RESOLUTIONS
and
RECOMMENDATIONS
of the
INTERNATIONAL ISLAMIC FIQH ACADEMY
—ORGANIZATION OF ISLAMIC COOPERATION—

ENGLISH TRANSLATION OF THE ARABIC EDITION

SESSIONS 1-25
RESOLUTIONS 1-255
1405-1444 | 1984-2023

THIRD EDITION
1446-2024

قَرَارَاتُ وتَوصِيَات
مَجْمَعِ الْفِقْهِ الْإِسْلَامِيِّ الدَولِيِّ

الْمُنْبَثِقُ عَنْ مُنَظَّمَة التَّعَاوُن الْإِسْلَامِيّ

التَّرْجَمَة الإِنْجلِيزِيَّة للإِصدار الخَامِس

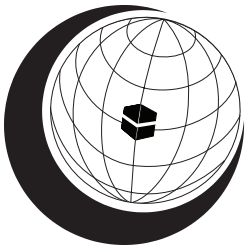
الدورات 1 - 25
القرارات 1 - 255
1405 - 1444 هـ | 1984 - 2023 م
1446 هـ | 2024 م

RESOLUTIONS
and
RECOMMENDATIONS
of the
INTERNATIONAL ISLAMIC FIQH ACADEMY

Copyright © International Islamic Fiqh Academy
Translation of the original 5th Edition from Arabic into English
Third Edition in English
1446/2024

All Rights Reserved.

Madinah Road, Al-Faisaliyah Dist.
P.O. Box: 13719 Jeddah 21414
Jeddah, Kingdom of Saudi Arabia
www.iifa-aifi.org
info@iifa-aifi.org
Tel: (+966) 12 2575662 – 6900346 – 6900347 – 6980518
Fax: (+966) 12 2575661



RESOLUTIONS
and
RECOMMENDATIONS
of the
INTERNATIONAL ISLAMIC FIQH ACADEMY
—ORGANIZATION OF ISLAMIC COOPERATION—

SESSIONS 1–25
RESOLUTIONS 1–255
1405–1444 | 1984–2023

بِسْمِ ٱللَّهِ ٱلرَّحْمَٰنِ ٱلرَّحِيمِ

﴿وَإِذَا جَآءَهُمْ أَمْرٌ مِّنَ ٱلْأَمْنِ أَوِ ٱلْخَوْفِ أَذَاعُوا۟ بِهِۦ ۖ وَلَوْ رَدُّوهُ إِلَى ٱلرَّسُولِ وَإِلَىٰٓ أُو۟لِى ٱلْأَمْرِ مِنْهُمْ لَعَلِمَهُ ٱلَّذِينَ يَسْتَنۢبِطُونَهُۥ مِنْهُمْ ۗ وَلَوْلَا فَضْلُ ٱللَّهِ عَلَيْكُمْ وَرَحْمَتُهُۥ لَٱتَّبَعْتُمُ ٱلشَّيْطَٰنَ إِلَّا قَلِيلًا﴾

سورة النساء: ٨٣

In the Name of Allāh,
The Entirely Merciful, The Especially Merciful

And when there comes to them information about security or fear, they spread it around. But if they had referred it back to the Messenger or to those of authority among them, then the ones who draw correct conclusions from it would have known about it. And if not for the favor of Allāh upon you and His mercy, you would have followed Satan, except for a few.

Sūrah al-Nisā', Q4:83

Forewords

FOREWORD BY

His Excellency
Mr. Hissein Brahim Taha
Secretary General of the Organization of Islamic Cooperation

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, upon his family, and all his companions.

The International Islamic Fiqh Academy (IIFA) is one of the most important subsidiary organs of the Organization of Islamic Cooperation (OIC). It serves as the OIC's religious wing and is the primary reference of jurisprudence for OIC Member states and Muslim communities outside the Muslim world.

Over the period of four decades, the Academy has contributed, through its authentic jurisprudential resolutions agreed upon among the recognized schools of Islamic law, to explaining the rulings of Shariah concerning contemporary issues and problems. It has also been able to keep pace with the developments and changes of the modern world through a distinguished collective *ijtihād* that relied on experts in various fields of human knowledge, guided by the tolerant principles of Islam, and based on the eternal teachings of Shariah, which can realize goodness and happiness for mankind at any given time and place. It should be noted, however, that the Academy has adopted, since its inception, the values of moderation, temperance, tolerance, and repudiation of fanaticism and extremism.

Therefore, the valuable resolutions and recommendations contained in this precious book represent the best work of the most prominent scholars and experts of the Muslim Ummah from the 1st to the 25th session of the International Islamic Fiqh Academy (1405–1444H/1984–2023G), as well as the fruit of cooperation and collaboration between Muslim jurists and experts in human sciences.

It is my honour and privilege as I introduce this book to present, on behalf of the members and experts of the Academy, and myself – my deep gratitude and appreciation to the Custodian of the Two Holy Mosques King Salman bin Abdulaziz Al Saud and his trustworthy Crown Prince HRH Prince Mohammed bin Salman bin Abdulaziz Al Saud – may Allāh sustain them – for the generous care and support given to the Academy since its inception. May Allāh reward them and bestow peace, prosperity, and welfare on the Kingdom of Saudi

Arabia, and all Muslim countries and communities.

I would also like to express my gratitude and appreciation to my dear brother Sheikh Dr. Saleh bin Abdullah bin Humaid, President of the Academy, Advisor to the Saudi Royal Court, member of the Council of Senior Scholars, and Imām-Khaṭīb of the Grand Mosque of Makkah, for his blessed efforts and unrelenting scientific patronage for the Academy.

Also, my enormous gratitude and thanks go to the honourable members and experts of the Academy for their continuous support to the Academy.

And last but not least, I congratulate the Secretary General of the Academy, my honourable brother, Professor Koutoub Moustapha Sano, for this outstanding achievement since assuming office at the Secretariat General of the Academy. May Allāh ﷻ sustain him and grant him success in his duties.

MR. HISSEIN BRAHIM TAHA
Secretary General of the Organization of Islamic Cooperation

FOREWORD BY

His Excellency
Sheikh Dr. Saleh bin Abdullah bin Humaid

President of the International Islamic Fiqh Academy
Advisor to the Saudi Royal Court
Member of the Council of Senior Scholars
Imām-Khaṭīb of al-Masjid al-Ḥarām

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Praise be to Allāh, Who has exalted the people of knowledge and faith, and made them beacons to guide His servants through the light of the Quran and the example of His Messenger, the best man who ever lived, and may the blessings and peace be upon him, his family and all his companions.

It should be known that a person's happiness is to have knowledge of his religion and to work with this knowledge, for among the signs of attaining success and goodness is in knowing religion and acting according to it with loyalty to the Lord of the Worlds.

The Prophet ﷺ said, "To whomever Allāh wills goodness, He grants him the understanding of the religion." Thus, the understanding of religion (*fiqh*) enables us to discern its rules and objectives, to distinguish *ḥalāl* from *ḥarām*, to perform our duties, and to fulfill rights accordingly; that is why Allāh the Almighty said about Prophet Solomon and the knowledge he bestowed on him, «And We gave understanding of it [i.e. the case] to Solomon, and to each [of them] We gave judgement and knowledge.» (Anbiyā', 79)

Given the successive developments, rapid transformations, overlapping disciplines, and the urgent need to clarify the legal rulings concerning calamities and novelties, and in recognition of the critical importance of collective *ijtihād*, in which jurists and scholars interact with experts and specialists; the International Islamic Fiqh Academy has sought – since its creation – to realize integration and collaboration between jurists of the Muslim schools of law on the one hand, and between scholars and scientists on the other.

Thanks to Allāh, this blessed scholarly effort has resulted in the issuance of two hundred and fifty-five (255) resolutions on different contemporary issues, calamities, and developments. These resolutions and recommendations are distinguished by their correctness, precision, and accuracy as the Academy has always relied on the jurists for the assessment and *ijtihād* on novel issues and developments. These assessments are based on the conception, characterization,

diagnosis of the issue, and application of the principles of evidence (*istidlāl*) and legal maxims in order to induce and deduce from them the appropriate ruling following a firmly disciplined scientific methodology.

The Academy's resolutions and recommendations are accepted and endorsed by scholars around the world, making them a crucial jurisprudential reference for Muslims inside and outside the Muslim world. Indeed, a large number of Islamic scholars, jurists, and researchers in universities and faculties worldwide highlight the importance of preserving these resolutions, recommendations, and statements in order to give them as case studies for their students who could this way practice theoretical and practical *fiqh* and train on the methods of issuing resolutions based on the outcome of these cases of collective *ijtihād*. It is in fact very important academically to preserve the legal texts and the *fiqh* rules contained in these resolution and recommendations, in addition to the discussions that took place and are published in the Academy's scientific series.

The Academy is proud to present this third edition of the book of resolutions, recommendations, and statements of the Council of the Academy, from the first to the 25th session (1405–1444H/1984–2023G), three years after its second publication (1443H/2022G) and twenty-four years after its first publication in English (1421H/2000G).

I take this blessed opportunity to commend the support and backing the Academy has always received from Muslim world leaders, both financially and morally, to carry out its mission, achieve its objectives, and implement its programs in the service of Islam and Muslims worldwide.

I also commend the generous patronage that the Academy continues to enjoy from the host state, the Kingdom of Saudi Arabia, under the blessed leadership of the Custodian of the Two Holy Mosques, King Salman bin Abdulaziz Al Saud and his trustworthy Crown Prince, HRH Prince Mohammed bin Salman bin Abdulaziz Al Saud – may Allāh sustain them.

I shall also express my sincere thanks to the Secretary General of the Organization of Islamic Cooperation, my dear brother Mr. Hissein Brahim Taha, for his continuous support to the Academy and its activities and programs.

I would also like to express my thanks, appreciation, and prayers to those who departed before us, including jurists and scholars, particularly Sheikh Dr. Bakr Abu Zayd, former President of the Academy, and the former Secretaries General of the Academy, Dr. Mohamed Habib Belkhoja, Prof. Abdulsalam al-Abbadi, and Sheikh Dr. Ahmed Khaled Babeker. May Allāh have mercy on their souls, and may He bless their efforts in the balance

of their good deeds.

Finally, I cannot but express my sincere thanks and appreciation to the Secretary General of the Academy, Prof. Koutoub Moustapha Sano, and his colleagues for this outstanding achievement shortly after taking office at the Academy.

I implore Allāh the Almighty to make Muslims and humanity benefit from this work, to guide us to the straight path, and to grant us help, success, and prosperity in both worlds.

And may the blessings and peace be upon our master Muhammad, his family, and all his companions.

DR. SALEH BIN ABDULLAH BIN HUMAID
President of the International Islamic Fiqh Academy

FOREWORD BY

His Excellency
Prof. Koutoub Moustapha Sano
Secretary General of the International Islamic Fiqh Academy

In the name of Allāh, the Entirely Merciful, the Especially Merciful

Praise be to Allāh, Who has guided us and we could not have been guided if Allāh had not guided us. Praise be to Allāh by Whose grace, good deeds are accomplished, and may blessings and peace be upon the supreme leader, the given mercy, the ultimate example, the Prophet Muhammad, upon his family, his companions, and those who follow in their footsteps until the Day of Judgement.

Islam is surely the seal of divine revelations, manifested in the flexibility of its rules (Shariah), the scope of its laws, and the validity of its teachings for all times and places. It is also characterised by the ability of its general foundations, noble objectives, and main rules to navigate through changing times and events based on a solid methodological foundation derived from the Shariah's fundamentals, objectives, rules, and end results.

It is also manifested in the nature of its rulings which have the public interest at its core, the establishing of justice, compassion, human rights, freedoms, and the pursuit of happiness for all.

Given the rapid developments in all areas of life in our time and the intertwining of relationships, accumulation of events, and the need for collaboration and cooperation between scholars of the different schools of law on the one hand and between scholars and experts on the other hand, to clarify the provisions of Shariah regarding all matters of concern to Muslims worldwide, the Academy has therefore held 25 scientific sessions so far in which it issued 255 resolutions in the fields of finance, business, women, family and child affairs, intellectual, educational, cultural, sociological, and political issues.

Thus, in order to enable the Muslim Ummah – states, institutions, and individuals – to benefit from these outstanding resolutions and recommendations, the Secretariat General of the Academy is pleased to present to the world's scholars, jurists, thinkers, and intellectuals this new edition, which contains all the resolutions and recommendations of the Academy from the 1st session to the 25th session (1405–1444H/1984–2023G).

Hence, it is worth mentioning that the first English edition dates back to 1421H (2000), and only contained 117 resolutions. The second publication

was in 1443H (2022) and contained 238 resolutions, while this third edition contains – thanks to Allah the Almighty – 255 resolutions.

The English version is the result of former and recent collaborations between various experts and entities, including members of the Academy, Prof. Monzer Kahf and Dr. Ayachi Fadad of the Islamic Research and Training Institute (Islamic Development Bank); Dr. Hedi Fantar of the Organization of Islamic Cooperation; Dr. Mahmoud Ahmed Mehdi and Dr. Ahmed Mehdi Sharif Belwafi of the Islamic Economics Institute at King Abdulaziz University; and from the Secretariat General of the Academy, Mr. Mohamed Mondher El Chouk, Director of Cabinet and Protocols, Mr. Adama Thiam, former Head of the Translation Department, Mr. Jawzi Belkacem Lardjane, current Head of the Translation Department, and Dr. Ismail Cebeci, Head of Research and Encyclopaedias.

The reader may notice a slightly different translation style in the different parts of the book, as these resolutions were translated by different translators and at different times. It goes without saying that no human work, especially translation, is free from unintentional errors; therefore, should the reader notice any errors in the translation, they are requested to convey them to the Academy, and to rely– in this case – on the Arabic version as the main reference. May Allāh reward, in our name and in the name of the Academy, all those who have worked for the publication of this book.

I am pleased to inform readers, students, scholars, and researchers that the translation of these resolutions and recommendations into French has been completed. Work is underway to translate them into the most important languages spoken by Muslims in Africa, Asia, and Europe. These translations will be completed and printed soon, Allāh willing, for the general benefit of all.

Finally, on behalf of the members and experts of the Academy, and myself, I would like to express my sincere thanks and deep gratitude to the Custodian of the Two Holy Mosques King Salman bin Abdulaziz Al Saud and his trustworthy Crown Prince HRH Prince Mohammed bin Salman bin Abdulaziz Al Saud, may Allāh sustain them, for the generous patronage and unrelenting support accorded to the Academy by host state, the Kingdom of Saudi Arabia. May Allāh reward them with the best of rewards, and may He ﷻ preserve the peace, security, and prosperity of the host state and the Member states of the Academy.

I would also like to express my sincere gratitude and appreciation to my dear brother Mr. Hissein Brahim Taha, Secretary General of the Organization of Islamic Cooperation, for the special care he accords to the Academy, and for

his continuous support to its activities and programs.

My sincere thanks and appreciation also go to H.E. Sheikh Dr. Saleh bin Abdullah bin Humaid, President of the Academy, Advisor to the Saudi Royal Court, Member of the Council of Senior Scholars of the Kingdom of Saudi Arabia, and Imām-Khaṭīb of the Grand Mosque of Makkah, for his wise leadership, guidance, and support to the Academy. May Allāh reward him and preserve him as a beacon for Islam and Muslims.

Last but not least, we shall all raise our arms on this occasion to implore the Noble Lord to reward in our name, in that of the Academy and the Ummah, the eminent scholars and jurists with the greatest reward after serving the Academy in the most magnificent way, especially H.E. Sheikh Dr. Bakr Abu Zayd, former President of the Academy, and former Secretaries General of the Academy, Sheikh Dr. Mohamed Habib Belkhoja, Prof. Abdulsalam al-Abbadi, Prof. Ahmed Khaled Babeker, and the late members of the Academy, such as Sheikh Muhammad Mukhtar al-Salami, Dr. Abdul Sattar Abu Ghuddah, Sheikh Anas Abdul Nur Kaleesa, Sheikh Dr. Wahbah al-Zuhayli, and Sheikh Muhammad Taskhiri, as well as its experts such as Prof. Jaafar Abdul Salam, former Secretary General of the League of Islamic Universities, Prof. Muhammad Abdul Halim Omar, and others. May Allāh ﷻ accept them in His paradise among the prophets, the truthful, the martyrs, the righteous; indeed, those are best companions.

I would also like to express my special thanks to all the Academy's personnel, for their dedication and commitment to the service of the Ummah in general and the Academy in particular.

And may blessings and peace be upon our master Muhammad, his family, and companions.

PROF. KOUTOUB MOUSTAPHA SANO
Secretary General of the International Islamic Fiqh Academy

International Islamic Fiqh Academy

The International Islamic Fiqh Academy (IIFA) is a universal scholarly organization. It is a subsidiary organ of the Organization of Islamic Cooperation (OIC). It was established following a resolution at the Third Islamic Summit of the Organization (N.8/3-T/S-I) on 19–22 Rabīʿ al-Awwal 1401H, corresponding to 25–28 January 1981. Its headquarter is in Jeddah, Kingdom of Saudi Arabia. The Academy is endowed with a legal personality. Its members are eminent Muslim jurists, scholars, researchers, and intellectuals who specialize in jurisprudential, cultural, educational, scientific, economic, and social fields of knowledge from different parts of the Muslim world.

The Academy is entrusted with elucidating the rulings and provisions of Shariah on issues of concern to Muslims around the world, in full independence and based on the Holy Quran and the Noble Sunnah of the Prophet ﷺ. It also studies contemporary life issues, embarking on an authentic and effective *ijtihād*, aiming at providing solutions stemming from Islamic heritage and open to the developments of Islamic thought.

For four decades and with the Almighty's grace, the Academy has held twenty-four sessions that adopted resolutions concerning various contemporary issues, calamities, and developments. To date, it has issued two hundred and fifty-five (255) resolutions.

Vision

The vision is a clear and precise future description of where the institution wants to be in the short term, i.e. five years, or in the medium term, i.e. ten years, or in the long term, i.e. twenty years or more. The vision of the Academy can therefore be summarized as follows:

> Becoming a leading global jurisprudential reference to which countries of the Muslim world and the Muslim communities will consult for clarification of the positions of Shariah (legal rulings) on issues of concern to Muslims and to provide appropriate solutions to contemporary life problems, derived from the Holy Quran, the Noble Prophetic Sunnah, and the rich Islamic heritage.

Mission

The mission of the Academy refers to the summary of the most important objectives and aspirations for which it was established; hence the mission of the Academy can be summarized as follows:

> The presentation of Shariah in a moderate manner, emphasizing its merits and its full capacity to deal with the problems and issues of life and its ability to help mankind achieve happiness, stability, peace, security, and safety in this life and beyond. This mission is based on a comprehensive and integrated understanding of the Islamic religion, its foundations, sources, objectives, principles, and provisions.

Core Values

The core values refer to ethical principles, rules of behavior, and applicable regulations governing and guiding the institution's activities and defining its relationships. The achievement of the Academy's vision, mission, and objectives depends on the commitment to these core values, which can be summarized as follows:

- Moderation: avoiding all forms of religious extremism, excess, and lack of care in thought and behavior, which also involves applying moderation, flexibility, openness, and balance in the relationship with the other.
- Discipline: fully adhering to the laws and regulations that govern work in the Academy and define authorities and responsibilities while respecting the terms of reference and administrative hierarchy.
- Transparency: commitment to integrity, honesty, clarity, and fairness in words, actions, and behavior, and avoidance of all forms of corruption, ambiguity, and obscurity.
- Justice: avoiding injustice and inequity, putting things in their proper positions, and giving everyone their own right by totally avoiding prejudice and favoritism.
- Equity: commitment to justice in the treatment of others by respecting rights and conferring them to their due holders, mitigating injustice, and prohibiting aggression.
- Productivity: working hard to accomplish as many activities and tasks as possible in as little time as possible through dedication, focus, and perseverance.
- Creativity and Innovation: promoting work and improving performance by

coming up with new ideas that achieve the best results and finding quick solutions to developments and changes in the work environment.

- Cooperation and Integration: solidarity, synergy, support, and mutual assistance among workers to achieve the desired results by implementing activities and programs.
- Excellence: the performance of tasks and the optimization of functions within the given time frame while respecting the specifications and standards required to achieve the objectives and finalities.
- Accomplishment: commitment to precision, accuracy, ingenuity, and resourcefulness in the performance of tasks and responsibilities to achieve the vision, mission, and objectives with ease and flexibility.

Objectives

The Academy's vision depicts an ambitious future and its mission is a summary of the most important objectives which are a set of outcomes that it seeks to accomplish through multiple and diverse programs, activities, and initiatives to fulfill the mission and vision. Based on this understanding, the objectives of the Academy are set to achieve the following outcomes:

- Achieve intellectual harmony and integration between jurists from recognized schools of Islamic jurisprudence and experts in the field of human, social, natural, and applied sciences to elucidate the positions of Shariah towards contemporary life issues.
- Promote collective Ijtihad (Ijtihad jama'e) on contemporary life questions and issues, to elaborate Shariah-based solutions, and clarify valid preferences among several legal opinions on the same issue, in accordance with the interests of Muslims – whether individuals, communities or States – and in complete harmony with the legal arguments and ultimate purposes of Shariah.
- Coordinate between authorities of Ifta and institutions of jurisprudence inside and outside the Muslim world to avoid contradictions and hostilities between opinions on the same issue, especially on general issues that may cause conflicts.
- Denunciate denominational intolerance, religious fanaticism, and excommunication of other Islamic doctrines and their followers by spreading the essence of moderation, openness, and tolerance among the followers of different schools of law and sects.

- Refute baseless fatwas that negate Islamic principles, established rules of Ijtihad, and scholarly Islamic schools of law without giving any recognized evidence.
- Provide Shariah rulings on subjects arising from the lived reality to facilitate the development of legislations, laws, and regulations in line and harmony with the provisions of Shariah.
- Express Shariah opinions directly when requested and translate them into the lived reality revolving around the challenges facing the Islamic Ummah, and on the documents issued by the OIC, international Islamic and non-Islamic organizations.
- Issue fatwas to Muslim communities and organizations outside the Muslim world to preserve Islam's values, culture, and traditions, which also aims at protecting their Islamic identity, with due respect to the essentials of citizenship and residence in non-Muslim societies.
- Promote cooperation, rapprochement, and complementarity between scholars of different schools of law regarding the fundamental principles of religion, reinforcement of commonalities, respect of differences, and maintaining ethics of the jurisprudence of divergence while giving due weight to the opinions of the different schools of law when the Academy issues fatwas and resolutions.
- Renew the science of Islamic jurisprudence by developing it from within and through the rules of deduction, principles, rules, and objectives of Shariah.
- Conduct constructive interreligious and intercultural dialogue, to foster cooperation for the benefit of humanity, in coordination with the Secretariat General of the Organization of Islamic Cooperation.

Methods

The objectives are the finalities and outcomes that the Academy aims to achieve, while the methods represent the mechanisms, activities, and programs used to reach those outcomes. The Academy adopts many methods, namely:

- Issuing resolutions and fatwas on issues of concern to Muslims, translating them into contemporary languages and disseminating them as widely as possible to encourage embracing the Islamic approach of moderation and temperance, which shall protect Muslims from fanaticism, extremism, negligence, and unreliable opinions.

- Organizing specialized scientific conferences and symposia to discuss specific issues or problematic or multidisciplinary topics which require jurisprudential research and discussion on a broader scale than usually provided by the Academy Council's meetings.
- Providing jurisprudential advice over documents issued by the OIC or any other Islamic or non-Islamic organizations whenever the Academy is requested to do so.
- Establishing a directory of Ifta authorities and councils and jurisprudential institutions and academies inside and outside the Muslim world, with the view to identifying entities and bodies with which the Academy may cooperate and coordinate relations.
- Establishing centers for Islamic studies in some of the focal areas outside the Muslim world; collaborating with existing centers to promote the Academy's objectives, monitor publications on Islam in their regions, and refute any misrepresentation of Islam.
- Publishing comprehensive jurisprudential encyclopedias that address contemporary issues in various areas of life and focus on matters discussed in jurisprudence treatises. These publications should be formulated in a language accessible to the culturally and media literate public.
- Encouraging jurisprudential research about contemporary challenges, new developments, and current issues through the divisions and committees of the Academy in cooperation with universities and other academic institutions regarding contemporary life problems, challenges, and the latest issues.
- Drafting model laws in various areas (in the three official languages) that require the codification of Shariah provisions, taking into consideration differences between schools of law, and ensuring their translation and dissemination throughout the Muslim world for easy reference in the amendment process of existing legislations, laws, and regulations.
- Reviving the Islamic jurisprudence heritage, with particular emphasis on the books dealing with the fundamentals of jurisprudence, the ultimate purposes of Shariah, jurisprudence and comparative jurisprudence; publishing unpublished works in the above fields after examining them; and translating the classics of this type of heritage into major world languages.
- Elaborating a comprehensive dictionary of Islamic jurisprudence and fundamentals of jurisprudence terms (in the three official languages), defining each term accurately and precisely while expressing meanings in a simple

and intelligible language.

- Publishing the Academy's works, resolutions, and fatwas, and the most significant research presented therein, in the Academy's scientific journal and website, and publicize and translate them into important Muslim world languages and beyond.
- Seeking assistance from experts specializing in various scientific and applied fields to study and research the topics submitted to the Academy.
- Publishing a peer-reviewed journal based on firm scientific principles to serve research and studies on issues related to Shariah and Islamic jurisprudence, and in which some of the research of scholars and academics in these fields will be published.

