmidhī].

Sayyidah 'Ā'ishah (*Rađi'allāhu 'anhā*) said, "Verily, the first trial to occur in this nation after the passing of the Prophet ﷺ was people eating to their fill. For when people fill their stomachs, their bodies are fattened, their hearts are hardened, and their desires are uncontrollable" [Ibn 'Abī Dunyā].

Sayyidunā Abū Juḥayfah (*Rađi'allāhu 'anhu*) reports that he ate a stew of bread and fattened meat. Then, he came to the Prophet ﷺ and burped loudly. The Prophet ﷺ said, "Restrain your burping. Verily, those who ate to their fill the most in this world will be the hungriest in the Hereafter" [al-Mu'jam al-Kabīr].

Sayyidunā 'Abdullah 'Ibn 'Umar (*Rađi'allāhu 'anhuma*) narrates that the Prophet ﷺ said, "The people without faith eat with seven intestines, whilst those with faith eat with one intestine" [Ṣaḥīḥ al-Bukhārī]. Ibn Ḥajar (Rahimahullah) and other commentators state that this narration means that a believer does not indulge in worldly consumption excessively, rather he is responsible in consumption. Imam al-Munāwī (d.1031 AH) states that this refers to the idea that the believer only consumes according to his needs.

The Prophet ﷺ consumed a balanced diet. *Sayyidunā ‘Abdullah ‘Ibn Ja‘far (Rađiallāhu ‘anhu)* says that he saw the Prophet ﷺ eating fresh dates with cucumbers [Şahīh Muslim]. Ibn al-Qayyim said, “The cucumber is cold and wet... so it is proper to use along with it whatever rectifies it and diminishes its coolness and moisture, as the Messenger of Allah did when he ate it with fresh dates. If it is eaten with dates, raisins, or honey, it will balance it out” [al-Ṭibb al-Nabawī].

In another narration, it has been reported that he ﷺ said, “The worst of my nation are those who are nourished by pleasure, eating a variety of foods, wearing a variety of clothes, and being pompous in their speech” [Ibn Abī Dunyā].

These narrations offer profound lessons on the concept of responsible consumption. These teachings highlight the importance of moderation, not just in eating but in all resources. If food is among the most vital and necessary resources for humans, and the guidance is the above, things of lesser importance must also be managed responsibly.

Responsible consumption refers to the mindful use of resources, ensuring that one's consumption patterns do not lead to waste, environmental harm, or undue deprivation of others. This approach involves being aware of the impact of our consumption choices on the environment, society, and future generations. The Prophet's ﷺ guidance on eating moderately, favouring simple and balanced diets, and avoiding indulgence in luxuries or excess, extends beyond food to encompass all forms of consumption. This ethos is crucial in today's context, where overconsumption and wastefulness have significant environmental and social consequences.

The benefits of incorporating responsible consumption into the Sharī‘ah-Powered Framework for Islamic Finance are manifold; Investments that align with responsible consumption principles are likely to be more sustainable and ethical. They contribute to the preservation of natural resources, reduce waste and pollution, and support equitable distribution of resources.

For investors, particularly in the realm of Islamic Finance, considering responsible consumption in investment decisions aligns with Prophetic practices. Investments that encourage responsible consumption patterns, whether in industries like renewable energy, sustainable agriculture, or eco-friendly products, are not only beneficial for the planet and society but also present opportunities for sustainable and potentially profitable ventures.

Furthermore, responsible consumption practices can enhance the reputation and credibility of businesses and financial institutions. In a market increasingly driven by consumer awareness and preference for sustainable and ethical products, companies that embody these values are likely to attract a broader customer base and investor interest.

The Prophetic teachings on moderation and responsible use of resources provide a valuable perspective for today's economy. Incorporating responsible consumption into a macro-economic strategy and screening of investments can lead to more ethical, sustainable, and socially responsible ecosystem. This approach not only aligns with Islamic principles but also addresses critical contemporary challenges, making it a vital consideration for investors and businesses alike.