Departments and Divisions

It is necessary to identify the bodies responsible for implementing the Academy's activities and programs. To this end, the Academy is composed of the following departments and divisions:

- THE SECRETARIAT GENERAL OF THE ACADEMY comprises the Cabinet of the Secretary General, Special Advisor, Media and Financing Advisor to the Secretary General, and the Cabinet Supervisor.
- THE DEPARTMENT OF CABINET, PROTOCOLS AND LEGAL AFFAIRS comprises three divisions, namely: Cabinet Affairs Division, Protocols and Transport Division, and Legal Affairs Division.
- THE DEPARTMENT OF PLANNING AND INTERNATIONAL COOPERATION comprises three divisions, namely: Planning and Development Division, International Cooperation and External Relations Division, and Archiving, Follow-up and Correction Division.
- THE DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL AFFAIRS comprises three divisions, namely: Administrative and Training Affairs Division, Financial and Accounting Affairs Division, and Warehouse and Library Division.
- THE DEPARTMENT OF MEDIA, PUBLIC RELATIONS AND INFORMATION AND COMMUNICATION TECHNOLOGY comprises three divisions, namely: Media Division, Public Relations Division, Information and Communication Technology Division.
- THE DEPARTMENT OF RESEARCH, STUDIES, ENCYCLOPEDIAS, TRANSLATION

and printing comprises four divisions, namely: Research and Studies Division, Encyclopedias and Dictionaries Division, Translation Division and Printing Division.

- the department of financing, investment and projects affairs comprises three divisions, namely: Waqf Division, Financing and Investment Division, and Projects Division.
- the department of sessions, conferences and seminars comprises three divisions, namely: Sessions Division, Conferences and Seminars Division, and Workshops and Public Lectures Division.
- the department of the family, woman, childhood and elderly affairs comprises three divisions, namely: Woman Affairs Division, Youth and Childhood Affairs Division, and Elderly and Disabled Affairs Division.
- the department of fatwas, reviews and libraries comprises three divisions, namely: Fatwa Observatory Division, Reviews Division, and Libraries Division.

Academy Waqf Fund

Since its foundation four decades ago, the International Islamic Fiqh Academy has enjoyed the support of the oic member states through their mandatory contributions to the Academy's annual budget.

Notwithstanding, the Secretariat General of the Academy seizes this opportunity to appeal to the honorable Member states to graciously consider increasing their fixed mandatory contributions to finance its activities and programs. The Secretariat General also appeals to governments, organizations, foundations, and individual donors worldwide, to make donations and grants in cash and in-kind to its Waqf Fund. The Academy Waqf Fund was established by the Ministerial Council of oic Foreign Ministers at oic's 44th Session in Abidjan, Republic of Côte d'Ivoire in 2017 by decree no. 44/6F in order to become the permanent resource whose income and proceeds are devoted to the activities and programs of the Academy.

The Academy Waqf Fund was established by the Member States of the Organization of Islamic Cooperation to receive all types of donations and grants in cash and in-kind from States, organizations, foundations, and individual donors. The Waqf Fund is supervised by a Board of Trustees chaired by His Excellency Mr. Hissein Brahim Taha, Secretary General of the Organization of Islamic Cooperation. It is also composed of the following members:

- His Excellency Sheikh Dr. Saleh bin Abdullah bin Humaid, Advisor to the Saudi Royal Court, Member of the Council of Senior Scholars, Imam Khatib at the Grand Mosque of Makkah, and President of the Academy.
- His Excellency Professor Koutoub Moustapha Sano, Secretary General of the Academy.
- His Excellency Sheikh Dr. Abdullah bin Muhammad Al-Mutlaq, Advisor to the Saudi Royal Court, Member of the Council of Senior Scholars, Kingdom of Saudi Arabia.
- His Excellency Sheikh Dr. Saad bin Nasser Al-Shathri, Advisor to the Saudi Royal Court, Member of the Council of Senior Scholars, Kingdom of Saudi Arabia.
- His Excellency Sheikh Dr. Ahmed bin Abdulaziz Al-Haddad, Grand Mufti of Dubai, United Arab Emirates.
- His Eminence Prof. Abdullah Mabrouk Al-Najjar, Member of the Islamic Research Academy of Al-Azhar University, Arab Republic of Egypt.
- His Eminence Prof. Yusuf bin Abdullah Al-Shubaily, Professor at the Higher Judicial Institute of Imam Muhammad bin Saud University, Kingdom of Saudi Arabia.
- His Eminence Dr. Sami Suwailem, Acting Director of the Islamic Development Bank's Islamic Research and Training Institute.

The Supervisory Board, which is responsible for overseeing the Academy Waqf Fund, is composed of the following members:

- His Excellency Sheikh Dr. Saleh bin Abdullah bin Humaid, Advisor to the Saudi Royal Court, Member of the Council of Senior Scholars, Imam Khatib at the Grand Mosque of Makkah, and President of the Academy.
- His Excellency Dr. Ahmed Muhammad Ali, Honorary President of the Islamic Development Bank, Jeddah, Kingdom of Saudi Arabia.
- His Excellency Prof. Koutoub Moustapha Sano, Secretary-General of the Academy.
- His Eminence Dr. Youssef Hassan Khalawi, Secretary-General of the Islamic Chamber of Industry and Commerce, Kingdom of Saudi Arabia.
- His Eminence Dr. Abdulrahman bin Saleh Al-Atram, Chairman of the Shariah Board of Inma Bank, Kingdom of Saudi Arabia.
- His Eminence Dr. Omar Zuhair Hafez, former Secretary-General of the General Council for Islamic Banks and Financial Institutions.

The Secretariat General of the Academy looks forward to the support of the Secretariats General of Awqaf and Waqf institutions worldwide towards the Academy Waqf Fund. Also, the Secretariat General of the Academy looks forward to entering into strategic partnerships and collaborative agreements with States, governments, organizations, and foundations wishing to participate in the planning and funding of the activities and programs of the Academy within and outside the Muslim world.

May Allāh reward all those who have contributed in any way to making this work an attainable reality and an achievable aspiration, with the permission of the Most High, the Almighty.

Contents

Forewords

His Excellency Mr. Hissein Brahim Taha . . . . . *iii*
His Excellency Sheikh Dr. Saleh bin Abdullah bin Humaid . . . . . *v*
His Excellency Prof. Koutoub Moustapha Sano . . . . . *viii*

International Islamic Fiqh Academy **xi**

Vision . . . . . *xi*
Mission . . . . . *xii*
Core Values . . . . . *xii*
Objectives . . . . . *xiii*
Methods . . . . . *xiv*
Departments and Divisions . . . . . *xvi*
Academy Waqf Fund . . . . . *xvii*

Resolutions and Recommendations of the 1st Session of the International Fiqh Academy (Makkah al-Mukarramah, Kingdom of Saudi Arabia · 26–29 Safar 1405/19–22 November 1984) 1

Resolution No. 1 2
Resolution No. 2 3
Resolution No. 3 4
Resolution No. 4 6

Resolutions and Recommendations of the 2nd Session of the Council of the International Islamic Fiqh Academy (Jeddah, Kingdom of Saudi Arabia · 10–16 Rabīʿ al-Awwal 1406/22–28 December 1985) 9

Resolution No. 1 (1/2): Zakāh on Debts 10
Resolution No. 2 (2/2): Zakāh on Real Estates and Leased Non-Agricultural Lands 11
Resolution No. 3 (3/2): Answering the Questions of the International Institute of Islamic Thought (IIIT) in Washington, D.C., USA 12
Resolution No. 4 (4/2): Qadiyanism 13
Resolution No. 5 (5/2): Test-Tube Babies (In-Vitro Fertilization) 15

Resolution No. 6 (6/2): Human Milk Banks 16
RESOLUTION NO. 7 (7/2): Life-Support Equipment 17
Resolution No. 8 (8/2): Regarding the Questions of the Islamic Development Bank. 18
Resolution No. 9 (9/2): Insurance and Reinsurance 19
Resolution No. 10 (10/2): Rulings on Usury-based Banking Transactions and Dealing with Islamic Banks 20
Resolution No. 11 (11/2): Unification of the Beginning of Lunar Months 21
Resolution No. 12 (12/2): The Letter of Guarantee 22

Resolutions and Recommendations of the 3rd Session of the Council of the International Islamic Fiqh Academy (Amman, Hashemite Kingdom of Jordan · 8–13 Ṣafar 1407/11–16 October 1986) 25

Resolution No. 13 (1/3): Answering the Questions of the Islamic Development Bank 26
Resolution No. 14 (2/3): Zakāh on Company Shares. 28
Resolution No. 15 (3/3): Investment of Zakāh Funds in Profit-Generating Projects without Attributing Individual Ownership to Recipients 29
Resolution No. 16 (4/3): Test-Tube Babies (In Vitro Fertilization). 30
Resolution No. 17 (5/3): Life-Support Equipment. 32
Resolution No. 18 (6/3): Unification of the Beginning of Lunar Months 33
Resolution No. 19 (7/3): Iḥrām for Pilgrims arriving by Air or by Sea for Ḥajj and ʻUmrah . 34
Resolution No. 20 (8/3): Payment of Zakāh to the Islamic Solidarity Fund. 35
Resolution No. 21 (9/3): Shariah Rulings on Paper Money and the Changing Value of Currency 36
Resolution No. 22 (10/3): Muqāraḍah Bonds, Development and Investment Certificates. . . 37
Resolution No. 23 (11/3): Answering the Questions of the International Institute of Islamic Thought (IIIT) in Washington, DC 38
Resolution No. 24 (12/3): Scientific Projects of the Academy 47
Resolution No. 25 (13/3): Recommendations of the 3rd Session of the Council of the International Islamic Fiqh Academy 48

Resolutions and Recommendations of the 4th Session of the Council of the International Islamic Fiqh Academy (Jeddah, Kingdom of Saudi Arabia · 18–23 Jumādā al-Akhira 1408/6–11 February 1988) 51

Resolution No. 26 (1/4): A Human receiving the Organs of another Human, Dead or Alive (Organ Transplantation) 52
Resolution No. 27 (2/4): Payment of Zakāh to the Islamic Solidarity Fund. 55
Resolution No. 28 (3/4): Zakāh on Company Shares. 57

Resolution No. 29 (4/4): Expropriation for Public Interest 59
Resolution No. 30 (5/4): Muqāraḍah and Investment Certificates 61
Resolution No. 31 (6/4): Key Money (Badal Khuluw) 66
Resolution No. 32 (7/4): Sale of the Trade Name and License 68
Resolution No. 33 (8/4): Hire-Purchase Contract, Murābaḥah to the Purchase Orderer and the Changing Value of Currency 70
Resolution No. 34 (9/4): Baha'ism 71
Resolution No. 35 (10/4): Fiqh Simplification Project 73
Resolution No. 36 (11/4): Project for an Encylopedia of Economic Fiqh 74
Resolution No. 37 (12/4): Project for a Glossary of Fiqh Maxims 75
Resolution No. 38 (13/4): Combatting Moral Evils, Areas of Islamic Unity, Methods of Benefiting from them, and the Islamization of Education in the Muslim World Today 76

Resolutions and Recommendations of the 5th Session of the Council of the International Islamic Fiqh Academy (Kuwait City, State of Kuwait · 1–6 Jumādā al-Ūlā 1409/10–15 December 1988) 81

Resolution No. 39 (1/5): Birth Control 82
RESOLUTION NOS. 40–41 (2/5 AND 3/5): Keeping a Promise and Murābaḥah to the Purchase Orderer 83
Resolution No. 42 (4/5): The Changing Value of Currency 85
Resolution No. 43 (5/5): Moral Rights 86
Resolution No. 44 (6/5): Rent-to-Own Contracts 87
Resolution No. 45 (7/5): Real Estate Financing for Housing Construction and Purchase . . . 88
Resolution No. 46 (8/5): Limitation of Traders' Profits 89
Resolution No. 47 (9/5): 'Urf (Custom) 90
Resolution No. 48 (10/5): Enforcement of Shariah Rules 91
Resolution No. 49 (11/5): Islamic International Law Comission 93

Resolutions and Recommendations of the 6th Session of the Council of the International Islamic Fiqh Academy (Jeddah, Kingdom of Saudi Arabia · 17–23 Sha'bān 1410/14–20 March 1990) 95

Resolution No. 50 (1/6): Real Estate Financing for Housing Construction and Purchase . . . 96
Resolution No. 51 (2/6): Installment Sales 98
Resolution No. 52 (3/6): Conclusion of Contracts by Modern Means of Communication . 100
Resolution No. 53 (4/6): Qabḍ (Taking Possession): Forms (esp. the latest) and their Rulings 102
Resolution No. 54 (5/6): Transplantation of Brain and Nervous System Cells 104

Resolution No. 55 (6/6): Excess Fertilized Eggs 106
Resolution No. 56 (7/6): Fetus as a Source of Organ Transplantation 107
Resolution No. 57 (8/6): Genital Transplantation 108
Resolution No. 58 (9/6): Retransplantation of an Organ amputated in Qiṣāṣ (Retaliatory Punishment) or Ḥadd (Prescribed Punishment) 109
Resolution No. 59 (10/6): Financial Markets 111
Resolution No. 60 (11/6): Bonds 113
Resolution No. 61 (12/6): Topics and Seminars suggested by the Planning Division of the Academy 115
Resolution No. 62 (13/6): Recommendations of the 6th Council Meeting of the International Islamic Fiqh Academy 117

Resolutions and Recommendations of the 7th Session of the Council of the International Islamic Fiqh Academy (Jeddah, Kingdom of Saudi Arabia · 7–12 Dhū al-Qi'dah 1412/9–14 May 1992) 119

Resolution No. 63 (1/7): Financial Markets (Shares, Options, Commodities, and Credit Cards) 120
Resolution No. 64 (2/7): Installment Sale 126
Resolution No. 65 (3/7): Istiṣnā' (Manufacturing) Contract 128
Resolution No. 66 (4/7): Bay al-Wafa (Selling with Repurchase Right) 129
Resolution No. 67 (5/7): Medical Treatments. 130
Resolution No. 68 (6/7): International Rights: An Islamic Perspective. 133
Resolution No. 69 (7/7): Intellectual Imperialism: Recommendations of the 7th Session . . 135

Resolutions and Recommendations of the 8th Session of the Council of the International Islamic Fiqh Academy (Bandar Seri Begawan, Brunei Darussalam · 1–7 Muḥarram 1414/21–27 June 1993) 139

Resolution No. 70 (1/8): Exemption and its Ruling. 140
Resolution No. 71 (2/8): Traffic Accidents 142
Resolution No. 72 (3/8): Bay Urbun (Down Payment Sale). 144
Resolution No. 73 (4/8): Auction Contracts. 145
Resolution No. 74 (5/8): Shariah Applications for the Islamic Market. 147
Resolution No. 75 (6/8): Currencies-related Issues. 150
Resolution No. 76 (7/8): Problems of Islamic Banks 152
Resolution No. 77 (8/8): Shareholding in Joint-Stock Companies Dealing with Ribā. 156
Resolution No. 78 (9/8): Credit Cards 157
Resolution No. 79 (10/8): Confidentiality in Medical Professions 158

Resolution No. 80 (11/8): Doctor's Ethics: Liabilities and Guarantees 160
Resolution No. 81 (12/8): Treatment of a Female Patient by a Male Doctor 161
Resolution No. 82 (13/8): Acquired Immunodeficiency Syndrome (AIDS) 162
Resolution No. 83 (14/8): Organizing Research Submissions and Discussions at the Academy's Sessions 164

Resolutions and Recommendations of the 9th Session of the Council of the International Islamic Fiqh Academy (Abu Dhabi, United Arab Emirates · 1–6 Dhū al-Qi'dah 1415/1–6 April 1995) 165

Resolution No. 84 (1/9): Gold Trading and Shariah Solutions to Combined Cash and Hawala 166
Resolution No. 85 (2/9): Salam Sale and its Contemporary Applications 168
Resolution No. 86 (3/9): Bank Deposits (Bank Accounts) 171
Resolution No. 87 (4/9): Investment in Shares and Investment Units 173
Resolution No. 88 (5/9): Calls for Bids 174
Resolution No. 89 (6/9): Currency-related Issues 175
Resolution No. 90 (7/9): Acquired Immunodeficiency Syndrome (AIDS) and its Shariah Rulings 177
Resolution No. 91 (8/9): The Principle of Arbitration in Islamic Jurisprudence 180
Resolution No. 92 (9/9): Sad Dharai (Blocking Means to Evil) 182

Resolutions and Recommendations of the 10th Session of the Council of the International Islamic Fiqh Academy (Jeddah, Kingdom of Saudi Arabia · 23–28 Ṣafar 1418/28 June – 3 July 1997) 185

Resolution No. 93 (1/10): Invalidators of Fasting in Medical Treatments 186
Resolution No. 94 (2/10): Human Cloning 189
Resolution No. 95 (3/10): Animal Slaughters 194
Resolution No. 96 (4/10): Credit Cards 199
Resolution No. 97 (5/10): The Role of Muslim Women in Development 201

Resolutions and Recommendations of the 11th Session of the Council of the International Islamic Fiqh Academy (Manama, Kingdom of Bahrain · 25–30 Rajab 1419/14–19 November 1998) 203

Resolution No. 98 (1/11): Islamic Unity 204
Resolution No. 99 (2/11): Secularism 208
Resolution No. 100 (3/11): Islam versus Absolute Modernism 210

Resolution No. 101 (4/11): Debt Sale, Loan Debentures, and their Shariah-based Alternatives in the Public and Private Sectors 212
Resolution No. 102 (5/11): Currency Trading (Foreign Exchange Market) 213
Resolution No. 103 (6/11): Maintenance Contracts 214
Resolution No. 104 (7/11): Ways of Making Use of Nawāzil (Fatāwā). 216
Resolution No. 105 (8/11): Heredity, Genetic Engineering, and the Human Genome 218
Resolution No. 106 (9/11): Expert Symposium on the Role of Women in the Development of Muslim Society 219

Resolutions and Recommendations of the 12th Session of the Council of the International Islamic Fiqh Academy (Riyadh, Kingdom of Saudi Arabia · 25 Jumādā al-Ākhirah – 1 Rajab 1421/23–28 September 2000) 221

Resolution No. 107 (1/12): Supply and Bidding Contracts 222
Resolution No. 108 (2/12): Unsecured Credit Cards 224
Resolution No. 109 (3/12): Penalty Clause 226
Resolution No. 110 (4/12): Renting Ending in Ownership and Leasing Bonds. 228
Resolution No. 111 (5/12): Investment of Awqāf Resources 231
Resolution No. 112 (6/12): Legal Evidence by Presumptions and Signs. 232
Resolution No. 113 (7/12): Rights of Children and Elders 233
Resolution No. 114 (8/12): The Islamic Declaration on the Role of Women in the Development of Muslim Society 236
Resolution No. 115 (9/12): Inflation and the Changing Value of Currency. 238
Resolution No. 116 (10/12): Translation of the Noble Quran 242
Resolution No. 117 (11/12): The Creation of an Islamic Organization for the Noble Quran 243
Resolution No. 118 (12/12): al-Quds al-Sharif (Jerusalem) 244

Resolutions and Recommendations of the 13th Session of the Council of the International Islamic Fiqh Academy (Kuwait City, State of Kuwait, · 7–12 Shawwāl 1422/22–27 December 2001) 247

Resolution No. 119 (1/13): Investment of Awqāf and their Revenues 248
Resolution No. 120 (2/13): Zakāh on Agriculture 249
Resolution No. 121 (3/13): Zakāh on Shares Owned to Earn their Income. 250
Resolution No. 122 (4/13): Diminishing Mushārakah in light of Contemporary Contracts 252
Resolution No. 123 (5/13): Qirad or Joint Muḍārabah in Financial Institutions (Investment Accounts). 253
Resolution No. 124 (6/13): Medical Insurance and Medical Cards 257

Resolution No. 125 (7/13): Incidents in Palestine and Other Events 258
Resolution No. 126 (8/13): Human Rights in Islam 264

Resolutions and Recommendations of the 14th Session of the Council of the International Islamic Fiqh Academy (Doha, State of Qatar · 7–13 Dhū al-Qi'dah 1423/11–16 January 2003) 267

Resolution No. 127 (1/14): Contests Cards 268
Resolution No. 128 (2/14): Humans Rights and International Violence 270
Resolution No. 129 (3/14): Manufacturing and Construction Contracts: Essence, Characterization, and Forms 272
Resolution No. 130 (4/14): Shariah Rulings on Modern Companies: Holding and Other Companies. 275
Resolution No. 131 (5/14): Liability of Public Transport Drivers in Case of Accidental Homicide and Multiplicity of Kaffārah (Expiation). 278
Resolution No. 132 (6/14): Adhesion Contracts 279
Resolution No. 133 (7/14): Problem of Arrears in Islamic Financial Institutions 282
Resolution No. 134 (8/14): New Global Order, Globalization, Regional Blocs, and their Impacts 287
Statement by the International Islamic Fiqh Academy to the Ummah concerning Palestine and Iraq 290

Resolutions and Recommendations of the 15th Session of the Council of the International Islamic Fiqh Academy (Muscat, Sultanate of Oman · 14–19 Muḥarram 1425/6–11 March 2004) 293

Resolution No. 135 (1/15): Islamic Discourse: Characteristics and Challenges 294
Resolution No. 136 (2/15): Diminishing Mushārakah and its Shariah Criteria 296
Resolution No. 137 (3/15): Ṣukūk al-Ijārah (Leasing Bonds). 298
Resolution No. 138 (4/15): Islamization of Education Curricula. 300
Resolution No. 139 (5/15): Credit Cards. 303
Resolution No. 140 (6/15): Investment of Waqf, its Yields, and Incomes 305
Resolution No. 141 (7/15): Unrestricted Public Interests and their Contemporary Applications. 309
Resolution No. 142 (8/15): Doctors' Liability 311
Statement on the Palestinian Cause. 314
Statement on Iraq 316

Resolutions and Recommendations of the 16th Session of the Council of the International Islamic Fiqh Academy (Dubai, United Arab Emirates · 30 Ṣafar – 5 Rabīʿ al-Awwal 1426/9–14 April 2005). 317

Resolution No. 143 (1/16): Zakāh on Restricted Accounts, Islamic Insurance Companies, Security Deposits, and End-Of-Service Benefits 318
Resolution No. 144 (2/16): Disputes between Husband and Working Spouse. 322
Resolution No. 145 (3/16): Aqilah and its Contemporary Applications in the Payment of Diya. 325
Resolution No. 146 (4/16): New Interpretations of the Quran and Islamic Texts 327
Resolution No. 147 (5/16): International Commodities and their Trading Standards 329
Resolution No. 148 (6/16): Business Sponsorship 331
Resolution No. 149 (7/16): Medical Insurance. 333
Resolution No. 150 (8/16): Us and Others 335
Resolution No. 151 (9/16): Care for Muslim Minorities 337
Statement on Al-Quds and Al-Aqsa Mosque 339
Statement on Iraq 341

Resolutions and Recommendations of the 17th Session of the Council of the International Islamic Fiqh Academy (Amman, Hashemite Kingdom of Jordan · 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427/24–28 June 2006) 343

Resolution No. 152 (1/17): Islam and the One Ummah: Theological, Jurisprudential, and Educational Schools. 344
Resolution No. 153 (2/17): Iftā: Requirements and Ethics. 349
Resolution No. 154 (3/17): Position of Islam towards Fanaticism, Extremism, and Terrorism 352
Resolution No. 155 (4/17): Reconciliation between Adherence to Fundamental Principles of Islam and the Requirements of Citizenship outside Muslim Countries 355
Resolution No. 156 (5/17): Continuation to Ṣukūk al-Musharaka (Joint Musharaka): Components of their Assets 357
Resolution No. 157 (6/17): Mutual Promises and Collusion in Contracts 358
Resolution No. 158 (7/17): Sale of Debts. 360
Resolution No. 159 (8/17): Status of Women and their Social Role: An Islamic Perspective 362
Resolution No. 160 (9/17): International Relations and Conventions of Islamic States 364
Resolution No. 161 (10/17): Shariah Criteria for Biomedical Research on Human Beings . 366
Resolution No. 162 (11/17): Diabetes and Fasting of Ramadan. 369
Statement on Palestine, Al-Aqsa Mosque, Iraq and Somalia 370

Resolutions and Recommendations of the 18th Session of the Council of the International Islamic Fiqh Academy (Putrajaya, Malaysia · 24–29 Jumādā al-Ākhirah 1428/9–14 July 2007) 375

Resolution No. 163 (1/18): Milestones to Revive the Islamic Civilizational Approach. 376
Resolution No. 164 (2/18): Human Resource Development in the Muslim World 379
Resolution No. 165 (3/18): Enhancing the Role of Zakāh in Poverty Alleviation and the Management of its Collection and Distribution based on Fiqh Interpretations (Ijtihād) 383
Resolution No. 166 (4/18): Phenomenon of Islamophobia: Challenges and Confrontations 387
Resolution No. 167 (5/18): Maqāṣid and their Role in Deriving Shariah Rulings 390
Resolution No. 168 (6/18): Definition of the Age of Puberty and its Implications on Obligations 392
Resolution No. 169 (7/18): Rights and Obligations of the Muslim Woman 394
Resolution No. 170 (8/18): Timeshare Contracts. 396
Resolution No. 171 (9/18): Easement Rights and their Contemporary Applications in Common Property. 398
Resolution No. 172 (10/18): Consent for Urgent Surgeries 400
Resolution No. 173 (11/18): Plastic Surgeries and their Shariah Rulings 402
Resolution No. 174 (12/18): Continuing Discussion on the Invalidators of Fasting 405