15. Equal Opportunities

Once, *Sayyidunā ‘Umar ‘Ibn al-Khaṭṭāb (Raḍi اللّٰهُ عَنْهُ)* passed by some people who were eating while their servants were standing. He said, “Why do I not see your servants eating with you? Do you not desire them?” A man said, “No, by Allah, O leader of the faithful. Rather, we have preference over them.” *Sayyidunā ‘Umar* became very angry, then he said, “What is the matter with people who prefer themselves over their servants? Allah Almighty will deal with them and it is done!” Then *Sayyidunā ‘Umar* said to the servants, “Sit down and eat.” The servants sat to eat, whilst *Sayyidunā ‘Umar* did not [Musnad al-Fārūq].

The Messenger of Allah ﷺ never ate to his fill with bread or meat unless he was eating with people [al-Shamā'il al-Muhammadiyyah].

The actions of *Sayyidunā ‘Umar Ibn al-Khaṭṭāb* and the Prophet ﷺ demonstrate profound lessons for creating inclusive business models and fostering an environment of equality and opportunity. These narrations highlight the importance of empathy, humility, and equitable treatment in leadership and community interactions. By prioritising the inclusion of all members, regardless of their status, in communal activities such as eating, these leaders exemplified a powerful approach to breaking down social barriers and prejudices. This ethos can be applied in modern business contexts to ensure that all individuals, regardless of their position or background, are given fair opportunities and are treated with dignity and respect. Such an approach not only fosters a more cohesive and productive environment but also reflects a commitment to social responsibility and ethical conduct. Businesses can incorporate these principles by creating policies and cultures that emphasise inclusivity, provide equal opportunities for growth and development, and recognise the value and contributions of every individual, fostering a sense of community and shared purpose. Those from minorities should not be unfairly treated or discriminated. Everyone should have equal access, and thereafter, the person with most merit succeeds.

16. Spiritual, Emotional, and Psychological Development

Almighty Allah says regarding the Prophetic mission, “He is the One Who raised for the illiterate people a messenger from among themselves—reciting to them His revelations, purifying them, and

teaching them the Book and wisdom, for indeed they had previously been clearly astray" [Quran 62:2]. The Prophet ﷺ had three missions:

1. Convey the revelation and recite the verses of Allah to the world.
2. Purify the people and raise them to the heights of excellence (*Ihsān*).
3. Teaching people guidance and virtue from the Quran and from his Prophetic ways.

For a Prophetic framework, the Prophetic mission must be captured in the framework. Spiritual development and *Ihsān* are at the heart of the Prophetic mission, paralleling the objectives behind the advent of the Prophet ﷺ as described in the Quran. This holistic approach goes beyond mere economic transactions, encompassing the purification of individuals and communities.

Incorporating human development into the framework of Sharī'ah-powered finance involves a comprehensive approach that extends beyond traditional financial metrics. This can be achieved by prioritising investments that actively contribute to spiritual upliftment and human development.

The Prophet cultivated a sense of deep empathy and emotional intelligence, regularly inquiring about the state of his companions and attending to their needs. He sought to build and develop people from all perspectives. He was truly a comprehensive human reformer. There are several narrations on how he empowered people emotionally and psychologically. For example, upon observing a woman weeping at her son's grave, he didn't dismiss her grief but shared words to strengthen her. He always fostered an optimistic and positive outlook, and would encourage having positive thoughts and thinking good of Almighty Allah. Thus, any economic activity that seeks to be guided by Sharī'ah must have human development at its core.

Chapter 16: The Shari‘ah-Powered Framework

The table below presents an inclusive framework that melds essential Shari‘ah compliance criteria with the *Sunnah*-inspired guidance outlined in the previous chapter. This integration of compliance criteria and *Sunnah* practices creates a transformative Shari‘ah-Powered Framework.

The implementation of this framework extends beyond mere investment strategies. It serves as a foundational guide for industries and in establishing macro-economic objectives. By employing this framework, economies can be steered towards positive development. To effectively monitor progress, Key Performance Indicators (KPIs) and metrics should be established that measure each factor from the *Sunnah*-inspired framework. These tools will track the integration and impact of various factors, ensuring a comprehensive and data-driven approach to economic growth and industry advancement.

Tier	Rating	Factors
Level 1	Compliant/ Non- Compliant	<p>Structure: Any Shari‘ah product must be based on a valid Shari‘ah form, such as:</p> <ol style="list-style-type: none">1. Bay‘, Murabahah, Musawamah, Salam, Istisna’, Sarf, Ju’alah, Ijarah, Ijarah Muntahiah bil-Tamluk, Commodity Murabahah, Wakalah, Musharakah, Shirkat al-Milk, Shirkat al-‘Aqd, Mudarabah, Takaful, Musaqat, Sukuk, Hibah, Hawalah, Kafalah, Rahn, Qard, Muqassah, Tahwil, Waqf, Zakat, Şadaqah, ‘Arbun, Khiyar, Wa‘d. <p>Parties: The parties in the transaction must meet the following principles:</p> <ol style="list-style-type: none">2. There are two parties or more.3. The parties are both independent, and not that one is a subsidiary of the other.4. There is mutual agreement from all parties.5. The parties have legal capacity to trade.6. There is no coercion or undue influence. <p>The Asset: The asset and subject matter in any transaction and economic activity must meet the following:</p> <ol style="list-style-type: none">7. The asset is in existence.8. The asset is an entity that can be retrieved later.

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| | <ul style="list-style-type: none"> 9. The asset has embedded utility, such that it is benefitted from by using it without having to trade for benefit. 10. The asset is something desired by any reasonable person. 11. The asset is known. 12. The asset's value is known. 13. The asset is <i>Halāl</i>. 14. The seller has ownership of the asset. 15. The seller bears the risk of the asset. 16. The asset's specification is known without ambiguity. 17. The risk of the asset is only transferred after delivery to the buyer. 18. The transfer of ownership occurs immediately with a transaction, and it is not suspended, contingent, or deferred. |
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Price: The price in the contract must fulfil the following conditions:

- 19. The amount is known.
- 20. The amount is fixed.
- 21. The currency is established.
- 22. The payment is not contingent on anything.

Contractual terms: The clauses of a contract should meet the following principles:

- 23. The terms are clearly known to both parties.
- 24. The terms are free from *Ribā*.
- 25. No party receives unjustified contractual benefits.
- 26. The agreement does not contain unfair terms or inequitable provisions.
- 27. The contract is devoid of significant ambiguity.
- 28. The terms do not include major and excessive uncertainty.
- 29. The contract does not intertwine or make multiple agreements conditional on one another.

Marketing: Marketing activities should conform with the following:

- 30. All visuals comply with Sharī'ah standards.
- 31. All audio and sound elements meet Sharī'ah acceptability.
- 32. The content is free from obscene, vulgar copy and expletives.
- 33. The content is not deceptive or misrepresentative.
- 34. The content – if copied - correctly acknowledges the authors and is not misleadingly claimed as original work.

		<p>Exclusionary Screening: The following economic activities must not be supported.</p> <ul style="list-style-type: none"> 35. Interest-based financial services 36. Conventional insurance 37. Gambling and betting operations 38. Tobacco sector and business 39. Alcohol and unlawful beverages sector 40. Armaments and defence 41. Pork-related products 42. <i>Harām</i> ingredients 43. Illicit industries 44. Unlawful entertainment 45. Bio-technological companies involved in human genetic manipulation, alteration, mutation, and cloning.
Level 2	<i>Sunnah-Inspired Framework</i>	<ol style="list-style-type: none"> 1. Virtuous Vision: Economic strategies should be developed with the right belief system regarding economic resources and wealth management. 2. Sustainability: Economic strategies and activities should focus on long-term environmental and social sustainability. Investments and initiatives with sustainable practices should be prioritised. 3. Leveraging New Technologies: Economic strategies and activities should focus on initiatives that utilise cutting-edge technologies to improve efficiency, transparency, and ethical standards. 4. Real Assets and Real Economy Focus: Economic strategies and investments in tangible assets and sectors that contribute directly to the real economy, making a real difference in the lives of the common people. 5. Impact Driven: Economic activities and strategies that create impact along with financial returns should be favoured. 6. Circular Economy: Support for strategies and opportunities that follow a circular economy model, emphasising recycling, and sustainable use of resources.