Resolutions and Recommendations of the 19th Session of the Council of the International Islamic Fiqh Academy (Sharjah, United Arab Emirates · 1–5 Jumādā al-Ūlā 1430/26–30 April 2009) 407

Resolution No. 175 (1/19): Freedom of Religion in Shariah: Dimensions and Criteria 408
Resolution No. 176 (2/19): Freedom of Speech: Criteria and Rulings 410
Resolution No. 177 (3/19): Role of Shariah Supervision in Controlling Islamic Banking Activities: Significance, Conditions and Modus Operandi 412
Resolution No. 178 (4/19): Islamic Ṣukūk (Tawriq): Contemporary Applications and Trading 415
Resolution No. 179 (5/19): Essence and Types of Tawaruq (Fiqh Compliant vs Bank Structured). 418
Resolution No. 180 (6/19): Domestic Violence 420
Resolution No. 181 (7/19): Waqf of Shares, Ṣukūk, Moral Rights, and Benefits 424
Resolution No. 182 (8/19): Application of B.O.T (Build-Operate-Transfer) Financing Method in the Development of Awqāf Properties and Public Utilities 428
Resolution No. 183 (9/19): Diabetes and Fasting. 429
Resolution No. 184 (10/19): Consent for Emergency Surgeries. 434

Resolution No. 185 (11/19): Environmental Conservation in Islam 437
Statement on the Situation in Palestine (particularly the attacks on Al-Aqsa Mosque), Iraq, Somalia, and Sudan 439

Resolutions and Recommendations of the 20th Session of the Council of the International Islamic Fiqh Academy (Oran, People's Democratic Republic of Algeria · 26 Shawwāl – 2 Dhū al-Qi'dah 1433/13–18 September 2012). 443

Resolution No. 186 (1/20): Shariah Rulings on Insolvency and Bankruptcy 444
Resolution No. 187 (2/20): Cooperative Insurance: Shariah Rulings and Criteria 447
Resolution No. 188 (3/20): Pursuit of Research on Islamic Ṣukūk. 449
Resolution No. 189 (4/20): Pursuit of Research on Maintenance Contracts 453
Resolution No. 190 (5/20): Role of Fiqh Councils in Guiding Islamic Financial Institutions: Mechanisms and Modes 454
Resolution No. 191 (6/20): Prisoners' Rights in Islamic Jurisprudence 456
Resolution No. 192 (7/20): Capital Punishment from an Islamic Perspective 458
Resolution No. 193 (8/20): Genetic Engineering and the Human Genome from an Islamic Perspective 460
Resolution No. 194 (9/20): Legal Evidence by Presumptions and Signs (Latest Updates) . . 461
Statement on the Production of a Film in the United States, abusing the Ultimate Character of the Prophet Muhammad ﷺ 463
Statement on Al-Quds City and Al-Aqsa Mosque 466
Statement on Current Events in the Syrian Arab Republic 467

Resolutions and Recommendations of the 21st Session of the Council of the International Islamic Fiqh Academy (Riyadh, Kingdom of Saudi Arabia · 15–19 Muḥarram 1435/19–22 November 2013) 469

Resolution No. 195 (1/21): Hedging in Financial Transactions 470
Resolution No. 196 (2/21): Pursuit of Research on Islamic Ṣukūk. 471
Resolution No. 197 (3/21): Criminal Liability of Vehicle Drivers for Excessive Speed or Carelessness 474
Resolution No. 198 (4/21): Transmutation, Dilution, and Additives in Food and Medication. 476
Resolution No. 199 (5/21): Depiction of Prophets and Companions in Artistic Works. . . . 479
Resolution No. 200 (6/21): Shariah Rulings and Standards for the Foundations of Cooperative Insurance 480
Resolution No. 201 (7/21): Slaughtering Animals after Electric Stunning in light of New Updates 490

Resolution No. 202 (8/21): Dialogue between Followers of Islamic Denominations 491
Resolution No. 203 (9/21): Heredity, Genetic Engineering and Human Genome. 494
Resolution No. 204 (10/21): Fighting between Muslims in the name of Jihad. 500
Statement on Current Events in the Arab World and in some Muslim countries 501
Statement on Israeli Aggressions against al-Quds and Al-Aqsa Mosque. 503

Resolutions and Recommendations of the 22nd Session of the Council of the International Islamic Fiqh Academy (Kuwait City, State of Kuwait · 2–5 Jumādā al-Ākhirah 1436/22–25 March 2015) 507

Resolution No. 205 (1/22): Shūrā (Consultation) and Democracy: An Islamic Perspective . 508
Resolution No. 206 (2/22): Questions of the Standards and Metrology Institute for Islamic Countries (SMIIC). 510
Resolution No. 207 (3/22): Offensive Jihad and Defensive Jihad. 511
Resolution No. 208 (4/22): Excommunication of Muslims: Causes, Effects and Remedy . . 514
Resolution No. 209 (5/22): Non-Muslim Citizens in Muslim Countries: Rights, Obligations and Applicability of Shariah Rulings 516
Resolution No. 210 (6/22): Transmutation and Dilution of Additives in Food and Medication. 517
Resolution No. 211 (7/22): Women and Public Governorships. 522
Resolution No. 212 (8/22): Bank Guarantee for Misinvestment of Clients Funds and Compensation for the Consequent Losses. 523
Resolution No. 213 (9/22): Rights of People with Disabilities in Islamic Jurisprudence . . . 527
Resolution No. 214 (10/22): Majority and Subordination in Financial Transactions: Cases, Criteria, and Conditions for their Achievement 530
Resolution No. 215 (11/22): Continuation of the Research and Study on Cooperative Insurance Issues 531
Resolution No. 216 (12/22): Visit to Jerusalem: Shariah Objectives and Rulings. 536

Resolutions and Recommendations of the 23rd Session of the Council of the International Islamic Fiqh Academy (al-Madinah al-Munawwarah, Kingdom of Saudi Arabia · 19–23 Ṣafar 1440/28 October – 1 November 2018) . . 537

Resolution No. 217 (1/23): Young Girls Marriage between the Right of the Guardian, the Girl's Welfare, and the Extent of the Government's Authority in its Prevention or Restriction, from Shariah Perspective. 538
Resolution No. 218 (2/23): Rulings on Insolvency and Bankruptcy in Shariah and Contemporary Systems (Continuation to the Previous Resolution) 540
Resolution No. 219 (3/23): Invalidators of Fasting in the Field of Therapeutics(Continuation to the Previous Resolution) 542

Resolution No. 220 (4/23): Clitoral Hood Reduction Surgery (Clitoropexy) in Islamic Jurisprudence 545
Resolution No. 221 (5/23): Intellectual and Operational Procedures to Confront Fanaticism, Extremism, and Present-Day Terrorism in Different Areas and Fields 547
Resolution No. 222 (6/23): Banks' Privileges to Current Account Customers from a Shariah Perspective. 549
Resolution No. 223 (7/23): Doctor's Liability for Non-Intentional Medical Errors from an Islamic Perspective 552
Resolution No. 224 (8/23): Hedging in Financial Transactions: Principles and Rulings. . . . 558
Resolution No. 225 (9/23): On the Ḥalāl Questions of the Standards and Metrology Institute for Islamic Countries (SMIIC) 561
Resolution No. 226 (10/23): Majority and Subordination in Financial Transactions: Cases, Criteria, and Conditions for their Achievement 562
Resolution No. 227 (11/23): Implications of the Marriage Contract on Spouses Ownership 566
Resolution No. 228 (12/23): Regarding the Suggestions of the Committee established by the Secretariat of the Academy to research some Ṣukūk issues 567
Resolution No. 229 (13/23): Madinah Declaration on Gracious Coexistence in the Shade of Islam 568
Madinah Declaration on Gracious Coexistence in the Shade of Islam. 569

Resolutions and Recommendations of the 24th Session of the Council of the International Islamic Fiqh Academy (Dubai, United Arab Emirates · 7–9 Rabīʿ al-Awwal 1440/4–6 November 2019) 585

Resolution No. 230 (1/24): Smart Contracts: Activation and Reversal Methods (Study of Smart Contracts and the Extent of their Relation to Cryptocurrency). 586
Resolution No. 231 (2/24): Inflation and the Changing Value of Currency. 587
Resolution No. 232 (3/24): FIDIC Contracts (International Federation of Consulting Engineers' Contracts Templates) 588
Resolution No. 233 (4/24): Tolerance in Islam: Social, International Necessity and Effects . 589
Resolution No. 234 (5/24): Achieving Food and Water Security, Most Critical Problems and their Effects on the Future Challenges of the Ummah 591
Resolution No. 235 (6/24): Human Genome and Future Bioengineering: Review of IIFA Resolutions, their Practical Results, Updates and Challenges. 593
Resolution No. 236 (7/24): The Role of Religious Education in Promoting Peace. 595
Resolution No. 237 (8/24): Electronic Currencies 598
Resolution No. 238 (9/24): Hedging Transactions in Islamic Financial Institutions. 600

Resolutions and Recommendations of the 25th Session of the Council of the International Islamic Fiqh Academy (Jeddah, Kingdom of Saudi Arabia · 29 Rajab – 3 Sha'ban 1444/20–23 February 2023) 611

Resolution No. 239 (1/25): Islamic Ruling on Religious and Non-Religious Education for Males and Females 612

Resolution No. 240 (2/25): Impact of Covid-19 Pandemic on the Shariah Rulings of Worship, Family, and Crimes 615

Resolution No. 241 (3/25): Impact of Covid-19 Pandemic on Shariah Rulings of Transactions, Contracts, and Financial Obligations 617

Resolution No. 242 (4/25): Phenomenon of Non-Arabic Recitation in Salat 619

Resolution No. 243 (5/25): Shariah Ruling on Salat behind Telephone, Radio, and Television 621

Resolution No. 244 (6/25): Shariah Rulings and Standards on Social Media and Dissemination of Information and News for Denunciation, Spreading Rumors, or Abuse . . 622

Resolution No. 245 (7/25): Issue of Foundlings and Births of Unknown Parentage from a Shariah Perspective 624

Resolution No. 246 (8/25): A Shariah Approach to the Phenomenon of Street Children, Child Beggars, and Children in Hard Labor 626

Resolution No. 247 (9/25): Guidelines for the Application of Maqāṣid in Regulating Contemporary Financial Transactions According to Shariah Rulings 628

Resolution No. 248 (10/25): Shariah Rulings on Contemporary Applications of Debt Rescheduling, Composite, and Hybrid Sukuk 630

Resolution No. 249 (11/25): Effects of Modern Mental Illnesses on Eligibility in Shariah . . 632

Resolution No. 250 (12/25): Shariah Ruling on Abortion Due to Rape 633

Resolution No. 251 (13/25): Shariah Ruling on Gender Transformation 634

Resolution No. 252 (14/25): Role of Islamic Social Financing Mechanisms in Humanitarian Action within Conflict and Disaster Areas, and Promoting a Culture of Volunteering to Strengthen Joint Islamic Action 636

Resolution No. 253 (15/25): Role of Wills in Shariah as an Effective Means to Alleviate Poverty and Ensure the Circulation and Promotion of Wealth 638

Resolution No. 254 (16/25): Revisiting New Issues in Contemporary Applications of Ijara Ending with Ownership 639

Resolution No. 255 (17/25): Letter of Guarantee and Documentary Letter of Credit 640

Statement on the Turkey-Syria Earthquake 641

Statement Condemning the Holy Quran Burning in Sweden, Denmark, and elsewhere . . . 642

Resolutions and Recommendations of the 1st Session of the International Islamic Fiqh Academy

– Foundational and Procedural Resolutions –

MAKKAH AL-MUKARRAMAH
KINGDOM OF SAUDI ARABIA

26–29 Safar 1405
19–22 November 1984

* The resolutions of this session are procedural and organizational in nature; their numbering is formal and does not reflect the sequential numbering of academic resolutions, which begin from the second session.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Resolution No. 1

The International Islamic Fiqh Academy, holding its first session in Makkah al-Mukarramah, on 26–29 Safar 1405H (19–22 November 1984),

having reviewed the report submitted by the Planning Division, together with its major themes and recommendations,

resolves

- Researching current issues and novelties based on an analysis which relies on sound Sharia evidence which takes into account *Maqasid Sharia* (higher intents of Islamic law) and which aims to facilitate and eliminate hardships in accordance with the provisions of Sharia and its general rules.
- Utilizing the findings of established research and studies concerning known schools of Fiqh and documenting the opinions of these schools from their reliable sources and works.
- Conducting studies and research according to the following criteria:
  - Realism and factualism.
  - Conducting an Ijtihad based on Islamic foundations, taking into account the higher intents and interests of Sharia.
  - Commitment to the comparative jurisprudence approach in the research and study of the given issues.
  - Commitment to objectivity and impartiality.
  - Endorsing respect in points of disagreement and adopting resolutions based on the majority opinion while mentioning the opposite opinion.
  - Providing opinions and research with accurate evidence based on the foundations of Islam, sources of heritage and tracing ahadith according to the accepted standards of takhrij (analysis of transmission) and documenting quotations based on acknowledged criteria.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Resolution No. 2

The International Islamic Fiqh Academy, holding its first session in Makkah al-Mukarramah, on 26–29 Safar 1405h (19–22 November 1984),

having reviewed the report submitted by the Studies and Research Division, together with its major themes and recommendations,

resolves

- Monitoring the existing Sharia-wise codifications, draft codifications, and legislation of Sharia rulings at any given Muslim country, collecting them to codify Sharia rulings, and documenting them in plain, accessible ways.
- Prioritize research and studies in the following areas:
  - Curricula of Islamic jurisprudence and its methodologies.
  - Ijtihad in contemporary Muslim society.
  - Judicial and legal systems in Islam.
  - Contemporary business corporations and their areas of interest.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Resolution No. 3

The International Islamic Fiqh Academy, holding its first session in Makkah al-Mukarramah, on 26–29 Safar 1405H (19–22 November 1984),

having reviewed the report submitted by the *Ifta* Division, together with its major themes and recommendations,

resolves

1. In our context, Ifta refers to opinions adopted on issues of concern to the Ummah, including contemporary problems, to be presented to the Academy for appropriate resolutions.
2. Facilitating the understanding and disseminating the knowledge of Fiqh by the following means:

A – Fiqh Terminology:

- Benefiting from the existing terminology and contributing to its dissemination.
- Reviewing the present terminology and enriching it with new terms and concepts.

B – Fiqh Encyclopedias:

- Reviewing existing encyclopedias, making necessary corrections, and completing the remaining elements.
- Encouraging and promoting encyclopedia projects on Fiqh.
- Enrich these encyclopedias by adding more proofs and examples to their studies.

C – Publications on Fiqh:

- Compiling a bibliography of Fiqh manuscripts from libraries around the world, introducing each of them, and acquiring physical and digital copies to reprint them as needed.
- Reprinting out-of-print classic works of Fiqh.

D – Indexing the written works on Fiqh by classifying their subjects in such a way that facilitates their utilization.

3. The issuance of fatwas is a matter of extreme importance, which is conducted through the examination of a given subject by the relevant division specializing in issuing fatwas on various general matters and providing Shariah-compliant solutions that help foster the growth and development of Muslim societies in the right direction.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Resolution No. 4

The International Islamic Fiqh Academy, holding its first session in Makkah al-Mukarramah, on 26–29 Safar 1405H (19–22 November 1984),

Adopted the following organizational resolutions:

1. The Secretary General of the Academy shall be responsible for selecting researchers and experts for a period of one year based on lists of scientific personalities supplied and distributed to the members of the Council.
2. Including the following personalities, academic institutions, and organizations that share a mutual interest in the Academy's activities, in addition to a representative of Muslim communities in non-Muslim countries, in accordance with Article VII, paragraph II of the Statute of the Academy.

   A.

   - Sheikh Mustafa Al-Zarqa.
   - Sheikh Dr. Al-Siddiq Al-Dharir.
   - Dr. Mohammed Salam Madkour.
   - Sheikh Abdul Razzaq Afifi.

   B.
   - Islamic Fiqh Council of the Muslim World League, Makkah.
   - Fiqh Encyclopedia of Kuwait.
   - Islamic Research Academy of Al-Azhar University, Cairo.
   - Islamic Civilization Research Academy and Aal Al-Bayt Foundation, Jordan.
   - Islamic Educational, Scientific and Cultural Organization (OIC).
   - Council of Islamic Ideology, Islamabad, Pakistan.

   C. Dr. Taha Jaber Al-Alwani, suggested by the International Institute of Islamic Thought in the United States of America.

3. The Meeting of Divisions shall be held every three months, one after the other, at the Academy's headquarters in Jeddah and shall conclude quarterly meetings with the meeting of the Council of the Academy at its ordinary session.

4. The Bureau of the Council shall meet twice a year, once a year, and again before the ordinary session.

Resolutions and Recommendations of the 2nd Session of the Council of the International Islamic Fiqh Academy

JEDDAH
SAUDI ARABIA

10–16 Rabīʿ al-Awwal 1406
22–28 December 1985

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 1 (1/2)

Zakāh on Debts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabī' al-Awwal 1406H (22–28 December 1985),

having examined the research papers submitted to the Academy concerning *Zakāh on Debts*,

having listened to the in-depth discussions on the subject from different perspectives,

it became evident that:

1. There is no apparent reference in the Quran or the Sunnah elaborating in detail the rulings concerning Zakāh on debts.
2. Several opinions of the Companions and their Followers (Ṣaḥābah and Tabi'ūn) رضي الله عنهم have been reported on the method of paying Zakāh on debts.
3. The Islamic schools of jurisprudence have differed clearly on the subject.
4. The difference in legal opinion regarding this subject is, in turn, caused by their differing opinions regarding the fundamental principle of whether receivable assets can actually be classified as received.

resolves

1. Zakāh of debt is due on the owner of the debt, for each year, if the debtor is solvent and giver.
2. Zakāh of debt is due on the owner of the debt, after the lapse of one year from the day of receipt if the debtor is insolvent or procrastinating.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 2 (2/2)

Zakāh on Real Estates and Leased Non-Agricultural Lands

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having listened to the research papers submitted to the Academy concerning *Zakāh on Real estates and Leased Non-Agricultural Lands*,

having discussed the subject in-depth and in all aspects,

it became evident that:

1. There is no clear Islamic text that mandates Zakāh on real estate and leased lands.
2. Likewise, there is no Islamic text that mandates immediate Zakāh on the yield of real estate and non-agricultural leased lands.

resolves

1. Zakāh is not due on real estate assets and leased lands.
2. Zakāh is due and payable on its yield, which is one-fourth of the one-tenth (2.5%), after the elapsing of the one-year period from the date of its actual receipt if all other conditions are met and no impediments exist.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 3 (3/2)

Answering the Questions of the International Institute of Islamic Thought (iiit) in Washington, D.C., USA

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having formed a committee comprising the members of the Academy to examine the questions received from the International Institute of Islamic Thought (iiit) in Washington, D.C., USA,

having reviewed the answers prepared in this regard,

it became evident that:

1. The answers have been concisely worded and are not convincing enough to eliminate dissension or rejection.
2. The Academy should endeavor to resolve difficulties facing our Muslim brothers and sisters living in the West.

resolves

1. Commissioning the Secretariat General of the Academy to prepare detailed answers to these questions to whomsoever it deems suitable from among its members or experts. These should be substantiated by Shariah proofs and texts of earlier Muslim jurists and presented to the Council in a convincing and clear form.
2. Commissioning the Secretariat General to report its findings to the third session of the Academy.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 4 (4/2)

Qadiyanism

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having considered the *fatwā* inquiry submitted by the Islamic Fiqh Council of Cape Town, South Africa, requesting the Shariah ruling concerning Qadiyanism and the group originating from it, called the Lahorites, as to whether to consider them as Muslims or not and whether a non-Muslim can adjudicate on a controversy of this nature,

in light of the research papers and documents presented to the members of the Academy regarding Mirza Ghulam Ahmad al-Qadiyani, who appeared in India in the last century and to whom the Qadiyani and Lahorite sects are attributed,

having examined the facts presented concerning these two sects that verified Mirza Ghulam Ahmad's claim to be a prophet sent and revealed upon,

having confirmed the claims established about him through his writings, some of which he claims to be revelations sent to him, and that he continued to proclaim such a status all his life, calling people through his books and speeches to believe in his prophethood, and being a messenger and disbelieving in many of the obvious teachings of Islam such as *Jihād*,

having recalled the resolution issued by the Islamic Fiqh Council of the Muslim World League in Makkah on this very issue,

resolves

1. The declaration by Mirza Ghulam Ahmad concerning his prophethood and his claim of receiving a Divine Revelation is an open rejection of the obviously and categorically established religious doctrine concerning the ending of the prophethood with Prophet Muhammad ﷺ and that there is no revelation after him. Therefore, the said declaration from Mirza Ghulam Ahmad makes him, along with all those who accept it, apostates (*murtad*), who have apostatized from Islam. As far as the Lahorites are concerned, they too, like the Qadiyanis are apostates (*murtad*) despite

their description of Mirza Ghulam Ahmed as the shadow and incarnation of our Prophet Muhammad ﷺ.

2. A non-Islamic court and a non-Muslim judge are not entitled to issue a judgment about someone's being Muslim or apostate, particularly when they defy the consensus of Ummah represented by its councils and scholars. This is so because a judgment concerning Islam and apostasy is not recognizable except when it is issued by a Muslim who knows all the prerequisites for entering Islam or parting from it as an apostate and who has the grasp of the essence of Islam and disbelief and knows in depth what has been established by the Quran, Sunnah, and Ijmā' (legal consensus). Therefore, the decision of such a court is void.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 5 (5/2)

Test-Tube Babies
(In-Vitro Fertilization)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having reviewed the studies presented by the learned scholars and physicians concerning the issue of Test-Tube Babies from medical, technical, and jurisprudential perspectives,

having discussed these studies and other issues raised to elucidate the subject,

it became evident that the subject needs further medical and legal studies and a review of the past studies and research to have a complete understanding of all its aspects,

resolves

first: Postpone the issuance of a resolution on this subject to the next session of the Academy.[1]

second: Commission H.E. Sheikh Dr. Bakr bin Abdullah Abu Zayd, President of the Academy, to conduct an in-depth study on the matter covering all its legal and medical aspects.

third: Convey his findings to all Academy's members through the Secretariat General of the Academy at least three months before the next session.

Indeed, Allāh is the Giver of success.