		<p>7. Social Enterprise: Encouraging strategies and capital allocation in activities that balance profitability with social impact, targeting issues like poverty alleviation or healthcare.</p> <p>8. Zero Debt: Economic strategy should focus on reducing debt and creating strategies for zero debt, avoiding investments in heavily leveraged companies even though the debt maybe <i>Halāl</i>, and encouraging more participatory economic activities.</p> <p>9. Uplifting Emerging Markets: Directing funds to developing or underdeveloped markets to encourage growth, create opportunities and form a level-playing field in the world, thereby uplifting the millions living in poverty.</p> <p>10. Energy Conservation and Renewable Energies: Economic activities should consider energy conservation and support renewable energies.</p> <p>11. Eco-conscious Initiatives: Evaluating the environmental impact of economic activities and preferring those with minimal negative impact.</p> <p>12. Conservation of Nature and Wildlife: Investing in initiatives that protect ecosystems and wildlife and developing strategies with strong conservation policies.</p> <p>13. Zero Negative Externalities: Avoiding economic activities and investments in endeavours that have harmful effects on society or the environment.</p> <p>14. Responsible Consumption: Supporting initiatives that promote sustainable consumption patterns and lifestyles that lead to moderate consumption to meet needs.</p> <p>15. Equal Opportunities: Macro and micro strategies should focus on lowering barriers and removing discrimination of all sorts, giving everyone an equal chance to benefit.</p> <p>16. Spiritual, Emotional, and Psychological Development: Charting economic strategies and capital allocation to the spiritual, mental, and emotional well-being of society.</p>
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Concluding Thoughts: Islamic Finance, Yesterday, Today and Tomorrow

The future of Islamic Finance is being Shari‘ah-powered. The full benefits that Islamic Finance can really bring to the world and the economies can only be experienced when we embrace the *Sunnah* and Prophetic way in Islamic Finance. Islamic Finance is only going to grow, and with its growth, all the beautiful teachings and values that the Prophet ﷺ taught us can be conveyed to the world.

The growth of Islamic Finance is also a reflection of the dedication and ingenuity of its practitioners. From scholars and economists to bankers and entrepreneurs, the industry has been propelled forward by individuals committed to realising a financial system that aligns with Islamic values. Their efforts have been instrumental in addressing the challenges of operating within a predominantly *Ribā*-based system, finding innovative ways to offer competitive and ethical financial solutions.

The global reach of Islamic Finance has been expanding. Initially concentrated in Muslim-majority countries, it is now gaining ground in other parts of the world, including Europe and North America. This expansion is not only a result of the growing Muslim population globally but also due to the increasing interest in alternative finance.

Despite these advancements, Islamic Finance still faces challenges and misconceptions. Integrating into the global financial system, dominated by conventional practices, requires not only regulatory and legal adaptations but also a shift in perception among investors and institutions. It requires demonstrating that ethical finance can be just as viable and profitable as conventional methods, if not more.

Islamic Finance: Today, and Tomorrow

Perhaps the following typology captures Islamic Finance in what it is, and the power it can be:

1. Level 1: The permissible level
2. Level 2: The equitable level
3. Level 3: The Prophetic level

Level One: The Permissible Level

This is where Islamic Finance is currently operating; Islamic Finance uses permissible *Hiyal* and engineering to develop products that create Shari‘ah compliant alternatives to *Ribā* products. In and of itself, this is praiseworthy, and commendable, especially considering the *Ribā*-dominant economic system that dominates the world today.

Transactions that are structured according to Sharī‘ah principles are permissible, and nobody has the Sharī‘ah right to say otherwise. The ruling of such transactions is *Mubāh* (lawful). However, since this level uses *Hiyal*, the contextual *Hiyal* have to be reviewed by *Muftīs* and Sharī‘ah scholars to ensure the accurate *Fiqh* application. Contextual *Hiyal* can become discouraged due to external reasons.

Examples of this level include the use of *Tanāzul* (optional preferential treatment), *Wa‘d* (undertakings), and various Sharī‘ah wrappers. Similarly, agreeing for customers to bear the majority of the costs either directly through mutual agreement where permissible, or through service agency agreements fall under this category too.

Operationalising *Hiyal* and focusing on legal alternatives to *Ribā* makes the financing permissible of course, however, there are missed opportunities and the transformative potential that could be unleashed. Over-reliance on *Hiyal*-based Islamic Finance masks the transformative potential of the real value-adding properties of the *Fiqh* and the Prophet's ﷺ teachings. Islamic guidance has so much more to offer than just alternatives. Importantly, there is a possibility of certain *Hiyal* and operations to be disliked or discouraged, depending on the context.

This type of Islamic Finance is not the optimal or the normative standard for Islamic Finance. This is more of a facilitation and alternative, but not the ideal standard. The beauty of the Islamic principles and Sharī‘ah guidance will be experienced and felt when there is less reliance on *Hiyal* in products. Of course, the *Hiyal*-based Islamic Finance is still a thousand times better than *Ribā* and *Harām* financing.

Level Two: The Equitable Level

The ‘Equitable Level’ refers to operationalising the essence of the underpinning philosophy of each contract and structure. It is about practicing on the roots and the philosophies of the structures without manipulation. For instance, in an equitable *Musharakah*, both the financier and customer would share in the expenses and costs of the *Musharakah*. That stems from the underpinning philosophy and meanings embedded within *Musharakah*. To shift the costs towards the customer through mutual agreement and the use of legal devices will relegate this to level one, which is a deviation from the natural dictates of a *Musharakah*, and hence not equitable. Sure, when one party naturally, spontaneously, and voluntarily wants to cover expenses from their own goodwill, then that is an elevation to the Prophetic level! When practicing on the Equitable Level, contracts will naturally feel fairer and proportionate. The Sharī‘ah structures, by default, are coded with equity and justice. This should be the focus for Islamic Finance in the short-to-medium term, with the use of *Hiyal* to genuine circumstances and contextual challenges.

Level Three: The Prophetic Level

The ‘Prophetic Level’ is the pinnacle of ethical financial conduct and economic frameworks. This must be the long-term vision for the Islamic economy, and something we should all be planning and aspiring.

This level embodies a society committed to integrating Prophetic practices in financial activity and interactions. So for instance, in a Musharakah, we earlier described how the Prophet ﷺ would give preference to his partners and counterparties. In a Prophetic Musharakah, financial institutions would prioritise supporting and empowering their customers focusing on long-term benefits and upliftment. Products would be designed with a Prophetic touch developed to really impact those that need uplifting, with opportunities for the entire society. Those that interact with the Prophetic level would mean that they are genuinely better off than before. They would not be gambling on their future. While not strictly obligatory, this elevated standard exemplifies the transformative potential of Islamic Finance and sets the ultimate aspirational benchmark. This is where lives would change, humans would change, hearts would change, humanity would change. This is where Islamic Finance becomes a door for people to see the beauty of Islam and the Prophet’s ﷺ teachings.

The future of Islamic Finance demands leaders dedicated to advocating the Prophetic teachings, illuminating the path for the world with wisdom that has been imparted to us for over 1,400 years. The essence of what is needed is already encapsulated within the Prophetic way; our task is to fully embrace and implement these teachings in our practical endeavours.

The only transformative way forward is the Prophetic way.

All praise belongs to Almighty Allah. Peace, salutation, and love to the best of creation, the Prophet Muhammad ﷺ.