[1] Resolution no. 16 (4/3).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 6 (6/2)

Human Milk Banks

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having reviewed the two jurisprudential and medical studies submitted to the Academy concerning *Human Milk Bank*s,

having examined and discussed in-depth the two studies concerning the different aspects of the issue,

it became evident that:

first: The concept and experiment of human milk banks are a new phenomenon initiated in the Western nations; however, in its practice, certain scientific and technical adverse effects were detected, thus causing a decline in its use and lack of interest in it.

second: According to Islam, breastfeeding creates a bond similar to a lineage bond and forbids, according to the consensus of Muslim scholars, precisely the same due to actual lineage relationship. One of the objectives of Shariah is to safeguard the progeny of a person, whereas human milk banks lead to confusions and doubts.

third: The social structure in the Muslim world is such that it can fulfill the needs of a premature or a weak child who is in lack of natural breastfeeding from human milk (in some exceptional cases), thus eliminating the dependency on human milk banks.

resolves

first: The establishment of human milk banks should be prohibited in the Muslim world.

second: It is prohibited to feed a Muslim child with milk from these banks.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 7 (7/2)

Life-Support Equipment

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having examined the medical and jurisprudential studies presented concerning *Life-Support Equipment*,

having listened to the in-depth discussions and questions raised, particularly in relation to issues of life and death, due to the direct effect of disconnecting the life-support equipment from the patient,

having noted that several aspects of the subject remain to be clarified,

having considered that the comprehensive study on the subject made by the Islamic Organization for Medical Sciences of Kuwait should be taken as a reference,

resolves

first: To postpone the issuance of a resolution on this subject to the next session of the Academy.

second: To entrust the Secretariat General of the Academy to compile all studies and resolutions of the Islamic Organization for Medical Sciences of Kuwait and provide the Academy's members with a clear and specific summary.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 8 (8/2)

Regarding the Questions of the Islamic Development Bank

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406H (22–28 December 1985),

having listened to the presentation of the Islamic Development Bank (IDB), which consisted of several questions and queries,

having listened to the report of the sub-committee established during this session, composed of members who had submitted their answers to the issues, and to the answers of other participants,

having noted that the subject needs a more comprehensive and thorough study, requiring further communication and consultation with the IDB through a committee that it will create to discuss these issues,

resolves

1. To postpone this subject to the next session.
2. To request the IDB to submit a report of its Shariah Board.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 9 (9/2)

Insurance and Reinsurance

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having reviewed the presentations of the participating scholars concerning *Insurance and Reinsurance*,

having discussed the studies presented and *examined* all the forms, types, and principles on which insurance and reinsurance are based, and their objectives and aims,

having considered the resolutions of other Fiqh Academies and Islamic Councils in this regard,

resolves

first: The commercial insurance contract with a fixed periodical premium, which commercial insurance companies commonly use, is a contract that contains major elements of deceit that void the contract and is therefore prohibited by Shariah.

second: The alternative contract, which is compliant to Shariah in this matter, is the contract of cooperative insurance, founded on the basis of charity and cooperation. Similarly, it is a case of reinsurance based on the principle of cooperative insurance.

third: Calling on Muslim countries to work towards establishing cooperative insurance institutions and cooperative entities for reinsurance to liberate Islamic economy from exploitation and end violating the system that Allāh has chosen for this Ummah.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 10 (10/2)

Rulings on Usury-based Banking Transactions and Dealing with Islamic Banks

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having examined different studies submitted to the Academy concerning contemporary financial transactions,

having discussed in depth all aspects, highlighting that these transactions have a negative impact on the international economic order and stability, especially with regard to third-world countries,

having recalled the destructive effects of the said system, due to its deviation from directives of the Quran, which clearly prohibits *ribā* (usury), be it total or partial, commands us to repent from it, permits us to recover only the loan principal, no more and no less, whether it is a large or small amount, and warns us of the retributions of Allāh and His Prophet against usurers,

resolves

first: Any increase or interest on a matured debt in exchange for an extension of the maturity date, and in case the borrower is unable to pay and the increase (or interest) on loan at the inception of its agreement are both forms of usury, which are therefore prohibited in Shariah.

second: An alternative that ensures cash flow and financial support for economic activities in a form acceptable to Islam is trading with each other in conformity with Shariah provisions.

third: The Academy emphasizes the call to the governments of Muslim countries to encourage financial institutions that operate in accordance with the principles of Shariah, in order to meet the needs of Muslims, so that a Muslim will not have to live in a contradiction between the requirements of his faith and the realities of life.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 11 (11/2)

Unification of the Beginning of Lunar Months

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having examined the research papers of the Academy's members and experts concerning the *Unification of the Beginning of the Lunar Months*,

having discussed the studies presented on the subject,

having listened to several opinions concerning the use of astronomical calculations for the beginning of lunar months,

resolves

first: To entrust the Secretariat General of the Academy with providing documented scientific studies and documentation conducted by qualified experts in astronomy and meteorology.

second: To include the topic of the "Unification of the Beginning of the Lunar Months" in the next session's agenda, in view to completing research from the two perspectives, namely technical and jurisprudential.

third: To entrust the Secretariat General of the Academy to assign a sufficient number of scientists and experts to cooperate with scholars to comprehensively highlight the various aspects of the subject to enable the Academy to issue a resolution in this regard.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 12 (12/2)

The Letter of Guarantee

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 2nd session in Jeddah, Saudi Arabia on 10–16 Rabīʿ al-Awwal 1406h (22–28 December 1985),

having examined the research papers submitted to the Academy concerning the *Letter of Guarantee*,

having listened to the in-depth discussions on the subject,

it became clear that:

first: Any letter of guarantee, whether initial or final, is either with or without a covering. If it is without a covering, then the guarantor is considered to have jointly pledged along with the third party, both in performance and financial terms. This type of pledge is, in fact, what is referred to as "guarantee or collateral" in Islamic Fiqh. If, on the other hand, the letter of guarantee has a cover, the relationship between the applicant of the guarantee and its issuer is that of an agency; and an agency may exist with or without a fee, tied with the bond of surety in favor of the beneficiary in whose benefit the guarantee is issued.

second: The guarantee (*kafālah*) is a benevolent contract motivated by grace and mercy. The jurists have decided against taking a fee for issuing guarantees; the reason is that, in the event of a guarantor's payment of the guaranteed sum, it will akin to a loan-generated profit to the lender, which is forbidden in Shariah.

resolves

first: It is not permissible to charge a fee for the issuance of the letter of guarantee (in which, customarily, the amount and the period of guarantee are considered) whether it is with or without a coverage.

second: The administrative expenses for issuing a letter of guarantee of both kinds are permissible by Shariah, provided that they do not exceed the actual costs for the services of the same kind. In the case where a partial or total coverage is presented, it is permissible to take into account – when an estimate of the expenses has been determined – the possible effort that might be required to provide the coverage.

Indeed, Allāh is All-Knowing.

Resolutions and Recommendations of the 3rd Session of the Council of the International Islamic Fiqh Academy

AMMAN
HASHEMITE KINGDOM OF JORDAN

8–13 Ṣafar 1407
11–16 October 1986

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution No. 13 (1/3)

Answering the Questions of the Islamic Development Bank

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407H (11–16 October 1986),

HAVING CONDUCTED extensive study and in-depth discussions on the questions submitted by the Islamic Development Bank (IDB) to the Academy,

RESOLVES

A. Service Fee for IDB Loans

1. It is permissible to charge a fee for loan-related services. The said fee should be within the limit of the actual expenses.
2. Any fee in addition to the actual service-related expenses is prohibited because it is considered as *ribā* (usury).

B. Lease Transactions

FIRST: The IDB's promise to lease the equipment to the client, after it has owned it, is acceptable according to Shariah.

SECOND: The appointment, by the IDB, of one of its clients as its agent, for the purchase, in the name of the Bank, of equipment and tools, of given specifications and price, with the intention for the Bank to lease the purchased items to this client after the latter has received them, is a Shariah-acceptable agency appointment. However, it is preferable that the purchasing agent be different from the beneficiary client if this condition can be easily met.

THIRD: The lease agreement should be implemented after the actual acquisition and possession of the equipment and should be in a separate contract than the agency contract or the promise.

FOURTH: The promise to give away the equipment at the end of the lease period is permissible if such a promise is made under a separate contract.

FIFTH: The risk of loss and manufacturing defects rests with the Bank, in its capacity as the equipment owner, unless it is due to deliberate tampering or negligence by the lessee, in which case, the liability will rest with him.

SIXTH: The insurance premium, contracted as far as possible through Islamic Insurance Companies, is to be borne by the Bank.

C. Future Sales on Installments

FIRST: The IDB's promise to sell the equipment to the client, after it has owned it, is acceptable according to Shariah.

SECOND: The appointment by the IDB of one of its clients as its agent for the purchase, in the name of the Bank, of equipment and tools, of given specifications and price, with the intention for the Bank to sell the purchased items to this client after the latter has received them, is an acceptable appointment according to Shariah. However, it is preferable that the purchasing agent be different from the beneficiary client if this condition can be easily met.

THIRD: The sale agreement must be concluded after the actual acquisition and reception of the equipment and must be entered into by a separate contract.

D. Foreign Trade Financing

The principles applicable to these transactions are the same as those applicable to deferred sales in installments.

E. Using Interests generated by Deposits that IDB is required to deposit at Foreign Banks

It is prohibited on the Bank to use the interests earned on its deposits in foreign banks to protect the actual value of its assets from the effects of currency fluctuation. Therefore, the said interest amount should be spent on general welfare, such as training, research, helping those in need, and providing financial and technical assistance to Member states. Furthermore, it may be given to academic establishments, institutes, schools, and anything associated with disseminating Islamic knowledge.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 14 (2/3)

Zakāh on Company Shares

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having discussed the subject of *Zakāh on Company Shares* in all its aspects,

having examined the research submitted on the subject,

resolves

To postpone the issuance of a resolution on this issue until the Academy's fourth session.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 15 (3/3)

Investment of Zakāh Funds in Profit-Generating Projects without Attributing Individual Ownership to Recipients

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having examined the research papers submitted concerning the *Investment of Zakāh Funds in Profit-Generating Projects without Attributing Individual Ownership to Recipients*,

having listened to the discussions of the Academy's members and experts on the subject,

resolves

It is permissible, in principle, to use Zakāh funds in investment projects that are eventually owned by those who are deserving of Zakāh, or which are under the control and administration of the entity that is responsible and has the jurisdiction over collecting and distributing Zakāh, provided that it is done after fulfilling the basic and immediate needs of the recipients and providing proper guarantees to avoid loss.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 16 (4/3)

Test-Tube Babies
(In Vitro Fertilization)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having examined the research papers submitted to the Academy concerning *Test-Tube Babies (In Vitro Fertilization)*,

having listened to and discussed the explanations of experts and medical doctors,

it became evident that seven known methods are currently used for artificial insemination.

resolves

A. The first five (5) methods are all and absolutely prohibited for their own sake or due to ensuing consequences manifested in the confusion of parenthoods (ikhtilāṭ al-ansāb), loss of motherhood, as well as other matters prohibited by Shariah. These methods include:
    1. Fertilization taking place in-vitro between the semen taken from the husband and the ovum taken from a woman who is not his wife, and the fertilized ovum being then planted in his wife's womb.
    2. Fertilization taking place in-vitro between the semen taken from a man who is not the husband and the ovum taken from the wife, and the fertilized ovum being then planted in the wife's womb.
    3. Fertilization taking place in-vitro between the semen and the ovum taken from the respective spouses. The fertilized ovum is then planted in the womb of a volunteer woman.
    4. Fertilization taking place in vitro between the semen and the ovum taken from two strangers. The fertilized ovum is then planted in the wife's womb.

5. Fertilization taking place in vitro between the semen and the ovum taken from the respective spouses. The fertilized ovum is then planted in the womb of the husband's other spouse.

B. However, there is no Shariah restriction on the following sixth or seventh methods, in case of necessity, provided that all the necessary precautions are enforced. These two methods are:

6. In-vitro fertilization of a wife's ovum by her husband's semen and the implantation of the fertilized ovum in the womb of this same woman.

7. External insemination, by taking the semen of a husband and injecting it into the appropriate place in the womb or uterus of his wife for internal fertilization.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 17 (5/3)

Life-Support Equipment

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having reviewed all aspects raised concerning *Life-Support Equipment*,

having listened to the in-depth explanations of medical specialists,

resolves

According to Shariah, a person is considered deceased, and all Shariah rulings pertaining to death become effective if he or she shows one of the following two signs:

1. Complete cardio-respiratory arrest and confirmation by physicians that such an arrest is irreversible.
2. Cessation of all brain activity and confirmation by physicians that such cessation is irreversible and that the brain has entered a state of decomposition.

In these circumstances, the person may be weaned from the life-support equipment, even though some of the organs in his or her body, such as the heart, continue to function artificially through the life-support equipment.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 18 (6/3)

Unification of the Beginning of Lunar Months

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407H (11–16 October 1986),

having reviewed the two issues mentioned below concerning the *Unification of the Beginning of Lunar Months*:

1. The extent of the effect of differences in horizons on the unification of the beginning of lunar months.
2. Shariah ruling on the determination of the first day of a lunar month using astronomical calculations.

having listened to the discussions of the Academy's members and the experts on the subject,

resolves

first: If the sighting of the lunar crescent is established in one country, all Muslims in that country must abide by it. The difference in horizons is not relevant because of the generality of the religious command to start and end fasting.

second: It is mandatory to use the sighting; however, one may get assistance from astronomical calculations and observatories with due consideration of the ahadith of the Prophet ﷺ and scientific facts.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 19 (7/3)

Iḥrām for Pilgrims arriving by Air or by Sea for Ḥajj and ʻUmrah

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having examined the research papers presented concerning *Iḥrām for Pilgrims arriving by Air or by Sea for Ḥajj and ʻUmrah*,

resolves

Mawāqīt, plural of mīqāt, which are places set by the Prophet ﷺ where pilgrims must enter into the state of iḥrām, should be the points where those who intend to perform Ḥajj or ʻUmrah, whether they are passing through it or who live in its vicinity, whether travelling by land, air or sea, put on their Iḥrām, due to the general command reported in the aḥādīth of the Prophet ﷺ.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 20 (8/3)

Payment of Zakāh to the Islamic Solidarity Fund

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having listened to the statement of the Assistant Secretary General of the Organization of the Islamic Conference on the activities of the Islamic Solidarity Fund (isf) and its urgent need for material support, and to his proposal that the isf be one of the beneficiaries of Zakāh,

resolves

To entrust the Secretariat General of the Academy to undertake, in collaboration with isf, the necessary studies and research on this subject in order to submit them to the Council of the Academy for its forthcoming session.[2]

Indeed, Allāh is the Giver of success.

[2] Resolution no. 27 (2/4).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 21 (9/3)

Shariah Rulings on Paper Money and the Changing Value of Currency

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407H (11–16 October 1986),

having examined the studies submitted concerning Shariah Rulings on Paper Money and the *Changing Value of Currency (Rates Fluctuation)*,

resolves

first: shariah rulings on paper currencies

Paper currencies are considered a legal form of money, possessing all the characteristics of value, and are subject to the rulings prescribed by Shariah for gold and silver with regard to ribā (usury), Zakāh, salam, and all other transactions.

second: changing value of currency

Issuance of a resolution on this issue is deferred until comprehensive studies are made on all the related aspects, for consideration at the fourth session of the Academy.[3]

Indeed, Allāh is the Giver of success.

[3] Resolution no. 42 (4/5).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 22 (10/3)

Muqāraḍah Bonds, Development and Investment Certificates

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having examined the research paper presented concerning *Muqāraḍah Bonds and Development and Investment Certificates*,

having listened to the in-depth discussions,

having considered the Academy's methodology, which emphasizes the need to undertake various studies on the same subject,

having noticed the importance of this subject and the need to continue researching the related aspects, with their details and their relevant opinions,

resolves

The Secretariat General of the Academy shall commission experts it deems competent to undertake several studies on the subject to enable the Academy to adopt an appropriate resolution in this regard at its fourth session.[4]

Indeed, Allāh is All-Knowing.

≈

[4] Resolution no. 30 (5/4).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 23 (11/3)

Answering the Questions of the International Institute of Islamic Thought (IIIT) in Washington, DC

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407H (11–16 October 1986),

having examined the questions submitted by the International Institute of Islamic Thought in Washington, DC (USA), and the answers prepared by some of the Academy's members and experts,

resolves

To entrust the Secretariat General of the Academy to transmit to IIIT the answers of the Council of the Academy,

In the name of Allāh, the Entirely Merciful, the Especially Merciful,

Answers approved by the Academy

Question 3[5]

What is the ruling regarding marriage between a Muslim woman and a non-Muslim man, especially if she hopes that the marriage may be instrumental in him embracing Islam? Many women claim that, most of the time, not enough suitable Muslim men are available and that without marriage, they run the risk of going astray or living under extreme hardship.

Answer

Marriage between a Muslim woman and a non-Muslim man is prohibited by the Quran, the Sunnah of the Prophet ﷺ, and consensus of Muslim jurists. It is void, even if it has already taken place. It will not rejoice the implications of a valid

[5] Answers postponed for questions 1, 2, 7, 15, and 22.

marriage. The children from such a marriage are not considered legitimate. The hope that a non-Muslim husband will embrace Islam does not change this rule.

Question 4

What is the ruling if a marital relationship continues between a wife who has embraced Islam while her husband has remained non-Muslim? She has children with him, and she is afraid of losing them to disbelief and deviation if she separates. Furthermore, she hopes and expects that her husband may embrace Islam if the marriage relationship continues between them. Would the ruling be different if she had no hope in him accepting Islam and treating her well, and she may not find a Muslim husband if she leaves him?

Answer

A marriage is suspended simply by a wife embracing Islam and her husband refusing to do so. It is not permissible for her to continue a marriage relationship with him. However, she must wait for him during the waiting period ('Iddah). If he accepts Islam during this period, she must join him under the suspended marriage contract.

However, if the 'Iddah period expires and he has not embraced Islam, then the marriage is dissolved. If he later accepts Islam and desires to go back to their marriage, he will do so under a new marriage contract. The good or bad treatment she receives from her husband is of no relevance in permitting the continuation of the marriage.

Question 5

We are not allowed to bury our dead except in licensed cemeteries. What is the ruling concerning burying Muslims in non-Muslim cemeteries if Muslim cemeteries are not available, which is the case in most American and European countries?

Answer

The burial of Muslims in non-Muslim graveyards is permissible as a necessity in non-Muslim countries.

Question 6

What is the ruling concerning selling a mosque because "if Muslims leave the

area where it is located, and the mosque may deteriorate or may be expropriated as a result"?

Often, Muslims buy a house and turn it into a mosque, and when the majority of the Muslim community living in that area leave for work-related reasons, the mosque is deserted or neglected, and others (non-Muslims) might take it over. Is it possible to sell it and build another mosque in another location where there is a Muslim community? What is the ruling concerning such a sale or replacement? If it is not possible to replace it with another mosque, what is the most appropriate way to use the funds from the sale?

Answer

It is permissible to sell a mosque that is not being in use or when Muslims have emigrated from the area where it is located or when it is threatened with expropriation by non-Muslims, providing that the proceeds of the sale are used to buy another mosque in another place.

Question 8

Some women and young girls are forced by work conditions or education to live alone or with other women who are not Muslim. What is the ruling concerning such a mode of living?

Answer

According to Shariah, it is not permissible for a Muslim woman to live alone in a foreign land.

Question 9

Most women living in the United States say that the most they can cover their bodies is all except the face and hands. Some of them are even forbidden by their employers to cover their heads. What parts of her body can a woman expose in front of strangers in places of work or study?

Answer

The ḥijāb of a Muslim woman – according to Jumhūr (majority of the Islamic schools of law) – is to cover her entire body except her face and hands, provided she does not expect to be harassed. If, however, she expects to be harassed, she must cover them as well.

Question 10 and 11

Many Muslim students in this country (USA) are compelled to work to cover their educational expenses because, for the majority of them, money received from their relatives is not enough; thus, work becomes a necessity for them that they cannot live without. In most cases, they cannot find job except in restaurants or shops that sell alcoholic drinks or serve food containing pork or other prohibited products. What is the ruling on working in such places?

What is the ruling concerning a Muslim who sells alcoholic beverages or pork or distills intoxicants and sells them to non-Muslims? Please note that some Muslims in this country have made it their profession.

Answer

It is permissible for a Muslim to work in restaurants owned by non-Muslims only if he cannot find any other work that is permissible by Shariah and provided he does not directly serve, carry, manufacture or trade in alcoholic beverages. The ruling is the same with regard to serving pork or other forbidden things.

Question 12

Many medicines contain different quantities of alcohol, ranging between 0.01% to 25%, and most of these medicines are for the treatment of colds, coughs, sore throats, and other such symptoms of common diseases. Approximately 95% of medicines for these diseases contain alcohol, which makes finding alcohol-free medicines very difficult or nearly impossible. What is the ruling concerning the use of such medicines?

Answer

It is permissible for a Muslim to take medicine containing a percentage of alcohol if he or she cannot find any other medicine free from this substance, provided it is prescribed by a reliable and competent physician.

Question 13

Some yeasts and gelatins contain a very small amount of substances extracted from swine. Is it permissible to use such yeasts or gelatins?

Answer

It is not permissible for a Muslim to use yeasts or gelatins containing extracts from swine in foodstuffs. Yeasts and gelatins extracted from vegetables or permissible animals are a good enough substitute.

Question 14

Many Muslims are compelled to celebrate their daughters' wedding ceremonies in mosques. Often these ceremonies include dancing and singing. There is no other place that is available to them and large enough to hold such ceremonies. What is the ruling concerning celebrating such ceremonies in mosques?

Answer

It is recommended to conclude the marriage contract in mosques. However, it is not permissible to conduct wedding ceremonies in mosques if these include prohibited acts, such as men and women freely mixing or women flaunting, dancing or singing.

Question 16

What is the ruling concerning the marriage of a Muslim student (man or woman) while the two parties do not intend to keep permanently? Their intention is to terminate it at the end of their studies and return to their permanent place of residence. However, the marriage contract, typically, is a normal contract and of the same form as a permanent marriage.

Answer

A marriage contract is principally based on continuity, permanence and the formation of an everlasting family bond until and unless something causes its dissolution.

Question 17

What is the ruling concerning a woman who appears in places of work or education having plucked hair from her eyebrows and applied kohl to her eyes?

Answer

The wearing of kohl is permissible by Shariah for men and women. However, plucking hair from the eyebrows is not permissible unless its presence truly disfigures a woman's appearance.

Question 18

Some Muslim women feel alienated by refusing to shake hands with men who come to their workplace or schools. Thus, they shake hands with them to avoid embarrassment. What is the ruling concerning such handshakes?

The same is true for Muslim men when non-Muslim women want to shake hands with them. According to what they say, if they refuse to do so, they feel embarrassed for themselves and for these non-Muslim women.

Answer

The handshake of a man to a non-mahram woman who is pubescent is forbidden by Shariah, as is the ruling for the handshake between a woman and a non-mahram pubescent man.

Question 19

What is the ruling concerning the renting of churches for performing the five prayers, the Friday prayer or Eid prayer, with statues and other things usually found in a church being present? It is to be noted that churches are – mostly – the least expensive places that can be hired from Christians and using some of them is permissible free of charge by some universities and charitable organizations.

Answer

Renting churches for performing prayers is permissible if necessary. The prayer should not be performed in front of statues and pictures, which should be covered if they are in the Qibla direction.

Question 20

What is the ruling concerning animal slaughter by the People of the Book (Jews and Christians) and the food offered in their restaurants, noting that we do not know about their pronouncing of the name of Allāh at the time of slaughter?

Answer

Slaughter by the People of the Book is permissible if performed in a manner acceptable to Shariah. The Academy recommends a more detailed report on the subject for consideration in the forthcoming session.[6]

Question 21

Many gatherings where Muslims are invited serve alcohol or have a mixed crowd of men and women, and Muslims' isolation from such occasions may lead to separation from other members of society and loss of privileges. What is the ruling concerning attending such gatherings without participating in drinking alcohol, dancing or eating pork?

Answer

It is not permissible for a Muslim, male or female, to attend gatherings in which intoxicants are served or to participate in meetings causing sins and disobedience.

Question 23

In most parts of North America and Europe, the sighting of the lunar crescent, for the months of Ramaḍān and Shawwāl, is either impossible or complicated. The advanced technology and scientific knowledge available in most of these countries enable the prediction – thanks to astronomical calculations – of the birth of the lunar crescent with great accuracy. Is it permissible to rely on these calculations in these countries? Is it permissible to obtain assistance from observatories and accept the opinion of a non-Muslim scientist working there, noting that it is more probable that they will be telling the truth in such matters?

It should be noted that this issue has caused much division among Muslims in Europe, USA, and Eastern countries regarding fasting and the end of fasting. This has spoiled the important benefits of Eid and caused endless problems, whereas, according to some points of views, the use of astronomical calculations may put an end to or help mitigate these divisions and problems.

Answer

It is an obligation to rely on the sighting in addition to seeking assistance from astronomical calculations and observatories, in compliance with the tradition of the Prophet ﷺ and scientific facts.

[6] Resolution no. 94 (3/10), par. 6.

If the sighting in one country is confirmed, all Muslims in that country must abide by it. The difference of horizons is irrelevant due to the generality of the religious command to start and end fasting.[7]

Question 24

What is the ruling concerning a Muslim's employment in the USA or any other non-Muslim government ministry or any other agency, especially in such important industrial fields as atomic energy or strategic studies, etc.?

Answer

It is allowed for a Muslim to accept a job, permitted by Shariah, in a non-Muslim government agency or department, provided that such a job does not cause any harm to Muslims.

Question 25 and 26

What is the ruling concerning a Muslim architect who designs buildings for non-Muslims, such as churches, etc. noting that this is part of his assignment in the company in which he works and in case of his refusal, he may be fired?

What is the ruling concerning a Muslim individual or organization donating to an educational Christian missionary organization or church?

Answer

It is not permissible for a Muslim to design or build places of worship for non-Muslims or contribute financially or physically to the likes.

Question 27

In many Muslim families, men engage in selling liquor, pork and similar wares. Their wives and children disapprove this practice, noting that their livelihood depends on the earnings of the men. Are they committing a sin?

Answer

A wife or children who are unable to earn their living by ḥalāl (lawful) means can gain sustenance from the husband's or father's ḥarām (unlawful) earnings

[7] Resolution no. 18 (6/3).

from the sale of liquor, pork or other haram sources, as a matter of necessity, and after having tried to convince him to find another job and earn a living by halal means.

Question 28

What is the ruling concerning the purchase of a house to live in, a car for personal use or furniture for the house through a loan from a bank or an institution that imposes a fixed profit on such loans and uses such assets as collateral for the repayment, noting that, in the case of a house, car or furniture, the alternative to the purchase is generally leasing on monthly installments, which are usually higher than the monthly installments charged by the bank?

Answer

This type of transaction is not permissible in Shariah.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 24 (12/3)

Scientific Projects of the Academy

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407H (11–16 October 1986),

having reviewed the report of the Planning Division of the Academy, issued in its meeting on 8–9 Ṣafar 1407H (11–16 October 1986), in which it discussed several topics,

resolves

first: After introducing some amendments, the following projects were approved:

1. Encyclopedia of Economic Fiqh.
2. Glossary of Fiqh Terminology.
3. Manual of Fiqh Maxims.
4. A Code for the Evidences of the Juristic Ordinances.
5. Revival of Fiqh Heritage.
6. Financial Regulations for the Encyclopedia of Economic Fiqh.
7. Financial Regulations for the Glossary of Fiqh Maxims.
8. Financial Regulations for the Revival of Fiqh Heritage.
9. Work plan for the activities, discussions, and management of the Council's meetings.

second: To create a quadripartite scientific committee to establish a methodology for each of these projects, Manual of Fiqh Maxims and A Code of the Evidences of Juristic Ordinances, in collaboration with the President of the Academy and the Secretary General of the Academy.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 25 (13/3)

Recommendations of the 3rd Session of the Council of the International Islamic Fiqh Academy

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 3rd session in Amman, Hashemite Kingdom of Jordan, on 8–13 Ṣafar 1407h (11–16 October 1986),

having listened with particular interest to the statement of HRH Prince Hassan bin Talal, Crown Prince of the Hashemite Kingdom of Jordan, on the urgent problems facing Muslims in the areas of social and economic development, which call for an urgent action to fight poverty, diseases, and lack of knowledge, in order to ensure a decent standard of living for the human being,

having reviewed the address of His Royal Highness to the Arab and Muslim world to aid Sudan,

conscious of the necessity of intensifying efforts aimed to rescue Al-Aqsa Mosque, the first of the two Qiblas and the third holiest Mosque in Islam, in the vicinity of which the present session is being held,

convinced of the need to devote extreme attention to issues relating to the social and economic life and solidarity among Muslims, and the necessity of in-depth studies and research through scientific seminars, workshops, and the likes,

resolves

first: A wide-ranging Islamic relief program needs to be created, sponsored, financed by an independent fund, based on revenues of Zakāh, Awqāf, and donations.

second: An appeal should be launched to the Ummah, governments and peoples alike, calling them for the pooling of all possible resources to save the First of the two Qiblas and the third holiest Mosque and to liberate the occupied territories through the mobilization of all the Ummah's potentials, the assertion of its identity, the closing of its ranks, the elimination of all causes of dissension, and the adoption of divine law as a way of life on both private and public levels.

third: Special attention should be paid to the activities of the Academy in the field of studies, research, fatwās (rulings) and projects relating to major is-

sues affecting the social and economic life of Muslims, the closing of their ranks, the unification of their positions, and the promotion of all factors of solidarity among them, while providing them with means of facing all challenges and building their life according to the rules of Shariah.

FOURTH: Distinction should be made between issues relating to studies, research and fatwas, with particular emphasis on scientific seminars and workshops in matters relating to studies and research, in accordance with a plan of action to be prepared by the Planning Division of the Academy for submission to the Council.

Indeed, Allāh is All-Knowing.

Resolutions and Recommendations of the 4th Session of the Council of the International Islamic Fiqh Academy

JEDDAH
KINGDOM OF SAUDI ARABIA

18–23 Jumādā al-Akhira 1408
6–11 February 1988

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 26 (1/4)

A Human receiving the Organs of another Human, Dead or Alive (Organ Transplantation)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having considered the Fiqh and medical research papers submitted to the Academy concerning *A Human receiving the Organs of another Human, Dead or Alive (Organ Transplantation)*,

in light of the discussions highlighting the timeliness of this issue due to scientific and technological progress. Despite its proven effectiveness and positive results, several harmful psychological and social effects have also come to light, as neither the guidelines prescribed by Shariah nor its objectives, which aim to ensure the well-being and dignity of humans and communities, and call for compassion and altruism, have been met,

having summarized the points relating to this subject in its different aspects, forms and cases, each of which calls for a specific Shariah ruling,

resolves

definition and classification

first: The organ refers to any part of the human body: tissue, cells, blood, etc. such as the cornea, whether still part of the body or removed from it.

second: Utility, which is the core of the matter, is the benefit accruing to the recipient, which enables him to remain alive, or to have a primary function of his body restored, whether it is eyesight or otherwise provided the recipient enjoys a respected life under Shariah.

third: The form of benefiting from transplantation may be divided as follows:

- Transplantation of an organ from the body of a living person,
- Transplantation of an organ from the body of a dead person,
- Transplantation of an organ from a fetus,

First Form: Organ Transplantation from a Living Person

This occurs in the following cases:

a. Transplantation of an organ from one part of the body to another part of the same body, such as grafting skin, cartilage, bones, veins or blood vessels, etc.

b. Transplantation of an organ from the body of a living person to another. In this case, the organ may be classified as essential for life or otherwise.

In this case, it may be a single organ, such as the heart or liver, or pair of organs, such as kidneys or lungs. As for the organs on which life does not depend, they could be organs that perform a primary function in the body or otherwise, or an organ which is self-renewing, such as blood, or is not self-renewing, and some have an effect on the lineage, inheritance and general personality, such as testicles, ovary, or cells of the nervous system, or have no bearing whatsoever.

Second Form: Transplantation of a Dead Person's Organ

It should be noted that death may take two forms:

1. All functions of the brain stop completely and no medical treatment can reverse the situation.
2. The heart and respiratory system stop completely, no medical treatment can reverse the situation.

In both cases, due consideration should be given to the Academy resolution no. 18 (5/3) at its third session.

Third Form: Transplantation from a Fetus

It may be performed in three forms:

- Spontaneous abortion
- Medically induced or criminal abortion
- Fertilization outside the uterus (In-Vitro fertilization)

SHARIAH RULINGS

FIRST: An organ may be transplanted from one part of the body to another part of the same body, provided it is ascertained that the benefits accruing from this operation outweigh the harmful effects caused thereby; also provided that its

purpose is to replace a lost organ, reshape it, restore its function, correct a defect or remove a malformation which is a source of mental anguish or physical pain.

SECOND: An organ may be transplanted from the body of one person to the body of another person, if such organ is self-regenerating, such as blood and skin. It is stipulated in this case that the donor must be legally competent and that due attention must be taken to the conditions set by Shariah on this matter.

THIRD: It is permissible to transplant from a body part of an organ that was removed due to a medical deficiency, such as the cornea, if, due to a disease, the eye had to be removed.

FOURTH: It is forbidden to transplant from a living person to another, a vital organ, such as the heart, without which the donor cannot remain alive.

FIFTH: It is forbidden to transplant from a living person to another organ such as the cornea of the two eyes, which absence deprives the donor of a primary function of his body. However, if it affects only part of the basic function, then it is a matter still under consideration, as explained in paragraph (8) below.

SIXTH: It is allowed to transplant an organ from the body of a dead person, if it is essential to keep the beneficiary alive, or if it restores a primary function of his body, provided it has been authorized by the deceased before his death or by his heirs after his death or with the permission of concerned authorities if the deceased has not been identified or has no heirs.

SEVENTH: It should be noted that the medical consent, in the above cases, for performing organ transplantation, is stipulated that it is not done for financial reasons (selling an organ), because under no circumstances should a person's organ be sold. However, incurring expenses by a person searching for an organ or a voluntary compensation as a token of appreciation is a matter still under consideration and Ijtihād.

EIGHTH: All the cases and forms other than the above cases, relevant to the issue, are still under research and consideration. They should be submitted for examination at the next session, in the light of medical data and Shariah rulings.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 27 (2/4)

Payment of Zakāh to the Islamic Solidarity Fund

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having reviewed the explanatory note on the Islamic Solidarity Fund (isf) and its permanent Waqf status, submitted to the third session of the Academy,

having examined the research papers submitted to the Academy concerning the *Payment of Zakāh to the Islamic Solidarity Fund*,

resolves

first: It is not permissible to remit Zakāh to the Waqf Fund of the Islamic Solidarity Fund because this would lead to depriving the Zakāh funds of their legitimate beneficiaries defined in the Quran.

second: The isf can act as an agent for individuals and institutions in channeling Zakāh to its legitimate beneficiaries under the following conditions:

a. Shariah conditions for such agency should apply to both principal and agent.

b. The isf should amend its statutes and objectives so as to be qualified to undertake operations of this nature.

c. The isf should create a special account to handle funds received as Zakāh, so that they may not be mixed with other contributions received for purposes other than Zakāh.

d. Zakāh funds should not be utilized to cover administrative expenses such as wages, salaries, or other expenditures that are not among legitimate Zakāh beneficiaries.

e. The Zakāh payer has the right to choose the beneficiary among the eight known beneficiaries of Zakāh and the isf – in such case – must conform to his wish.

f. The isf shall commit itself to disburse such Zakāh funds to the

beneficiaries as quickly as possible, within a maximum period of one year, so that beneficiaries may benefit from them in due course.

RECOMMENDATION

EAGER to enable the Islamic Solidarity Fund (ISF) to fulfill its charitable ambitions (as stipulated in its statutes) and for which it was established,

COMMITTED to the resolution of the 2nd Islamic Summit Conference, which created the ISF and established the mechanism of its financing through contributions from the Member States,

CONSIDERING the sporadic remittances of voluntary contributions by some States,

THE ACADEMY URGES Muslim countries, governments, institutions and wealthy individuals to perform their duty and strengthen the resources of the ISF so that it can fulfill its noble objectives in the service of the Ummah.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 28 (3/4)

Zakāh on Company Shares

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having examined the research papers submitted to the Academy concerning *Zakāh on Company Shares*,

resolves

first: Zakāh on shares is an obligation upon their shareholders. The company must pay zakāh on their behalf if any of the following conditions are met:

- If its statutes so stipulate,
- by resolution of the General Assembly,
- If the State's law (the law of the land) requires companies to pay zakāh,
- Or if a shareholder himself authorizes the company's governance to pay zakāh on his behalf.

second: The company's governance must pay zakāh on its shares in the same manner as person pays zakāh on his wealth. In other words, it shall pay zakāh on the assumption that the capital of all shareholders is the property of a single person, and calculate zakāh accordingly, taking into account the type and value of assets subject to zakāh, its percentage and any other consideration relevant the zakāh of a physical person according to the principle of mixed assets generally accepted by some Fiqh scholars concerning all assets.

In calculating zakāh, the company shall take due account of shares not liable to zakāh, such as shares owned by the Public Treasury, Waqf institutions, charitable organizations as well as non-Muslim shareholders, and make the necessary deductions.

third: If the company, for any reason did not pay zakāh on its wealth it becomes obligatory on shareholders to pay zakāh on their respective shares. Therefore, if the shareholder is able to know, from the accounts of the com-

pany, the exact amount of zakāh due on his shares had the company paid the due zakāh; he should pay that amount, as this is the normal original way for determining the zakāh due amount.

If the shareholder has no way of knowing these pieces of information for the calculation of the amount due, then:

- If, however, the shareholder is unable to know that amount and his intention of retaining the shares is to benefit from their annual return, not for the sake of trading them he should apply the rules of Zakāh on returns, in conformity with the Academy resolution no. 2 (2/2) concerning *Zakāh on Rented Real Estates and Non-Agricultural Leased Lands*. The owner of such shares is not required to pay Zakāh on the assets of shares, but only on the dividends, which is at a rate of ¼ of ⅒ after the elapse of one year from the date of the actual reception of the dividends, provided that all other conditions are met and no impediment exists.[8]
- If, on the other hand, the shareholder has invested in shares for business purposes, then his shares are subject to Zakāh as commercial goods. If they are still in his possession after the elapse of one year period, he shall pay Zakāh on their market value; however, if there is no stock market, he will pay Zakāh on their value as appraised by qualified experts. He will pay ¼ of ⅒ (2.5%) of their market value plus their dividends, if they yield any dividend.

FOURTH: If the shareholder sells his shares during the year, he will add their price to his wealth and should pay Zakāh on the total of his wealth at the end of the year. The buyer, on the other hand, shall pay Zakāh as mentioned above.

Indeed, Allāh is All-Knowing.

≈

[8] Resolution no. 120 (3/13) concerning *Zakāh on Shares and their dividends*.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 29 (4/4)

Expropriation for Public Interest

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having examined the research papers submitted to the Academy concerning *Expropriation for Public Interest*,

in light of the well established Shariah principle about the sanctity of individual property, which has become a necessary legal foundation of the religion,

having considered that preservation of property is one of the five purposes of Shariah which it endeavors to preserve and that it has several references in the Quran and the Sunnah,

having recalled the conclusive proofs provided by the Sunnah, the practices of the Companions ﵃ and that of subsequent generations, concerning the expropriation of real estate for the sake of public interest; in implementation of the general principles of Shariah which require safeguarding public welfare, regarding general needs as a necessity and sustaining personal damage to avoid public damage,

resolves

first: Private property must be protected from any aggression. It is not permissible to narrow the scope of protection or to limit it. The owner is the absolute master of his property. He has full right to exploit it as he wishes, by legitimate means and benefit from all its lawful fruits.

second: No property should be confiscated for the public interest, except with due respect to the following Shariah conditions:

a. Expropriation of real estate is done by providing immediate and fair compensation, determined by qualified experts, and such compensation is not less than the market value of a similar property.

b. The expropriation should be carried out by the public authority or its representative in this field.

c. Expropriation is made for public interest, in response to public need, such as building mosques, roads or bridges.

d. The expropriated real estate shall not be exploited for private or public investment projects and expropriation should not be carried out prior to its justifiable time.

If all or some of these conditions are violated, the expropriation of real estate will be regarded as an act of injustice and seizure prohibited by Allāh the Almighty and His Prophet ﷺ.

If the property subject to expropriation for public interest is no more needed for that purpose, the original owner of the property or his heirs have a pre-emption right to repurchase it for a fair compensation.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 30 (5/4)

Muqāraḍah and Investment Certificates

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having examined the research papers submitted to the Academy concerning *Muqāraḍah and Investment Certificates*, which were the conclusions of the seminar organized by the Academy, in collaboration with the Islamic Research and Training Institute (irti) of the Islamic Development Bank, on 6–9 Muḥarram 1408h (30 August - 2 September 1987), in implementation of the Academy resolution no. 22 (10/3) at the third session, in which several members, experts and researchers from irti and other scientific and economic centers participated,

having considered the importance of this issue and the need to examine it further in all aspects,

having noted that this formula is instrumental in promoting conditions for increasing public resources through a combination of capital and ventures,

having reviewed and discussed the seminar's 10 recommendations of the seminar in light of the research papers submitted to the this and other seminars,

resolves

first: shariah-acceptable forms of muqāraḍah bonds

1. Muqāraḍah Certificates are investment instruments which allocate the Qirad capital (Muḍārabah) by floating certificates, as a proof of the capital's ownership, on the basis of shares of equal value, registered in the name of their owners, as joint owners of shares in the venture capital or whatever shape it may take, in proportion to the each one's share therein. It is preferable to call this investment instrument "Muqāraḍah Bond."
2. The Shariah-acceptable form, in general, for Muqāraḍah certificates, must consist of the following elements:

    i. First element

The bond must represent a joint share in the project, for whose establishment or financing it has been issued. Ownership remains valid throughout the project duration from its beginning to its end. It also confers all rights and privileges provided by Shariah to the owner over its property, e.g. sale, donation, mortgage, inheritance, etc. bearing in mind that such certificates represent the Muḍārabah capital.

ii. Second element

With regard to Muqāraḍah certificates, the contract is concluded on the basis of terms defined in the prospectus, that the offer is expressed by subscription and acceptance by approval of the issuing authority.

The prospectus must provide all data required by Shariah for the Qirad contract (Muḍārabah), such as the nature of the capital, profit distribution, and other conditions related to the issue must be compatible with Shariah.

iii. Third element

Muqāraḍah certificates must be tradable at the end of the subscription period, since the Muḍārib has authorized to do so once the certificates have been issued, taking into consideration the following criteria prescribed by Shariah:

a. If the Qirad capital, collected from subscription prior to its use in the project, is still in cash, trading Muqāraḍah certificates is considered an exchange of money with money, governed by Shariah rules on money exchange.
b. If the Qirad capital turns into debts, Muḍārabah certificates should be traded according to the rules applied to loans.
c. If the Qirad capital is converted into mixed assets, e.g. cash, debts, goods, benefits, Muqāraḍah certificates may be traded at the price agreed upon provided the major part of the capital is in the form of goods and benefits; if it mainly consists of cash and debts, exchanging Muqāraḍah certificates must comply with Shariah rules which will be indicated in an explanatory note to be prepared and submitted to the Academy's next session. In any case, all exchanges must be recorded according to recognized standards in the registers of

the issuing authority.

iv. Fourth element

The one who receives the funds collected from the underwriting of ṣukūk, for investment in the proposed project, is called the Muḍārib; his ownership in the project is limited to the extent of his subscription. Thus, he is a capital contributor in addition to his share in the profit, after it has been generated in accordance with the terms in the prospectus. The Muḍārib's role in handling the underwritten funds and the project property, is that of a trustworthy person, who may not be held liable, unless his liability is permissible under Shariah rules.

3. Taking into account the foregoing rules of exchange, Muqāraḍah certificates may be exchanged in stock markets, if they are governed by the rules prescribed by Shariah, in accordance with the principle of supply and demand, and subject to the approval of contracting parties.

   They may also be traded if, at a given period of time, the issuing authority makes an announcement or an offer to the public, by virtue of which it pledges to purchase the said certificates, operation to be funded by the profits yielded by the Muḍārabah at fixed price set by qualified experts in the light of conditions prevailing in the stock market and the financial situation of the project. A party other than the issuing authority, indicating its commitment to purchase the certificates using its own funds, may also make an announcement.

4. Neither the prospectus nor the Muqāraḍah bonds should contain a guarantee, from the fund manager, for the capital or a fixed profit or a profit based on a percentage of the capital. If such clause is implied explicitly or implicitly, the guarantee condition is voided, and the Muḍārib is entitled to a profit equal to that of a similar Muḍārabah.

5. The prospectus or the Muqāraḍah bond issued pursuant to it, should not contain any statement obligating a sale, even if conditional or related to future. However, the Muqāraḍah bond may include a promise to sell and, in such case, sale is effected only on a contract basis, at a price fixed by qualified experts and agreed upon by the two parties.

6. The prospectus or Muqāraḍah bond issued pursuant to it, should not contain any statement that the company has fixed in dividends. If such

clause exists, the contract is null and void. Consequently,

a. The prospectus or Muqāraḍah bond issued pursuant to it, may not stipulate payment of a specific amount to the shareholder or to the owner of the project.

b. Only the profit is to be divided, as determined by applying rules of Shariah; that is, an amount in excess of the capital, and not the revenue or the yield. Tandeed (liquidation) or evaluation of the project in monetary terms determines the extent of profit. What is in excess of the capital after Tandeed or evaluation is the profit to be divided between the shareholders and the Muḍārib, in accordance with the terms of the contract.

c. The profit and loss account of the project must be published and under the control of shareholders.

7. Profits are due when realized and owned by liquidation or evaluation and become payable only upon distribution. If the project produces revenues or yields, its yields may be distributed. What is paid to the two parties to the contract before Tandeed (liquidation) or evaluation is considered a payment on account on the dividend.

8. There is no Shariah prohibition to include, in the prospectus or the Muqāraḍah certificates, a clause stating that at the end of each period, a certain percentage shall be deducted either from the share of the shareholder in the dividend – if periodic Tandeed is carried out – or from their share in revenue or yields distributed on account, and deposited as special reserve for contingencies, such as loss of capital.

9. There is no Shariah prohibition to include a statement in the prospectus or the Muqāraḍah certificates, about a promise made by a third party, totally unrelated to the two parties to the contract, in terms of legal personality or financial status, to donate a specific amount, without any counter benefit, to meet losses in a given project, provided such commitment is an independent one, not related to the Muḍārabah contract, in the sense that the enforcement of the contract is not conditional to the fulfillment of the promise, or that the promise underlines the terms of the contract. Hence, neither the shareholder nor the Muḍārib may invoke this clause to avoid the contract or renege on his commitment, alleging that said commitment made by the third party had been duly taken into consideration in the contract.

SECOND: The Council of the Academy considered four other formula proposed in the recommendations of the aforementioned seminar. They are listed as suggestions to benefit from the creation of Awqāf and their use for investment, without prejudice to the conditions related to the continuity of the Waqf. The proposed formula are as follows:

a. Establish a partnership between Waqf institutions, contributing with their real estate, and financial contributors, bringing in their money to strengthen the Waqf.

b. Propose Waqf real estate as assets to businessmen using their own financial resources to develop the Waqf, for a share in the revenues.

c. Establish Awqāf (pl. of Waqf) through manufacturing contracts, concluded with Islamic Banks in return for profit sharing.

d. Rent the Waqf premises for a rental in kind, such as construction on the site only, or in addition to a small rental.

The Council of the Academy approved this recommendation and concurred with the seminar on the need for further research and studies. It requested the Secretariat General to look into the matter and identify other forms of investment acceptable by Shariah and organize a seminar to examine the proposed forms of investment and report to the Council on its findings at its next session.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution No. 31 (6/4)

Key Money
(Badal Khuluw)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408H (6–11 February 1988),

having examined the research papers submitted to the Academy concerning *Key Money (Badal Khuluw)*,

resolves

1. The key money agreement can be obtained in four different methods:
   a. The agreement between the owner of the real estate and the lessee at the inception of the contract.
   b. The agreement between the owner of the real estate and the lessee during the lease period or at the end of it.
   c. The agreement between the original lessee of the real estate and the new lessee during the lease period or at the end of it.
   d. The agreement between the new lessee and both the owner and the first lessee, concluded before or after the expiration of the lease period.
2. If the owner and the lessee agree that the latter, in addition to the periodic rental, shall pay a lump sum (referred to in some countries as key money), there is no objection in Shariah to such an operation, provided that it is part of the rental for the lease period agreed upon. In the event the contract is terminated, the paid lumpsum shall be treated according to the rules applicable to rent.
3. If, during the lease period, the owner and the lessee agree that the owner shall pay a given amount to the lessee, against the acceptance by the latter to move from the premises for the remaining period of the lease contract. This form of key money is permitted by Shariah because it compensates the lessee for waiving his occupancy rights.

However, if the lease expires and the contract is not renewed, either explicitly or implicitly, by virtue of an automatic renewal clause, key money is not allowed, for the simple reason that the owner is entitled more than anyone else recover his property once the lease contract expires.

4. If, during the lease period, the first lessee and the new lessee agree that the former shall evacuate the premises for the remaining period of his lease contract, against payment of an amount above the periodic rental, key money is permitted by Shariah, provided the terms of the contract concluded between the owner and the first lessee are strictly observed and the laws in force are fully compliant with Shariah.

   With respect to long-term leases, unlike short term rental contracts, which are concluded under some laws, the lessee is not permissible to rent the premise to another lessee, nor accept key money, unless authorized by the owner.

However, if the agreement between the first and the new lessee after the expiration of the lease period, key money is not allowed, because the first lessee's right to use the premises has expired.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 32 (7/4)

Sale of the Trade Name and License

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having examined the research papers submitted to the Academy concerning the Sale of the Trade Name and Licens*e*,

having noticed the different ways in which this issue was addressed by different researchers and in the technical terminologies that differed according to the language from which these formulas have been translated, resulting in a confusing multiplicity of issues and conflicting opinions,

resolves

first: To postpone the examination of this topic to the fifth session[9] of the Academy, pending further research on all related aspects, with due consideration to the following:

a. Follow a similar methodology in the preparation of the research papers, starting with an introduction to the issue, then determining the scope of the research using all the current terminology and their synonyms.

b. Refer to relevant historical precedents, legal and juristic opinions that may clarify the issue and ensure the accuracy of classification.

second: To include the issue of the *Sale of the Trade Name and License* in a broader subject, such as *Incorporeal Rights* so as to be able to introduce other related concepts, including copyright, patent rights, inventor's rights, author's rights, industrial and commercial design patents and trademarks, etc. under one heading so that the research paper would be more precise and of greater benefit.

third: To focus research papers on a specific right among those quoted above, or the researchers may extend the scope of their study to cover, within its general structure, a similar terminology.

[9] Resolution no. 43 (5/5).

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 33 (8/4)

Hire-Purchase Contract, Murābaḥah to the Purchase Orderer and the Changing Value of Currency

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having examined the studies and research papers submitted to the Academy concerning *Hire-Purchase Contract, Murābaḥah to the Purchase Orderer and Changing Value of Currency*,

resolves

1. To postpone the examination of these subjects[10] until its next session for further research.
2. To request the Secretariat General of the Academy to examine the first two issues and compile all research on "Hire-Purchase contracts," as well as all related resolutions adopted by the first symposium held in 1407h (1987) by the Kuwait Finance House, and research papers on "Murābaḥah to the Purchase Orderer," submitted to the seminar on the Investment strategy of Islamic Banks, held in Amman, Hashemite Kingdom of Jordan, in 1407h (1987), in cooperation with the Islamic Research and Training Institute of the Islamic Development Bank(idb) and the Royal Academy for Islamic Civilization.

Indeed, Allāh is All-Knowing.

≈

[10] Resolutions no. 44 (5/6), no. 110 (4/12), nos. 40–41 (2–3/5), no. 42 (4/5), no. 115 (9/12).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 34 (9/4)

Baha'ism

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408H (6–11 February 1988),

based on the resolution adopted in the 5th Islamic Summit Conference held in Kuwait on 26–29 Jumādā al-Ūlā in 1407H (26–29 January 1987), the Council of the Academy was requested to issue a ruling regarding the destructive sects which are incompatible with the teachings of the Quran and Sunnah.

having considered the dangers it poses to the Ummah and the support it receives from anti-Islamic entities,

having listened to the in-depth discussions regarding the core beliefs of this sect and after ascertaining that al-Baha, the founder of this sect:

- claimed to be a messenger,
- claimed that what he has authored is a revelation that was sent down to him,
- called all the people to believe in his prophethood,
- rejected that the Messenger of Allāh ﷺ is the seal of the messengers,
- said that the books that have been revealed to him abrogate the Noble Quran,
- believed in reincarnation,

in light of what al-Baha has deliberately changed and abolished from the many subsidiary matters of Fiqh, such as:

- changing the number of the prescribed prayers and their timings, by increasing them to nine prayers that are to be performed at three specific times (three prayers at each specific time), during the morning, during the afternoon and at sunset.
- changing the Tayammum (the ablution performed in the absence of water or due to medical necessity) by saying Bismillah al-Athar al-Athar (In the

name of Allāh, the purest, the purest),

- changing the number of days of fasting (in Ramadan) to nineteen days that ends on the Celebration of Nayruz on the twenty-first of March, every year,
- changing the Qibla (direction of prayer) to the house of al-Baha located in Acre, in occupied Palestine,
- prohibiting Jihad,
- abolishing the capital punishments,
- making the men and women equal in regard to the amount they receive in inheritance,
- making usury permissible,

HAVING EXAMINED the research papers concerning the Areas of Islamic Unity which warned against destructive movements that split the Ummah, disrupts its unity and breaks it into sects and parties, which leads to apostasy and being distant from Islam,

RESOLVES

Considering the claims of al-Baha's prophethood, the claims that he received a revelation that the books revealed to him abrogated the Quran, that he has changed many of the established Shariah rulings, that he has rejected matters that are known to be essential matters of the religion,

As a result of these matters, the rulings of the disbelievers are applied to him by consensus of the Muslims.

RECOMMENDATION

Islamic organizations all over the world must confront this heretical trend whose objective is to undermine the Islamic creed, law and way of life.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 35 (10/4)

Fiqh Simplification Project

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having studied the special committee's report on the *Fiqh Simplification Project*, including the outline plan,

having reviewed the report prepared by the sub-committee established during the present session to review the project and its recommendations, to approve the above-mentioned plan and entrust the Secretariat General of the Academy to follow-up its implementation,

resolves

To approve the plan outlined in the report of the project's committee, as amended by the sub-committee, and entrust the Secretariat General of the Academy to follow-up its implementation.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 36 (11/4)

Project for an Encylopedia of Economic Fiqh

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having studied the report presented by the drafting committee of the executive program for an *Encyclopedia of Economic Fiqh*, outlining the proposed implementation stages, and a structure of the group pre-selected to launch the project through "Contributions/Participation Group" and their outline plans,

having considered the report prepared by the sub-committee established in the present session, to examine the project of *Encyclopedia of Economic Fiqh*,

having reviewed the report's recommendations to approve the amendment of the executive plan, including the additional topics and reference work it has proposed,

resolves

To approve the excutive plan of the project as outlined by the drafting committee, and as amended by the sub-committee, and entrust the Secretariat General of the Academy to follow-up its implementation.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 37 (12/4)

Project for a Glossary of Fiqh Maxims

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

having examined the report prepared concerning the project of a Glossary of Fiqh Maxmins,

having reviewed the report submitted by the committee established in this session to examine the project and its implementation phases, including the final draft of the project and its seven implementation phases,

having considered the diverse opinions expressed regarding the first and fifth implementation phases,

resolves

1. To approve the final draft for the project of Glossary of Fiqh Maxims, as well as the implementation phases agreed-upon by the drafting committee.
2. To entrust the Secretariat General of the Academy to select, among the two opinions expressed on the first and fifth phases of the implementation, the one it deems the most appropriate and to monitor its implementation.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 38 (13/4)

Combatting Moral Evils, Areas of Islamic Unity, Methods of Benefiting from them, and the Islamization of Education in the Muslim World Today

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 4th session in Jeddah, Kingdom of Saudi Arabia, on 18–23 Jumādā al-Akhira 1408h (6–11 February 1988),

firstly:

having reviewed the research papers submitted to the Academy concerning the means of combating immorality, explaining the sufferings of the world at large from the effects of immorality that has infiltrated the Muslim world in a way displeasing to Allāh the Almighty, in addition to being incompatible with the vanguard role assigned to the Ummah, namely, to lead mankind towards a sincerity in actions, ethics and behavior,

in harmony with the complimentary qualities of Islam; given the fact that ethics are one of the most important aspects of religion and that the complete fruits of Islam can only be reaped when all principles and provisions of Shariah are applied in all fields of life,

recommends

a. Efforts be exerted to straighten out and strengthen the religious doctrinal incentive through a comprehensive program promoting an awareness of the spiritual benefits accruing from a sound doctrine.

b. Efforts be made in the Muslim world to clear all media, press, television and radio, as well as commercial ads, of any factor that stimulates lustfulness, causes deviations and leads to immorality.

c. A practical plan be worked out to safeguard the Islamic originality and heritage; abort all attempts to westernize and eliminate Islamic identity; to face all forms of challenges, to combat intellectual and cultural invasion that does not conform to Islamic principles and ethics. Strict Islamic censorship be enforced on tourist activities and scholarship

abroad in order to avoid the impairment of the Islamic personality and ethics.

d. Education must be Islam-oriented; that all sciences be taught from an Islamic perspective; that religious subjects be basic subjects at all stages and all specialties; in order to uphold the Islamic doctrine and consolidate Islamic ethics in spirit and enable the Ummah to remain at the vanguard in all fields of science constantly.

e. The Muslim family be raised in a sound manner; that marriage be facilitated; that parents be urged to provide their children with a proper upbringing and rear a strong generation, truly venerating the Almighty, continuously propagating and upholding Islam; that women be trained to undertake their role as mother and housewife; and that an end be put to the growing phenomenon of resorting to foreign governess, in particular non-Muslim governess.

f. All measures be taken to ensure that youth is provided with an Islamic education, that enables them to abide by the tenets of Islam and its moral code of conduct, always aware of their duty towards The Almighty and to their country, and able to ridding themselves of the spiritual void which incites them in indulging in drugs and spirits and all forms of licentiousness. Youth should be involved in their national affairs and be given responsibilities, each according to his abilities and competence; that they be encouraged to fill their leisure time with useful activities and that wholesome recreation activities, sports, and competitions be encouraged and directed to true Islamic orientation.

SECONDLY:

HAVING REVIEWED the research papers submitted to the Academy regarding the areas of Islamic unity and how to benefit from them, and taking into account the primordial importance of the bond of Islam for the people of the Ummah: an indivisible bond, a sound foundation for the desired solidarity and a solid basis for any civilizational edifice that aims at closing the ranks of the Ummah, coordinating the efforts exerted to stand up to contemporary challenges and securing dignity and progress,

HAVING CONSIDERED that the bond of Islam is a strong incentive and an unfailing factor which can direct and coordinate the policies of Muslim states in the various fields of social and economic development and strengthen solidarity, cooperation, and reciprocal sympathy among the peoples of the Ummah, so

that they may get rid of all forms of dependence which impede the fulfilment of their aspirations to progress, invulnerability and prosperity,

RECOMMENDS

a. The Islamic faith be upheld and cleared of all alterations; to warn against any attempt to undermine it or sow doubt about its principles, fragment the ranks of Muslims and set them against each other.

b. Emphasis be laid on the importance attached by the Islamic Fiqh Academy to Islamic research and Fiqh studies which stimulates the ability to stand up to intellectual challenges kindled by contemporary exigencies, and on the great interest taken by Islamic Fiqh in the problems of society; that Islamic Fiqh be considered a vital factor in the intellectual renaissance of the Ummah, and that it may be more closely associated with the plans worked out and legislation enacted by Muslim countries in all fields that affect society.

c. Closer coordination be ensured as regards to contents and methodology of education curricula, to secure compatibility with the sound intellectual civilization developed by Islam, with a view to rearing a generation of Muslims who draw their faith from the same sources, abide by the same conceptual orientation and share the same pride in their civilizational affiliation.

d. A higher order of priority be given to scientific research in the various fields of knowledge, and that 1% of the GNP be appropriated for the financing of research programs and establishment of scientific laboratories, on the basis of coordination and cooperation among Muslim world's universities.

e. Education programs comprising a number of major themes shall be worked out in collaboration with Islamic Universities, to be aimed at Fiqh studies. Furthermore, a higher committee of Muslim scholars shall be established to follow up and approve these research activities and establish a Prize of Merit to be awarded to the best research.

f. All information media, whether press, television or radio in the lands of Muslims have always as objective to instill veneration of Allāh in this world, in addition to cementing unity, spread good, encourage virtue and shun principles that abet heresy, vitiate both thought and morals and lead to deviation from the straight path.

g. An Islamic economy be established which emanates neither from East nor from West, but an absolutely Islamic economy and a common Islamic

market be set up, where Muslims would cooperate in their production activities, and in marketing their goods on their own, without resorting to other parties, because the economy is the backbone of any society, and its integration will chart a course of unity for the Ummah.

THIRDLY:

HAVING CONSIDERED that the Islamization of education in Muslim countries is today an imperative need without which Muslim generations cannot be shaped into a harmonious edifice, integrated in thought, outlook, behavior and action. Towards this end,

RECOMMENDS

All sciences must be put within an Islamic context, both premise and objective, within a framework of Islamic tenets, and that Islam, by its systems and rules, is a reference. The Islamic creed must underline the formulation of this educational and pedagogical curriculum. The main characteristics of the "Islamization of education" may be summarized as follows:

a. The Islamic Faith builds the foundation for greater Islamic ideas, which provide an overall view of the universe, man and life, and teaches man who his Creator is, the submission of the universe to the Almighty, and man's relation with his Creator and with society.

b. Islam be the pivot of social, human, economic and political sciences; that the human theories of Islam be put in focus and related to the creation of the universe, of man and life; that this be undertaken in coordination with the Islamic Organization for Medical Sciences of Kuwait, and the Islamic Educational, Scientific and Cultural Organization (ISESCO).

c. Emphasis be laid on the noxiousness of materialistic and heretical sciences which are in contradiction with the Islamic creed, and of misleading habits, such as fortune telling, magic, witchcraft and astrology; that a warning be sounded against any science denounced and prohibited by Islam, as well as sciences that have inherent sinfulness and iniquity.

d. The history of science and knowledge be reformulated to lay emphasis on their development and the contribution made thereto by Muslims, as well as to clear them of eastern and western theories that infiltrate into them to deviate the historical path of truth; that the classification of sciences and research curricula be reviewed from an Islamic perspective, through Islamic scientific centers and institutes and centers for Islamic

economy, in the various Muslim countries.

e. Sciences which deal with the universe, man and life have their relationship with the Creator restored. Scientific researchers who deal with these fields must view them as the product of His work's divine beautiful creation and perfection.

f. The criteria, standards and rulings emanating from Islam, or in consonance with its objectives be the principles governing all sciences; that the shortcomings of western curricula be stressed, those which alleged a schism between religion and sciences, or have established some sciences on false premises, such as history, economy and social sciences.

It should be recalled that such project does exist and could provide a basis for the Islamization of education; indeed, it could be one of its essential instruments, namely the project of "Islamization of knowledge." The International Institute of Islamic Thought is working out a plan on this issue as well as an implementation program through articles, publications and seminars.

Indeed, Allāh is the Giver of success.

Resolutions and Recommendations of the 5th Session of the Council of the International Islamic Fiqh Academy

KUWAIT CITY
STATE OF KUWAIT

1–6 Jumādā al-Ūlā 1409
10–15 December 1988

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 39 (1/5)

Birth Control

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409h (10–15 December 1988),

having examined the research papers submitted by the Academy's members and experts concerning *Birth Control*,

having listened to the in-depth discussions on the subject,

having considered that, according to Shariah, one of the purposes of marriage is procreation and preservation of the human race, and that it is not permissible to ruin this purpose because such a destruction is a violation of the principles and teachings of Shariah urging for birth increase, preservation, and protection of humanity, considering that the preservation of progeny is one of the five *Maqāṣid* (essential universals) protected by all divine laws,

resolves

first: It is not permissible to issue a general law restricting the freedom of reproduction for married couples.

second: It is prohibited to deprive a man or a woman of his or her physical capacity to procreate, known as sterilization, except in case of necessity based on criteria set by Shariah.

third: It is permissible to control temporarily reproduction in view of spacing the pregnancy periods or to interrupt it for a fixed duration in case of a necessity recognized by Shariah, this should be done at the discretion of the married couple following consultation and consent between them, providing that no prejudice is caused and that the method to be used is legal according to Shariah, without any harm to an ongoing pregnancy.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution nos. 40–41 (2/5 and 3/5)

Keeping a Promise and Murābaḥah to the Purchase Orderer

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409H (10–15 December 1988),

having examined the research papers submitted by the Academy's members and experts concerning *Keeping a Promise and Murābaḥah to the Purchase Orderer*,

having listened to the in-depth discussions on the two subjects,

resolves

first: Murābaḥah to the purchase orderer is permissible on goods that are already in the physical possession of the seller, as required by Shariah, provided the seller carries the risk of loss before delivery or the consequences of returning the purchased goods due to concealed defects or any other reasons justifying the return of the goods after their reception, provided the conditions of the sale are met and with the absence of any impediments.

second: According to Shariah, a promise (made unilaterally by the purchase orderer or the seller), is morally binding on the promisor, unless there is a valid excuse. It is however legally binding if made conditional upon the fulfillment of an obligation, and the promisee has already incurred expenses on the basis of such a promise. The binding nature of the promise means that it should be either fulfilled or a compensation be paid for damages caused due to the unjustifiable non fulfilling of the promise.

third: Mutual promise (involving two parties) is permissible in the case of Murābaḥah sale provided that the option is given to one or both parties. Without such an option, it is not permissible, since in Murābaḥah sale, mutual and binding promise is like an ordinary sale contract, in which the prerequisite is that the seller should be in full possession of the goods to be sold, in order to be in conformity with the ḥadīth of the Prophet ﷺ forbidding the sale of anything that is not in one's possession.

HAVING NOTED that most Islamic banks devote most of their business to financing through Murābaḥah to the purchase orderer, the Academy recommends:

FIRST: Activities of Islamic Banks shall be expanded to cover all the development mechanisms of economy particularly by sponsoring industrial and commercial projects, through individual initiatives or Muḍārabah or Murābaḥah, with other partners.

SECOND: Practical aspects of Murābaḥah to the purchase orderer shall be studied by Islamic Banks with the aim of working out the basis for safeguarding against any pitfall in the application process and to help upholding general or private Shariah rulings governing transactions of Murābaḥah to the purchase orderer.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 42 (4/5)

The Changing Value of Currency

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409h (10–15 December 1988),

having examined the research papers of the Academy's members and experts concerning The *Changing Value of Currency (Rates Fluctuation)*,

having listened to the discussions on the subject,

having recalled the Academy resolution no. 21 (9/3) which agreed that banknotes, such as legal currencies, possess all characteristics of valuables, and are therefore subject to the rulings of Shariah relating to gold and silver, with regard to Ribā, Zakāh, Salam, and all their transactions,

resolves

The norm in the settlement of debt incurred in a specific currency is that it should be settled in the same (currency), rather than in value terms, for debts must be settled in an identical resource, and fixed debts, whatever their origin, are not permissible to be tied to the level of prices.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 43 (5/5)

Moral Rights

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409h (10–15 December 1988),

having examined the research papers of the Academy's members and experts concerning *Moral Rights*,

having listened to the discussions on the subject,

resolves

first: Business name, corporate name, trade mark, literary production, invention or discovery, are rights belonging to their holders and have, in contemporary times, financial value which can be traded. These rights are recognized by Shariah; therefore, not permissible to violate.

second: It is permissible to use and transfer a business name, corporate name, trademark for a price in the absence of any fraud, swindling or forgery, considering that it has become a financial right.

third: Copyrights and patent rights are Shariah protected rights. Their holders are entitled to freely exploit them. It is not permissible to violate such rights.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 44 (6/5)

Rent-to-Own Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409H (10–15 December 1988),

having examined the research papers of the Academy's members and experts concerning *Rent-to-own Contracts*,

having listened to the discussions on this subject,

having recalled resolution of the Academy no. 13 (1/3), in response to the questions submitted by the Islamic Development Bank (IDB) (Par. B) concerning renting transactions,

resolves

first: It is a priority to refrain from rent-to-own modes and adopt other alternatives, two of which are as follows:

a. Installment sale after receiving adequate guarantees.

b. The rental contract, by which the lesser gives to the lessee the choice, after completing all due installments, between the following options:

- Extension of the rental period,
- Termination of the rental contract and return of the property to its owner,
- Purchase of the rented item at market value at the end of the rental period.

second: There are many other forms of rent-to-own contracts, on which the debate has been postponed to the next session, pending the receipt of their sample contracts, with explanations on the realities and conditions governing such contracts. This task will be conducted in collaboration with Islamic Banks, pending further studies and to issue an appropriate resolution in this regard.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 45 (7/5)

Real Estate Financing for Housing Construction and Purchase

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409h (10–15 December 1988),

having presented the subject of *Real Estate Financing for Housing Construction and Purchase*,

resolves

To postpone discussion on the subject to the 6th session of the Academy, pending further studies and research in order to issue an appropriate resolution in this regard.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 46 (8/5)

Limitation of Traders' Profits

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409H (10–15 December 1988),

having examined the research papers of the Academy's members and experts concerning the *Limitation of Traders' Profits*,

having listened to the discussions on the subject,

resolves

first: The fundamental principle established by Shariah sources and maxims is that people should be free to buy and sell and dispose of their possessions and money, within the framework of the Shariah rulings, in accordance with the divine command: «O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent…» (al-Nisā', 29)

second: There is no restriction to the profit percentage which trader can make in his transactions. It is generally left to the business environment, to the circumstances of the trader, and to the nature of the goods. However, the ethics recommended by Shariah, such as leniency, contention, empathy and indulgence, should be taken into account.

third: Shariah texts have spelt out the obligation to keep the transactions away from illicit acts like fraud, cheating, deceit, forgery, concealment of actual benefits, monopoly, which are detrimental to humans and society.

fourth: Governments should not be involved in price fixing except when there are obvious market and price pitfalls due to artificial excuses. In this case, the government should intervene by applying adequate means to eliminate these factors, causes of defects, excessive price increases and frauds.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 47 (9/5)

'Urf (Custom)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409H (10–15 December 1988),

having examined the research papers of the Academy's members and experts concerning *'Urf (Custom)*,

having listened to the discussions on the subject,

resolves

first: The term 'Urf refers to any saying, habit, or a disregard people do and are used to it, which may or may not be recognized by Shariah.

second: If 'Urf is a specific custom, it is recognized by those who subscribe to it. On the other hand, if it is a general custom, it is recognized by all.

third: To be recognized by Shariah, an 'Urf should meet the following conditions:

a. It should be in conformity with Shariah. If it contradicts a text or a rule of Shariah, then it is corrupt custom.

b. It should be permanent or predominant.

c. It should already exist at the time of the issue involved.

d. The contracting parties should not pronounce against it, in which case it is not enforceable.

fourth: A Faqih – whether a muftī or a judge – should not confine himself to the dictums contained in Fiqh books without giving due regard to the changing customs.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 48 (10/5)

Enforcement of Shariah Rules

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409H (10–15 December 1988),

having examined the research papers of the Academy's members and experts concerning the *Enforcement of Shariah Rules*,

having listened to the discussions on the subject,

having recalled that the International Islamic Fiqh Academy was established as a result of the benevolent will of the 3rd Islamic Summit Conference held in Makkah al-Mukarramah, to find Shariah-based solutions to the problems of the Ummah, to comply Muslim life with Shariah principles and values, to remove the obstacles hindering the enforcement of the divine law, and ensure the necessary conditions for its application in order to sanctify hakimiyyah (supreme authority of Allāh), and translate into reality the primacy of Shariah, to put an end to the hostilities existing between some Muslim leaders and their people, to eliminate sources of tension, contradictions and conflict within their countries and bring about peace and security in Muslim countries,

resolves

first: The primary duty of the person in charge of Muslims affairs is to enforce Shariah.

second: Urging the governments of all Muslim countries to implement Shariah and comply fully, entirely, and lastly to it in all fields of life.

third: Calling upon all Muslim as individuals, communities, peoples, or states to abide by teachings of Islam and apply divine laws, considering that this religion is all in one, a belief system, a legal system, a code of conduct, and way of life.

recommendations

a. The Academy should continue research and comprehensive studies on various aspects of the implementation of Shariah and ensure following-up

the existing efforts in this regard in Muslim countries.

b. To ensure the coordination between the Academy and other scientific institutions entrusted with the implementation of Shariah and involved in developing plans, ways and means of removing the obstacles hindering the application of Shariah in Muslim countries.

c. To compile Islamic model laws elaborated in different Muslim countries in order to analyze them and benefit from them.

d. To urge for the reform of education programs and various communication means in order to mobilize them to contribute towards the enforcement of Shariah and the training of a new Muslim generation devoted to divine laws.

e. To expand the scope of training students and graduates such as judges, prosecutors, and lawyers, in order to prepare adequate human resources for the application of Shariah.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 49 (11/5)

Islamic International Law Comission

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 5th session in Kuwait City, State of Kuwait, on 1–6 Jumādā al-Ūlā 1409h (10–15 December 1988),

having reviewed the memorandum on the draft statute of the *Islamic International Law Commission* submitted to the Academy by the 17th Islamic Conference of Foreign Ministers held in Amman, Hashemite Kingdom of Jordan, pursuant to resolution no. 45/17-S,

resolves

Approval to study the draft statute of the Islamic International Law Commission and the designated tasks shall be submitted to the above-mentioned Commission to become part of the tasks of the Academy.

Indeed, Allāh is the Giver of success.

Resolutions and Recommendations of the 6th Session of the Council of the International Islamic Fiqh Academy

JEDDAH
KINGDOM OF SAUDI ARABIA

17–23 Sha'bān 1410
14–20 March 1990

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 50 (1/6)

Real Estate Financing for Housing Construction and Purchase

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having studied the research papers submitted to the Academy concerning *Real Estate Financing for Housing Construction and Purchase*,

having listened to the discussion on the subject,

resolves

first: Housing is a fundamental human need. This need should be met by legitimate means and by permissible (ḥalāl) money. The method of granting loans on interest adopted by the real estate and housing banks or other financial institutions is prohibited under Shariah, regardless how high or low the interest rates may be, because this method involves Ribā (usury) transactions.

second: There are several lawful ways which can substitute the unlawful (haram) ones for providing housing on the basis of ownership (in addition to providing them on rental basis). For example:

a. The state can offer loans meant especially for the construction or purchase of houses and repayable in suitable installments without charging any interest, neither in express terms nor under the name of service charges. However, if the need arises to meet the expenses incurred in the operations of such loans and in their follow-up, the same can be claimed from the debtors with the condition that the claim must be restricted to the real and actual expenses in the manner specified in paragraph (a) of resolution 13 (1/3) adopted in the third session of the Academy.

b. Capable states should undertake a project to build houses for sale to those who wish to own them. This sale can be done on the basis of deferred prices to be paid in installments in accordance with the rulings of Shariah stipulated in resolution no. 51 (2/6) of this session.

c. The investor, whether individuals or companies, can undertake the

construction of houses which can be sold on deferred payment basis.

d. The house can also be acquired through the contract of Istiṣnā‘ on the basis that it is binding to the parties. In this contract, the purchase of a house can be completed before it is built, provided that the specifications of the house are minutely enumerated in the contract, not leaving any vagueness which can lead to disputes. In this case, payment of price in cash and in full is not necessary, rather, it is permissible to defer the payment of price to such installments as may be agreed upon, keeping in mind all the conditions prescribed for Istisna according to the fiqh scholars who distinguished it from the contract of Salam.

RECOMMENDATION

To conduct further studies to find out other lawful methods that can facilitate the acquisition of housing for those interested.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 51 (2/6)

Installment Sales

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having examined the research papers submitted to the Academy concerning *Installment Sales*,

having listened to the discussion on the subject,

resolves

first: It is permissible to fix an increased price for a commodity sold on deferred payment, as compared to its cash price. It is also permissible to mention different prices for cash and deferred sales. Even the deferred prices can vary according to the different periods specified for payment, and such variance can be expressly disclosed by the seller to the customer. But the sale cannot take place until the parties agree to contract a particular mode of payment and specify whether the payment is in cash or deferred. Therefore, if the sale takes place without specifying a single particular mode of payment, leaving it uncertain whether the buyer shall pay in cash or in installments, the sale is not permissible according to Shariah.

second: It is not permissible, in installments sale, to fix the spot price on cash basis, then to charge interest expressly tied with different periods, as separate from the price of the commodity, no matter whether the parties have agreed on a particular rate of interest or have left it to the current market rate.

third: If the buyer/debtor delays the payment of installments after the specified date, it is not permissible to charge any amount in addition to his principal liability, whether it is made a pre-condition in the contract or it is claimed without a previous agreement, because it is Ribā, hence prohibited in Shariah.

fourth: It is prohibited for a solvent debtor to delay the payment of the installments from their due dates. However, it is not permissible to impose a compensation in case he delays the payment.

fifth: It is permissible for the deferring seller to impose a condition in the

sale agreement to pay installments before their deadlines when the debtor/buyer delays the payment of some installments, provided that the buyer had agreed to it when entering into the sale agreement.

SIXTH: The seller has no right to secure the ownership (of the sold commodity) after the sale has taken place. However, it is permissible for him to impose a condition that the buyer shall mortgage the sold commodity with the seller to secure his right of receiving the deferred installments of the price.

RECOMMENDATION

To postpone the examination of certain aspects related to installments sale, pending sufficient research and studies, with regard to:

a. Discounting the bills of exchange through banks.

b. Payment of the debt before its due date in exchange for a rebate (the issue of pay-early-and-take).

c. Effect of the death (of either parties) on remaining installments.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 52 (3/6)

Conclusion of Contracts by Modern Means of Communication

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410h (14–20 March 1990),

having examined the research papers submitted to the Academy concerning the *Conclusion of Contracts by Modern Means of Communication*,

having witnessed the enormous development in the means of communication and the current practice of using them to conclude contracts in order to ensure swift financial transactions and operations,

having recalled the different statements of Muslim jurists concerning the conclusion of contracts verbally, in writing or through an intermediary,

having considered the established principles that a contract between two parties requires majlis al-'aqd (attendance of the parties) – except in wills, delegated wills, and agency – the compliance of the offer with the acceptance, the absence of any sign indicating the unwillingness of either party, the continuity of the offer and acceptance according to custom,

resolves

first: If the contract is concluded between two parties who are not present in one place, and none of them can see the other physically, can hear his voice, and they are communicating to each other through writing or through an intermediary, which includes telegraph, telex, fax and the computer screen, then, the contract shall be deemed to be completed when the offer is communicated to the offeree and the acceptance is communicated to the offerer.

second: If the contract has been concluded between two parties at the same time, and they are in different places, as in the case of telephone and wireless, then this contract shall be deemed as a contract between two present parties. It abides by the original rules established by fiqh scholars which have been pointed out in the preamble of this resolution.

third: If a person extending an offer through these instruments subjects his

offer to a specified period, he shall be bound to abide by his offer throughout this period and cannot retract from it.

FOURTH: The preceding rules shall not cover the marriage contract because the presence of two witnesses is a necessary condition for its validity, nor shall it extend to the Ṣarf contract (exchange), because it requires taqābuḍ (receipt of possession) from both sides in their presence, nor to the Salam contract because the immediate payment of the capital price is necessary for the validity of such contracts.

FIFTH: In relation to the possibility of forgery, distortion or error, reference shall be made to general rules of legal evidence.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution No. 53 (4/6)

Qabḍ (Taking Possession): Forms (esp. the latest) and their Rulings

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having examined the research papers submitted to the Academy concerning *Qabḍ (taking possession): Forms (esp. the latest) and their Rulings*,

having listened to the discussions on the subject,

resolves

first: Just as the possession of commodities may be physical, by taking the commodity in one's hand or measuring or weighing the eatables, or by transferring or delivering the commodity to the premises of the possessor, similarly the possession may also be an implied or constructive possession which takes place by leaving the commodity at one's disposal and enabling him to deal with it as he wills. This will be deemed a valid possession, even though the physical possession has not taken place. As for the mode of possession, it may vary from commodity to commodity, according to its nature and pursuant to the different customs prevalent in this behalf.

second: Some of the forms of Qabḍ Ḥukmī (constructive possession) recognized both in Shariah and 'Urf, are as follows:

1. Crediting a sum of money in the customer's bank account, in the following cases:

    a. Where a sum of money has been credited to the account of the customer, either directly or through a Bank transfer.

    b. Where a customer contracts a sale of Ṣarf with the bank in the case of the purchase of a currency for another currency in favor of the customer's account.

    c. Where the bank, on order of the customer, debits a sum of money

from his own account and credits it to another account, in another currency, either in the same bank or in another bank, whether it is credited in favor of the same or a different customer. But it is necessary for the banks to take into consideration Shariah rules governing the Ṣarf contract.

If such crediting takes some time to enabling the beneficiary to draw the amount so credited, this delay can be allowed, provided it does not exceed usual period normally allowed in such transaction. However, the beneficiary of such crediting cannot deal in the currency during the allowed period until the crediting takes its full effect by enabling the beneficiary to draw the amount.

2. Receipt of a cheque, provided that the issuer's account has an amount which can be drawn in the currency specified in the cheque, and the bank has closed it (for the payee).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 54 (5/6)

Transplantation of Brain and Nervous System Cells

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having examined the research papers and recommendations concerning the *Transplantation of Brain and Nervous System Cells*, one of the topics of the Sixth Medical Fiqh Symposium held in the State of Kuwait on 23–26 Rabī' al-Awwal 1410H (23–26 October 1990) held jointly by the Academy and the Islamic Organization for Medical Sciences of Kuwait,

in light of the conclusions of the aforesaid symposium which concluded that transplantation here is not intended to transfer a human brain from one person to another, but to treat the failure of certain brain tissues by properly discharging chemical and hormonal substances and to replace these tissues with similar tissues obtained from another source, or to treat a gap of nervous system which has resulted from an injury,

resolves

first: If the source of the tissues is the suprarenal gland of the same patient and are accepted by the patient's body immunity as they are from the same body, the transplantation is not objectionable in Shariah.

second: If the source of the tissues to be transplanted is an animal fetus, there is no objection to this method if its success is possible, and there is no contravention of any rule laid down by Shariah. Physicians have mentioned that this method has been successful in different species of animals, and it is hoped that it will prove successful if adopted with necessary medical precautions to avoid the body's rejection of the transplanted organ.

third: If the source of the tissues to be transplanted is live tissues from brain of a premature human fetus (in the tenth or eleventh week of pregnancy), the Shariah ruling may differ according to the following methods:

A: FIRST METHOD

The removal of brain tissue directly from the human fetus in the mother's uterus, by surgically opening the uterus, will result in the death of the fetus. This practice is therefore prohibited by Shariah, unless it follows a miscarriage or a legal abortion to save the life of the mother, and the death of the fetus becomes obvious. In this case, the conditions for the use of the fetus prescribed in resolution no. 59 (8/6) of this session must be observed.

B: SECOND METHOD

This method may be developed in the near future and consists of cultivating brain tissues in special laboratories in order to make use of it. There is no Shariah objection to this method if the source of the cultured tissues is lawful and if it was obtained by lawful means.

FOURTH: Anencephaly (Child born without a Brain). As long as the child is born alive, it is not permissible to remove any part of his body, unless it is proven that he is dead by the death of his brain stem. He is no different from other infants in this respect. If he dies, removing parts of his body must be done in accordance with the terms and conditions applicable to the transplantation of the dead's organs, such as obtaining the required permission, unavailability of a substitute, evident need and such other conditions stipulated in resolution no. 26 (1/4) of the fourth session of this Academy. There is no Shariah objection to keep this brainless child on life support equipment until the death of his brain stem in order to preserve the life of transferable organs and to facilitate their transplantation according to the above-mentioned conditions.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 55 (6/6)

Excess Fertilized Eggs

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410h (14–20 March 1990),

having examined the research papers and recommendations concerning *Excess Fertilized Eggs*, one of the topics of the Sixth Medical Fiqh Symposium held in the State of Kuwait on 23–26 Rabī' al-Awwal 1410h (23–26 October 1990), held jointly by the Academy and the Islamic Organization for Medical Sciences of Kuwait,

having reviewed the thirteenth and fourteenth recommendations adopted in the third symposium of the Islamic Organization for Medical Sciences held in Kuwait on 20–23 Sha'ban 1417h (18–21 April 1987), on the issue of the disposal of fertilized eggs, and the fifth recommendation of the first symposium of the Islamic Organization for medical Sciences, held in Kuwait on 11–14 Sha'bān 1403h (24–27 May 1982) on the same issue,

resolves

first: In the light of the scientifically established possibility of preserving non-fertilized eggs for future use, only the number of eggs required each time for insemination must be fertilized to avoid the existence of surplus fertilized eggs.

second: If a surplus of fertilized eggs exists in any way, it shall be left without medical care until the life of this surplus ends naturally.

third: It is prohibited to inseminate fertilized eggs into another woman. Precautionary measures must be taken to prevent the use such fertilized eggs in this unlawful pregnancy.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 56 (7/6)

Fetus as a Source of Organ Transplantation

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having examined the research papers and recommendations concerning the use of *Fetus as a Source of Organ Transplantation*, one of the topics of the Sixth Medical Fiqh Symposium held in the State of Kuwait, on 23–26 Rabī' al-Awwal 1410H (23–26 October 1990), held jointly by the Academy and the Islamic Organization for Medical Sciences of Kuwait,

resolves

first: It is not permissible to use fetus as source of obtaining organs to be transplanted in another human, except in certain cases and under certain conditions which must be fulfilled:

a. It is not permissible to make an abortion in order to use the fetus for the transplantation of its organs into the body of another person. Abortion should be restricted in the case of miscarriage or Shariah-approved abortion, and no surgical operation should be resorted to in order to remove the fetus unless it is essential to save the mother's life.

b. If the fetus has a chance of remaining alive, medical treatment must be directed to keep it alive, and not for using it in organ transplantation. If it cannot survive, it must not be used except after its death in accordance with the conditions stipulated in Academy resolution no. 26 (1/4) at its fourth session.

second: Organ transplantation surgery must not, at all, be used for commercial purposes.

third: Supervision of organ transplantation surgeries must be entrusted to specialized and reliable authorities.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 57 (8/6)

Genital Transplantation

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having examined the research papers and recommendations on *Genital Transplantation*, one of the topics of the Sixth Medical Fiqh Symposium held in the State Kuwait, on 23–26 Rabī' al-Awwal 1410H (23–26 October 1990), held jointly by the Academy and the Islamic Organization for Medical Sciences of Kuwait,

resolves

first: transplantation of sexual glands

Since the testicles and ovaries continue to carry and transmit hereditary attributes to the transferee, even after being transplanted into a new transferee, their transplantation is prohibited according to Shariah.

second: transplantation of reproductive organs

Transplantation of some genital organs which do not transfer hereditary attributes, except intimate parts, is permissible for a legitimate necessity, in accordance with Shariah norms and criteria stipulated in the Academy resolution no. 26 (1/4) at its fourth session.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 58 (9/6)

Retransplantation of an Organ amputated in Qiṣāṣ (Retaliatory Punishment) or Ḥadd (Prescribed Punishment)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having examined the research papers submitted to the Academy concerning the *Retransplantation of an Organ amputated in Qiṣāṣ (Retaliatory Punishment) or Ḥadd (Prescribed Punishment)*,

having listened to the discussions on the subject,

having considered that the objective of Shariah in the application of Hadd punishment is deterrence by maintaining its appearance in order to remain a permanent lesson for offenders and eradicate the opportunities of further crimes,

given that the retransplantation of an amputated organ requires – according to modern medical science – an immediate surgical intervention, which cannot be performed without prior arrangement and special medical preparations, such an action may suggest the lack of seriousness in the application of Hadd and its expected effects,

resolves

first: It is not permissible to restore an organ amputated in Ḥadd because the objective of such punishment can be achieved only if its effects remain apparent even after punishment. This is the only way to prevent any neglect in the application of the punishment and avoid any possible conflict with evident provisions of Shariah.

second: Since the Qiṣāṣ (retaliation) has been ordained in order to establish equity and to give justice to the aggrieved person, and to secure the right of living in society and to provide peace and stability; therefore, it is not permissible to restore an organ amputated Qiṣāṣ except in the following cases:

a. The aggrieved person gives permission to the offender, after the application of Qiṣāṣ, to restore the amputated organ.

b. The aggrieved person has been able to restore his own organ.

THIRD: If an organ has been amputated due to an error in the judgment or execution, it is permissible to restore the same.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 59 (10/6)

Financial Markets

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410h (14–20 March 1990),

having reviewed the research papers, recommendations, and conclusions of the Financial Markets Seminar held in Rabat, Kingdom of Morocco on 20–24 Rabī' al-Akhir 1410 (20–24 October 1989), in collaboration between the Academy and the Islamic Research and Training Institute (irti) of the Islamic Development Bank (idb), and hosted by the Ministry of Habous and Islamic Affairs of the Kingdom of Morocco,

in light of Shariah principles encouraging lawful earning and investment of wealth and savings through Islamic investments based on the principle of burden-sharing and risks bearing, such risks liability,

given the important role of the financial markets in mobilizing the economy and stimulating investment activities, and that due importance should be given to these markets and to studying their contemporary problems in the light of Shariah will enable humanity to understand Islamic jurisprudence regarding them, in harmony with the efforts of fiqh scholars to explain Shariah rulings on financial transactions, in particular the principles governing the market and the system of Hisbah (accountability) for the supervision of markets, including giving equal importance to "secondary markets" which may facilitate investors' return to initial markets and provide a chance to access liquidity, and promote investment by giving investors confidence that they can leave the markets if necessary,

having examined the research papers submitted in this session concerning systems and laws of the present-day financial markets, their procedures and instruments,

resolves

first: The Financial markets should be given due importance in order to discharge the obligation of preserving wealth and ensuring its growth, because

it leads to meet the general human needs and discharge the spiritual and material duties relating to wealth.

SECOND: Although the original concept of financial markets is sound and its application is very much needed in the present-day context, yet their existing structure does not present an example to carry out the objective of investment and growth of capital within the Islamic framework. This situation requires serious academic efforts to be undertaken in collaboration between the Fiqh scholars and the economists, so that it may be possible to review the financial markets' existing systems, procedure and instruments and to amend what needs to be amended in accordance with Shariah principles.

THIRD: The financial markets are established through administrative and procedural systems; therefore, the adoption of these systems can be attributed to the legal maxim of Al-Masalih Al-Mursalah (unrestricted public interests) which is a recognized Shariah principle and does not contravene any of its injections or principles. It therefore relates to the regulations introduced by the State authorities, in order to organize professions and public services. If such regulations are implemented in full compliance with Shariah principles and injunctions, no one has the right to violate them or to seek ways to circumvent them.

RECOMMENDATION

To further examine the instruments and formulas used in financial markets through adequate fiqh and economic studies.[11]

Indeed, Allāh is All-Knowing.

[11] Resolution no. 63 (1/7).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 60 (11/6)

Bonds

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410h (14–20 March 1990),

having reviewed the research papers, recommendations, and conclusions of the Financial Markets Seminar held in Rabat, Kingdom of Morocco on 20–24 Rabī' al-Akhir 1410 (20–24 October 1989), in collaboration between the Academy and the Islamic Research and Training Institute (irti) of the Islamic Development Bank (idb), and hosted by the Ministry of Habous and Islamic Affairs of the Kingdom of Morocco,

having considered that a bond is a certificate by which its issuer undertakes the liability of paying its nominal value to the bearer on its maturity along with an agreed-upon interest relating to its value or to a predetermined profit, either in lumpsum or as a discount or in the form of prizes to be distributed on the basis of ballot,

resolves

first: The bonds which represent a commitment to pay its amount along with an interest related to its nominal value or to a predetermined profit are prohibited in Shariah. Their issues, their purchase and their trading, all are prohibited because they are interest-bearing loans, no matter whether their issuing authority belongs to the private sector or is a State-affiliated public entity. The alteration in the nomenclature, such as calling the bonds "certificate" or "investment securities" or "saving certificates" or calling the interest as "profit" or "income" or "service charge" or "commission" have no effect on the aforementioned ruling.

second: The "zero coupon bonds" are also prohibited because they are loans sold at a price inferior to their nominal value, and the owners of such bonds benefit from the difference in their prices which is considered a discount on the bonds.

third: Similarly, the "prize bonds" are also prohibited because they are loans

in which a liability to pay a predetermined profit or an additional amount is undertaken in favor of their bearers as a whole, or in favor of an undermined number of persons out of them. Moreover, these bonds have a resemblance with gambling (qimār).

FOURTH: The usury-based bonds, which are prohibited, can be substituted by the bonds and certificates issued on the basis of a contract of Muḍārabah (profit and loss sharing) meant for a particular project or a particular enterprise or company, wherein no predetermined profit or interest shall be paid to the bearers, but they shall be entitled to get a proportionate share in the profit of the project in relation to the proportion of their respective investments. This profit cannot be given to them unless it has been effectively accrued.

A scheme of the Muḍārabah certificate has already been approved by the Academy in resolution no. 30 (5/4) issued at its fourth session, concerning Muqāraḍah Bonds.[12]

Indeed, Allāh is All-Knowing.

[12] Resolution no. 30 (5/4).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 61 (12/6)

Topics and Seminars suggested by the Planning Division of the Academy

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410H (14–20 March 1990),

having studied the Planning Division's report submitted to the Secretariat General of the Academy and distributed to Council members, including the topics proposed to the Council and prioritized in a list including the following topics:

1. International Rights in Contemporary Islamic Fiqh
2. Marriage and Inheritance in Contemporary Islamic Fiqh
3. Contemporary Islamic Thought
4. Worships in Contemporary Islamic Fiqh
5. Transactions and Economy in Contemporary Islamic Fiqh
6. The Fundamentals of Fiqh in the light of the Modern Age.
7. Medicine and Sciences
8. Contemporary Issues and Calamities (except those mentioned above).

The report also suggests holding seminars on the following topics:

1. Women's Rights and Duties in Islam
2. International Rights in Islam
3. Human Rights and Coordination with the OIC's Efforts in this regard
4. Rights of the Child in Islam with a note on the International Convention on the Rights of the Child
5. Non-Muslims under Islam: Rights and Duties
6. Muslims between Originality and Dependence in the Modern World
7. Studies on Islamic Constitutional Models

8. Islam's position regarding modern arts (painting, singing, music and acting)
9. Islamic Governance System: Foundations, Principles and Major Issues in the Modern Time
10. Media and Modern Means of Communication from an Islamic Perspective
11. Islamic Jurisprudence's Rulings regarding Fluctuations of Convertible Currencies
12. Social Solidarity (Takaful) in Islam in light of Modern Applications
13. Treasury Bonds and Investment Certificates
14. Options and Futures in Financial Markets

RESOLVES

FIRST: Due consideration be given the above-mentioned proposals and entrusting the Secretariat General of the Academy to select from among these topics, according to the general interest, especially those proposed in the previous session.

SECOND: Entrusting the Secretariat General of the Academy to organize the proposed seminars, prioritising the topics that have already been proposed at the previous sessions, taking into account the circumstances and means available.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 62 (13/6)

Recommendations of the 6th Council Meeting of the International Islamic Fiqh Academy

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 6th session in Jeddah, Kingdom of Saudi Arabia, on 17–23 Sha'bān 1410h (14–20 March 1990),

recommends

first: Calls upon all Muslims to solidarity, unification of their word and attachment to Islamic solutions to their problems; to fulfill their duty of presenting Islam to the world, as a radical solution to its problems, instead of hiding themselves behind materialistic principles which failure became evident. Also, calls upon all Muslims to pay due attention to the fate of their brothers in the Eastern countries and defend their legitimate rights to preserve their religious personality and enjoy their human rights.

second: Condemns the deportation of Soviet Jews to Palestine, the Land of the Nightly Ascension, and is of the opinion that this constitutes a great danger confronting the Ummah as a whole. The Academy call upon the Arab and Muslim Countries to unite their voice and their position to face this imminent threat and to use all possible means to liberate the occupied territories and the religious sites, and to save the station of the Prophet's Ascension of its transgressors, and to support the (Palestinian) "Intifada" (uprising) against the Zionist enemy, in order to help it achieve its goal and ensure its continuity.

third: To focus on all media and information means in Muslim countries, work on guiding them towards the right path in the service of Islam and facing contemporary challenges. Also, entrusts the Secretariat General of the Academy to organize a special seminar on media.

fourth: To organize a seminar on contemporary arts such as acting, singing, music, dance, etc. and all other types of arts used by media.

fifth: To undertake in-depth research and studies on the multiplicity of kafārah (expiation of multiple homicides) to issue an appropriate resolution in this regard.

SIXTH: To postpone the examination of the issue of "Company Shares," in order to undertake more in-depth studies of this subject.[13]

SEVENTH: To organize a seminar on "Options and Futures."

EIGHTH: To establish, at the discretion of the Secretary General of the Academy, a committee composed of Fiqh scholars and economists, in order to answer the questions submitted by the Islamic Development Bank regarding participation in joint-stock companies.

Indeed, Allāh is the Giver of success.

[13] Resolutions no. 63 (1/7), no. 77 (8/8), and 87 (4/9).

Resolutions and Recommendations of the 7th Session of the Council of the International Islamic Fiqh Academy

JEDDAH
KINGDOM OF SAUDI ARABIA

7–12 Dhū al-Qi'dah 1412
9–14 May 1992

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 63 (1/7)

Financial Markets
(Shares, Options, Commodities, and Credit Cards)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 7th session in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412h (9–14 May 1992),

having examined the research papers submitted to the Academy concerning *Financial Markets (Shares, Options, Commodities, Credit Cards)*,

having listened to the discussions on the subject,

resolves

first: shares

1. Acquisition of Shares in Companies:

   a. Since lawfulness is the primary judgment regarding transactions, creating a joint-stock company with permissible purposes and licit activities is also lawful.

   b. There is no legal disagreement on the prohibition of participating in companies whose main purpose is haram, such as engaging in Ribā-based transactions, forbidden products, and trading them.

   c. Prohibition is the primary judgment regarding participation in joint-stock companies that may sometimes engage in prohibited transactions such as Ribā-based transactions, even though their main activities may be lawful under Shariah.[14]

2. Underwriting:

   Underwriting is an agreement made upon the establishment of a company with someone who undertakes to guarantee the sale of all or part of the shares issued, i.e. to undertake to subscribe for all shares that remain unsubscribed by others. There is no Shariah prohibition to this provided

[14] Resolutions no. 77 (8/8) and no. 87 (4/9).

that the obligee subscribes to the shares at nominal value without any compensation for the commitment per se though the obligee may receive compensation for work other than the underwriting – that he may carry out such as studies or marketing shares.

3. Payment in Installments of the Share's Value at the Time of Underwriting:

   There is no Shariah prohibition to the partial payment of the value of the subscribed share and to deferred payment of the remaining installment(s) as it may be considered as participation with down payment and commitment to capital increase. This does not involve any prejudice since it applies to all shares in the company's liability to third parties and covers the declared capital entirely, this being the amount that the company clientele has been informed of and satisfied with.

4. Bearer Shares:

   Since the sale of a "bearer share" involves an unidentified portion of the company assets, and the share certificate is a document that attests to entitlement to the said portion, there is no Shariah prohibition to the company issuing and circulating shares in this manner.

5. Contract Object in the Sale of Shares:

   The object of the contract in the sale of Shares is the unidentified portion of the company assets and the share certificate is a document attesting to entitlement to the said portion.

6. Premium Shares:

   It is not permissible to issue premium shares with financial privileges that involve guaranteed payment of the capital or of a certain amount of profit or ensure precedence over other shares at the time of liquidation or distribution of dividends.

   It is, however, permissible to give certain shares such privileges relating to procedural or administrative matters.

7. Trading Shares by Means of Ribā:

   a. It is not permissible to purchase a share with an interest-based loan offered to the purchaser by the broker or any other party against pawning of the share as this is involves a ribā (usury) transaction and its consolidation by mortgage, which are clearly forbidden by the ḥadīth "the eater, the agent, the clerk and the witness of Ribā shall be accursed."

b. It is also not permissible to sell a share that the seller does not possess but has received a pledge from the broker to be loaned the share at the time of delivery since such a deal falls within the framework of selling something that the seller does not own. The prohibition shall be more categorical if the deal is conditional upon the payment of the share price to the broker who would benefit by depositing this price with interest to obtain compensation for the loan.

8. Sale or Pawning of Shares:
It is permissible to sell or pawn a share subject to the provisions of the company statutes, such as the possible allowance therein for sale, whether free or conditional upon giving priority of purchase to long-standing shareholders. Similarly, the statutes should be considered for the possibility of pawning shares with partners at the rate of the ordinary share.

9. Issuance of Shares with Issuance Fees:
Adding a certain percentage to the value of the share to cover the issuance expenses is not subject to a prohibition in Shariah as long as the estimated rate is reasonable.

10. Bonus Issuance and Discount Issuance:
It is permissible to issue new shares to increase the company capital if the issuance is made at real value of the shares, based on experts' estimation of the company assets or at market value.

11. Company Guarantee of Share Repurchase:
The Academy resolved to postpone the adoption of a resolution on this subject until a future session, pending further research and examination.

12. Determining the Liability of a Limited Joint-Stock Company:
There is no prohibition in Shariah to creating a joint-stock company with a liability limited to its capital, for that is known to the company's clientele and this awareness on their part excludes uncertainty. Nor is there any prohibition in Shariah to the fact that some shareholders' liability to the creditors is unlimited without compensation for such a commitment, which is in the case for companies with both acting partners and limited partners.

13. Limiting Shares Trading to authorized Brokers and Stipulating Fees to enter their Markets:
It is permissible for competent official entities to regulate the trading of certain shares through licensed specialist brokers exclusively for, that is, an official procedure that serves legitimate interests.

It is also permissible to stipulate membership fees for transacting dealers in the financial markets as this is an organizational procedure designed to serve the said legitimate interests.

14. Priority Right:
The Academy resolved to postpone the adoption of a resolution on this subject until a future session, pending further research and examination.

15. Property Right Certificate:
The Academy resolved to postpone the adoption of a resolution on this subject until a future session, pending further research and examination.

SECOND: OPTIONS

1. Form of Options Contract

The purpose of an options contract is to permit withdrawal of a commitment to sell or buy something specific and described at a definite price during a given period or at a given time either directly or through an entity that guarantees the two parties' rights.

2. Shariah Rulings
As currently applied in the global financial markets, options contracts are a new type of contracts that do not fall under any one of the Shariah nominate contracts.

Since the object of the contract is neither a sum of money nor a utility or a financial right which may be waived, then the contract is not permissible, according to Shariah.

Since these contracts are initially not permissible, neither is their trading.

THIRD: DEALING IN COMMODITIES, CURRENCIES, AND INDICES IN ORGANIZED MARKETS

1. Commodities:

Commodity transactions in the organized markets are carried out in accordance with one of the four following modes:

FIRST MODE: The contract stipulates the right (of the buyer) to the immediate delivery of the merchandise sold and immediate payment (to the seller) of its price, and the commodities or receipts representing them are available with the permission of and held by the vendor. This contract is permissible in Shariah with the well-known conditions of sale.

SECOND MODE: The contract stipulates the right to the immediate delivery

of the commodities sold and immediate payment of their price and for the possibility of carrying out these two actions with the guarantee of the market authority. This contract is permissible in Shariah with the well-known conditions of sale.

THIRD MODE: The contract provides for delivering a described and secured merchandise at some future date, and payment of its delivery price. It also stipulates that it shall end with the actual delivery and receipt of the merchandise.

This contract is not permissible in Shariah because of the postponement of the two elements of the exchange. It may be amended to meet the well-known conditions of Salam sale; and if it does so, it shall become permissible.

Moreover, it is not permissible to sell a merchandise purchased under Salam sale before its payment, unless the merchandise has already been received.

FOURTH MODE: The contract stipulates delivering a described and secured merchandise at a future date, and the payment of its delivery price. The contract, however, does not stipulate that it shall end with the actual delivery and receipt of the merchandise, and thus it may be terminated by an opposite contract. This type of contract is the most prevalent in the commodity markets and it is essentially not permissible by Shariah.

2. Trading Currencies:
Currency transactions, in the organized markets, are carried out in accordance with one of the four modes mentioned above for the commodities.

Purchase and sale of currencies are not permissible through the third and fourth modes. They are, however, permissible through the first and second modes provided they meet the well-known currency exchange conditions.

3. Trading Indices:
An index is a figure calculated according to a special statistical method and designed to indicate the volume of variation in a given market. It is the object of transactions in several world markets.

Sale and purchase of the index are not permissible since they are pure gambling and constitute the sale of something fictitious (non-existent).

4. Shariah-compliant Alternatives to Prohibited Transactions in Commodity and Currencies
It is necessary to organize Islamic commodity and currency markets based

on Shariah-compliant transactions, notably bay as-salam (advance payment sale), sarf (exchange), wa'd bi al-bay (promise to sell), istisna (production order), etc.

The Academy deems it necessary to make a comprehensive study of these alternatives' terms and conditions as well as their application modes in the organized Islamic market.

FOURTH: CREDIT CARDS

A. DEFINITION

The credit card is a document given by its issuer to a natural or a legal person on the basis of a contract between them enabling the second party to buy goods or services from a vendor who approves the document, without paying the price immediately as the document includes the issuer's commitment to pay. Some types of this document make it possible to draw cash from the banks. Credit cards are of different types:

- For some of them, withdrawal or payment is made from the cardholder's account in the bank and not from the issuer's account and is therefore covered. For others, the payment is made from the issuer's account and is charged back to the holder at periodic intervals.
- Some cards impose usurious interests on the balance which remains unpaid during a specified period after due date. Others, also, do not impose any interests.
- Most credit card issuers charge an annual fee to the holder, while some other issuers do not charge any annual fee to its holder.

B. Shariah Characterization of Credit Cards

After discussions, the Academy resolved to postpone issuing a resolution concerning the characterization of this type of cards and its ruling in Shariah to a forthcoming session, pending further research and studies.[15]

Indeed, Allāh is All-Knowing.

[15] Resolution no. 96 (4/10).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 64 (2/7)

Installment Sale

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 7th session in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412h (9–14 May 1992),

having examined the research papers submitted to the Academy concerning *Installment Sale*, in continuation to resolution no. 51 (2/6) in this regard,

having listened to the discussions on the subject,

resolves

first: The installment sale is permissible in Shariah even if the deferred price exceeds the spot price.

second: Trading instruments (cheques, promissory notes, exchange bills) are lawful types of debt authentication by recording it in writing.

third: The discount of trading instruments is not permissible in Shariah, for it amounts to a transaction involving Ribā an-Nasī'ah (interest on delayed repayment) which is prohibited.

fourth: The discount of a deferred debt to accelerate its repayment, whether at the request of the creditor or of the debtor (pay less but ahead of time), is permissible in Shariah and does not fall within Ribā if not based on a prior agreement and as long as the relationship between the creditor and the debtor are bilateral. If a third party is involved between them, the discount is not permissible, subject to the Shariah ruling regarding the discount of trading instruments.

fifth: It is permissible for both parties to a debt to agree on the fact that all installments will be due for payment if the debtor refers to repaying any of the installments owned by him, as long as he is not insolvent.

sixth: If a debt falls due following the death, bankruptcy or procrastination of the debtor, it is permissible in all these cases to discount the debt in order to accelerate settlement.

seventh: The criterion of insolvency, which necessitates deferment, is that the debtor shall have no assets above his basic needs to discharge his debt in cash or in kind.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 65 (3/7)

Istiṣnā' (Manufacturing) Contract

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 7th session in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412H (9–14 May 1992),

having examined the research papers submitted to the Academy concerning *Istiṣnā' (Manufacturing) Contracts*,

having listened to the discussions on the subject,

having considered the purposes of Shariah regarding public interests, and the Fiqh maxims concerning contracts and transactions,

having noted that Istiṣnā' contract plays an important role in stimulating industries and in paving the way for broad opportunities for financing and promoting the Islamic economy,

resolves

first: Istiṣnā' contract, which has been mentioned with regard to work and goods on credit, is binding on both parties if it meets the basic requirements and conditions.

second: The Istiṣnā' contract must fulfill the following requirements:

a. A clear statement of the nature, type, amount and required specifications of the product to be manufactured.

b. A specification of the deadline.

third: In the Istiṣnā' contract, it is permissible to defer payment in full or in installments according to predetermined installments and specific deadlines.

fourth: In the Istiṣnā' contract, it is permissible to include a penalty clause if both contracting parties agree, unless subject to force majeure.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 66 (4/7)

Bay al-Wafa
(Selling with Repurchase Right)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 7th session in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412h (9–14 May 1992),

having examined the research papers submitted to the Academy concerning *Bay al-Wafa (Selling with Repurchase Right)*,

having listened to the discussions on Bay al-Wafa and its true nature, namely that the sale of a commodity on the condition that any time the seller returns the price, the purchaser returns to him the object of the sale,

resolves

first: 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 Shariah.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 67 (5/7)

Medical Treatments

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 7th session in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412h (9–14 May 1992),

having examined the research papers submitted to the Academy concerning *Medical Treatments*,

having listened to the discussions on the subject,

resolves

I. Medical Treatments

The initial Shariah ruling on medical treatments is permissibility given its explicit mentions in the Holy Quran and in the verbal and the practical Sunnah, and due to its "preservation of life," which is one of the universal objectives of Shariah.

Rulings on medical treatments differ depending on the different situations and individuals, as follows:

- It is obligatory if foregoing it may result in the person's self-destruction, an organ's loss or a disability, or if the disease may spread to others as in the case of contagious diseases.
- It is desirable if foregoing it may weaken the body without causing the consequences mentioned in the first case above.
- It is permissible if not mentioned by the two cases above.
- It is undesirable if the action to be taken is risky and may cause serious complications, worse than the disease to be cured.

II. Treatment of Hopeless Cases

A. One of the principles of the Islamic faith is that illness and cure are in the hands of the Almighty Allāh, and that medical care and treatment

are a way of adopting the means provided by Allāh the Almighty in the universe. It is not permissible to despair of Allāh's mercy but necessary to maintain the hope of healing by Allāh's will. Doctors and the patient's relatives should raise the patient's morale, continue to look after him, and alleviate his psychological and physical sufferings regardless of the chances or lack of recovery.

B. The concept of a clinically hopeless cases depends on the physicians' assessment, the medical capacities at any given time and place, and the patient's circumstances.

III. Patient's Consent

A. The patient's consent for the treatment is conditional if the patient is in full legal capacity to give it. If he is not, the permission of his or her legal guardian shall be sought according to the order of guardianship in Shariah, and in conformity with its provisions which limit the scope of the guardian's action to the benefit and interest of the person under guardianship as well as to eliminating harm from him or her.

If the guardian, however, does not to give consent, his decision shall not be taken into consideration if it is clearly detrimental to the person under guardianship. The right to giving consent shall then be transferred to the next guardian and ultimately to the authorities.

B. Authorities have the right to oblige medical treatments when deemed appropriate as in case of contagious diseases and preventive vaccinations.

C. When the victim's life is in danger as in emergency cases, medical treatment shall not depend on consent.

D. While conducting medical research, it is necessary to obtain the subject's consent if he or she is fully competent so as to avoid coercion (as in the case of prisoners) and financial enrichment (as in the case of the needy persons). Furthermore, the research to be undertaken must not involve any harm.

It is not permissible to conduct medical research on incapacitated or diminished persons, even with the consent of their guardians.

RECOMMENDATIONS

The Academy shall call for research submissions on the following medical issues for consideration at its upcoming sessions:

- Treatment with prohibited and impure materials and criteria for use of medicines.
- Aesthetic treatment.
- Doctor liability.
- Treatment of Women by a Male Doctor, and vice-versa, and the treatment of Muslims by a non-Muslim doctor.
- Treatment with Ruqya (spiritual healing based on the Quran and Sunnah).
- Doctor's code of ethics (to be discussed in several sessions if necessary).
- Influx of patients into treatment and their order of priority.
- Researching certain types of diseases that typically result in doctors' inability or reluctance to provide treatment. Examples may include:
  - A person with full body cancer. Should he be treated or just given painkillers and tranquillizers?
  - A child with severe hydrocephalic (cerebral death) accompanied by certain types of paralysis and his brain is atrophied (certain areas of the brain are still working). Should such a child be operated on? If the child has appendicitis or pneumonia, should he be treated or left untreated?
  - An elderly, decrepit man who has had a thrombosis, and with some sort of paralysis, he then has kidney failure. Should kidney failure be treated with dialysis? If he has a sudden cardiac arrest, should an attempt be made to rescue him, or should he be left untreated? If he has pneumonia, should he be treated or left untreated?
  - A person with severe brain injuries but with some parts of the brain still functioning (not included in the definition of brain death) and is in a coma and there is no hope of improvement. If such a person goes into a cardiac arrest, should he be rescued or left untreated? If that person has pneumonia, should he or she be treated? Who decides to discontinue treatment in such cases, is it a panel of doctors, or an ethics committee, or the doctors with the patient's relatives?
- Statements of the positions of Shariah and Sunnah towards these cases and categories.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 68 (6/7)

International Rights: An Islamic Perspective

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 7th session in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412h (9–14 May 1992),

having examined the research papers submitted to the Academy concerning *International Rights: An Islamic Perspective*,

having commended the efforts of the research papers presented and reviewed on the aforementioned topic, the Council deemed that the subject is so important and broad that it requires additional research and studies on multiple aspects,

having listened to the discussions on the subject,

resolves

first: Establish a preparatory committee to draft a working paper for a specialized symposium to discuss the subject above in details and develop a draft declaration of international rights in Islam, which will be submitted to the Council at its next session.

second: The themes of the working paper shall be as follows:

1. The sources of Islamic international law and international relations being the Quran, Sunnah, and practical applications under the rightly-guided Caliphs, in addition to taking into consideration Ijtihād (interpretative judgments) made by Fuqahā on the subject.
2. The purposes and general characteristics of Shariah which have a practical impact on all attitudes:
    a. Objectives of Shariah
    b. General characteristics
3. The concept of the Ummah and its unity in Islam.
4. Legal opinions of different schools of law (madahib) regarding territorial divisions.

5. Historical roots of the prevailing situation in the Muslim world.
6. Internal relations within the Islamic State (peoples and minorities).
7. Relations of the Islamic State with other States.
8. Position of the Islamic State regarding international conventions, treaties and organizations.

THIRD: The preparatory committee shall prepare explanatory documents to guide researchers through the details of these topics, provided that this will be undertaken in the coming months.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 69 (7/7)

Intellectual Imperialism: Recommendations of the 7th Session

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 7th session in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412h (9–14 May 1992),

having examined the research papers submitted to the Academy concerning *Intellectual Imperialism*, explaining its background, dangers, dimensions, and its impact on Arab and Muslim world,

hence, the research papers presented examples of the ambiguities and contestations that intellectual imperialism has provoked and the schemes and practices it carried out to destabilize Muslim society and subvert Dawah (Call to Islam). The research papers explained Islam's role in preserving the Ummah and its firm stance against this imperialism, and how Islam overturned many of its schemes and plots. They also focused on ways to confront such imperialism and protect the Ummah from its effects in all fields and at all levels.

having listened to the discussions on the subject above,

recommends

first: Work towards implementing Shariah and adopting it as a strategic approach in our political relations at the local and global levels.

second: Ensure the purification and promotion of educational methods and curricula to upbring the present generations based on Islamic principles and provide them with the proper training that would increase their knowledge and attachment to Islam and immunize them against all forms of cultural imperialism.

third: Develop the training curricula for preachers to make them understand the true spirit of Islam and its approach to human life and society, in addition to enlightening them on modern culture so that their interactions with contemporary societies are fully aware and informed.

fourth: Give Mosques their comprehensive educational role in Muslims' life to enable them to cope with all forms and effects of cultural imperialism and have a complete and authentic knowledge of their religion.

FIFTH: Refute ambiguities spread by the enemies of Islam using sound scientific methods to build confidence among the believers regarding the magnificence of our religion without resorting to weak defensive methods.

SIXTH: Give due importance to studying foreign ideas and borrowed principles and identify their shortcomings and deficiencies with scientific honestly and objectivity.

SEVENTH: Give due attention to Islamic awakening and give support to the institutions working in the various fields of Dawah and Islamic action to build the upright Islamic personality that presents to human society a shining practical example of Islamic teachings at individual and collective levels and in all fields of political, social, cultural and economic life.

EIGHTH: Give due attention to the Arabic language, its promotion, and its teaching worldwide, considering that it is the language of the Holy Quran, and to promote it as the teaching medium at the schools, institutes and universities in Arab and Muslim countries.

NINTH: Emphasize on highlighting Islam's tolerance, which has come for the goodness and happiness of mankind in this world and in the hereafter, through all living languages.

TENTH: Benefit efficiently and seriously from contemporary means and methods of communication to convey the words of truth and wisdom to all parts of the world without neglecting any other possible means.

ELEVENTH: Give due importance to resolve contemporary issues with Islamic solutions and translate these solutions into practical execution and sustained application since the successful application is the most effective means of Dawah and discourse.

TWELFTH: Work on emphasizing the manifestations of Muslim unity and complementary in all aspects and to resolve their differences and conflicts through peaceful means in conformity with the well-known Shariah provisions in this regard, thereby thwarting the plots of cultural imperialism aimed at breaking up the unity of Muslims and sowing discords and disputes among them.

THIRTEENTH: Work on strengthening Muslim powers and self-sufficiency, both economically and militarily.

FOURTEENTH: Appeal to Arab and Muslim states to support Muslims who are subjected to oppression in various parts of the world, to support their causes and to repel aggression against them by all available means.

ALSO

The Academy shall continue to raise related issues at future meetings and symposia of the Academy, given the critical importance of intellectual imperialism

and the need to establish an integrated strategy to confront its manifestations and developments.

This strategy could begin with the issues of christianization and orientalism in the next session.

Indeed, Allāh is the Giver of success.

Resolutions and Recommendations of the 8th Session of the Council of the International Islamic Fiqh Academy

BANDAR SERI BEGAWAN
BRUNEI DARUSSALAM

1–7 Muḥarram 1414
21–27 June 1993

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 70 (1/8)

Exemption and its Ruling

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Exemption and its Ruling*,

having listened to the discussions on the subject above,

resolves

1. A Shariah (legal) exemption is any Shariah provision exempted for a particular excuse to alleviate the ordained duties while maintaining the cause for the original Shariah ruling. There is no disagreement on the lawfulness of religious exemptions provided they are duly justified, remain within the limits of their applicability, and due regard is given to Shariah regulations on which these exemptions are based.
2. Fiqh (jurisprudential) exemptions mean the various interpretive judgments (Ijtihād) of different schools of law (madhāhib) permitting a certain matter as opposed to other interpretive judgments prohibiting it. Availing of fuqahā's exemptions, in applying the less restrictive of their opinions, is legitimate according to Shariah, by virtue of the rules listed in article 4 below.
3. Exemptions from general matters are handled on a par with fundamental Fiqh issues as long as they fulfill a benefit recognized by Shariah and are the result of a collective Ijtihād undertaken by competent scholars renowned for their piety and scientific honesty.
4. It is not permissible to take exemptions allowed by certain schools of law, solely on the basis of a person's desire, as this would lead to the abandonment of ordained duties. Rather, exemptions are to be taken in accordance with the following Shariah rules:
   a. Scholars' legal opinions evoked for exemption are acknowledged by

Shariah and have not been described as aberrant opinions.

b. The need for exemption arises to repel hardship, whether for common, private or individual needs.

c. The exempted person being capable of decision-making or is relying in the exempted matter on a party acknowledged for this aptitude.

d. Availing the exemption should not result in any of the prohibited deceptions as listed in article 6 below.

e. Availing the exemption should not be used as a pretext to achieve unlawful goals.

f. The exempted person shall feel at ease when taking the exemption.

5. The parallel of using deception by drawing on different schools of law occurs when the emulator approaches a single matter with a two or more ramifications in a way that is not addressed by the mujtahid scholars he emulates in that particular issue.

6. Talfiq (amalgamation) is forbidden in the following cases:

a. If it leads to free access to the exemption based solely on a person's desire, or to contravening any of the rules as indicated regarding access to exemption.

b. If it leads to overturning a judicial ruling.

c. If it leads to invalidating an act once applied, as an emulation of a single issue.

d. If it leads to opposing a legal consensus or its implications.

e. If it leads to a complex situation not approved by any mujtahid scholars.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 71 (2/8)

Traffic Accidents

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Traffic Accidents*,

having listened to the discussions on the subject,

having witnessed the increasing traffic accidents and their escalating dangers to human life and belongings,

having considered that the preservation of public interests requires the implementation of traffic rules, including the authorization of vehicles on the basis of their safety measures such as safety equipment, ownership transfer rules, in addition to sufficient precautions related to the issuance of driving license under conditions such as age, fitness, eyesight, knowledge of and compliance with traffic rules, speed and load limits,

resolves

first:

a. Complying with these regulations that are not contrary to the rules of Shariah is a duty prescribed by Shariah as it falls within the purview of obeying the ruler (government) in the provisions he makes for the public interest. These regulations should also include the provisions of Shariah that have not been applied so far in this field.

b. Public interest also calls for the promulgation of different types of punitive measures, including financial penalties as may be determined for anyone who violates traffic rules in order to prevent those who, through their possession of vehicles or other means of transport, endanger people's lives on the road or in public places, taking into consideration the prescribed rules of Hisba (accountability).

second: Accidents resulting from the use of vehicles are subject to the same felony rules defined in Shariah, even though in most cases they are the result of

inadvertence – the driver is liable for whatever damages he may cause to others whether physical or financial, as long as the error and damages are established. He is only exempt, except in the following cases:

a. If the accident is the result of a force majeure which he could not anticipate or avoid. This includes all matters outside human interference.

b. If the accident is caused by the victim who has largely contributed to the outcome.

c. If the accident is due to an error or a transgression committed by a third party, in which case, the latter is held liable.

THIRD: In case of road accidents caused by animals, the animal's owner shall cover the damages if he has neglected keeping them under control. The final verdict in such cases rests with the judiciary.

FOURTH: If the driver and the victim are equally liable for causing the damages, then each will be liable for the other's damages, both physical and financial.

FIFTH:

a. With due consideration to the details below, initially, the party active in the accident shall cover damages, even though he or she may not be in transgression, whereas the passive party shall only cover damages in case of transgression or excess.

b. If the active and passive parties are both involved, liability shall be incurred by the active party alone unless the passive party is in transgression and the active one not.

c. If the accident is the result of two different causes, each contributing to the damages, then each party shall bear a share of liability proportionate to his or her contribution to the accident. However, if their contribution to the accident is equal or unclear, the parties shall bear equal liability.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 72 (3/8)

Bay Urbun
(Down Payment Sale)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Bay Urbun (Down Payment Sale)*,

having listened to the discussions on the subject above,

resolves

1. Down-payment (earnest) sale means the sale of a commodity with the buyer making a down-payment to the seller on the understanding that if he took the commodity the down-payment would be deducted from the selling price, and if he dropped it then the down-payment would be the seller's property.

   It is subject to the same rulings as in service contracts for it is considered as the sale of a service. Exceptions are made in the case of sales whose validity is made subject to the reception of either of the exchange's two elements (as in Bay Salam), and in the case of sales whose validity is subject to the spot reception of the exchange's two elements (as in trades including usury money or currency exchange). However, it does not apply to the case of Murābaḥah to the purchase orderer at the stage of mutual promises, it is rather done at the stage of selling subsequent to the contract.

2. Down-payment sales are permissible if the time frame of the contract is set, and the down payment is considered part of the selling price if the purchase is carried out, and it shall be a right property to the seller if the buyer desists.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 73 (4/8)

Auction Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Auction Contracts*,

having listened to the discussions on the subject,

having considered that auction contracts are a common practice today and, in some cases, have involved certain infractions which have made it necessary to regulate its application in a way that would preserve the rights of the contract's parties, in compliance with Shariah rulings,

having noted that that even governments and institutions have approved this type of contract through specific administrative regulations,

having acknowledged the need to elucidate Shariah rulings regarding this contract,

resolves

1. An auction contract is an exchange contract involving an invitation by interested parties, verbally or in writing, to participate in the auction. The contract is concluded with the consent of the seller.
2. An auction contract may vary in nature according to its object and ramify into a sale or lease or other types of contract. Accordingly, it may also be optional, such as ordinary auctions amongst individuals, or compulsory such as in the case of auctions dictated by the judiciary. It may be required by public and private institutions as well as governmental entities and individuals.
3. An auction contract's procedures in terms of written documentation, arrangements and administrative and legal terms and conditions must not be in contradiction with Shariah rulings.
4. Requiring a deposit from those wishing to enter the auction sale is permissible in Shariah. Their deposits must be reinstituted to all the partic-

ipants who have not been the last bidders. The deposit is deducted from the selling price for the winning bidder.

5. There is no restriction in Shariah to charging entry fees – value of the schedule of conditions – not exceeding the actual value as it represents a cost thereto.

6. It is permissible for an Islamic financial institution or any other party to initiate investment projects to secure for itself a higher benefit, whether the investor is a party in a Muḍārabah contract with the Bank or not.

7. Najash (shill bidding), which Shariah prohibits, may include the following practices:

   a. Someone with no intention to buy, offering higher bids just to entice the buyer into making higher offers.

   b. Someone not really intending to buy, pretending to admire the commodity as an expert, and extol its benefits to the buyer, thus affecting a higher price.

   c. The owner of the commodity, the agent or the broker, claims falsely that a specific price has been paid for it, so as to mislead the buyer.

   d. Contemporary forms of Najash, which Shariah prohibits, include the use of the media, whether audio, visual, or in print to attribute unreal characteristics to the commodity, or to increase the price in order to entice the buyer and manipulates him into entering the contract.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 74 (5/8)

Shariah Applications for the Islamic Market

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning Shariah Applications for the Islamic Market, as a continuation to the discussions on Islamic financial markets and securities in the previous sessions, particularly at the seventh session in Jeddah,[16]

having reviewed the symposia organized by the Academy on the same issues, in order to develop adequate legitimate instruments given that the latter represents mechanisms that can absorb the cash-flow available in Muslim countries and achieve developmental objectives, mutual solidarity, balance and complementary between Muslim countries,

having listened to the discussions on ways to benefit from the various modes, namely shares, ṣukūk and special contracts, for the full realization of an Islamic market based on Shariah principles,

resolves

first: shares

The International Islamic Fiqh Academy issued resolution no. 63 (1/7) on *Financial Markets (Shares, Options, Commodities and Currencies)*, elucidating Shariah rulings applicable to them and the method in which they can be utilized for the realization of the Islamic Financial Market.

second: Ṣukūk

a. Muqāraḍah bonds and Investment Bonds were the subject of the Academy resolution no. 30 (5/4) on *Muqāraḍah Bonds*.

b. Leasing bonds, or hire-purchase bonds, were the subject of the Academy resolution no. 44 (6/5). These bonds can therefore play an effective role

[16] Resolution no. 63 (1/7).

in the Islamic financial market in terms of benefits.

THIRD: SALAM (FORWARD BUYING CONTRACT)

Since Salam (forward buying) contract covers a wide range in its terms and conditions, it is advantageous for the buyer in investing his surplus funds for profit, as well as the seller in securing adequate commodity prices. The Academy resolution no. 63 (1/7) is thereby reiterated to the effect that a commodity which is subject of a forward contract cannot be sold until it is received. The same resolution states that "a commodity purchased through a Salam (forward buying) contract cannot be sold before it is received."

FOURTH: ISTIṢNĀʿ (MANUFACTURING CONTRACT)

Istiṣnāʿ contracts were subject of the Academy resolution no. 65 (3/7).

FIFTH: BAY AJAL (DEFERRED SALE)

Deferred sale is another mode of investment that facilitates purchasing transactions. It benefits both the purchaser who gets immediate access to the commodity while paying later and the seller who secures higher prices. This results in a broader distribution and availability of commodities for the society.[17]

SIXTH: WAD AND MUWAʾADA (PROMISE AND MUTUAL PROMISES)

The Academy issued resolution nos. 40–41 (2–3/5) on promises and mutual promises in Murābaḥah to the purchase orderer.

RECOMMENDATION

Calling on researchers, scholars, and economists to prepare studies and research on the topics that have not been discussed in depth, in order to elicit their applicability and draw on them in a Shariah-compatible way for the benefit of Islamic financial market. These topics include:

a. Mushārakah Bonds with all their categories.

b. Formulation of leasing or hire-purchase contracts.

c. Compensation for Salam debt, consensus settlement, discount, partnership, discount, reconciliation, etc.

d. Mutual promise in other than Murābaḥah sales, particularly in currency exchange.

e. Debt selling.

[17] Resolutions no. 51 (2/6) and no. 64 (2/7).

f. Sulḥ (honorable settlement) in the financial market (compensation, etc.).

g. Clearing.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 75 (6/8)

Currencies-related Issues

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Currency-related Issues*,

having listened to the discussions on the subject,

resolves

first: It is permissible that professional statutes, bylaws, and regulations, and employment contracts, which include the definition of remuneration in currency figures, provided these are duly indexed, and that the indexation should not be prejudicial to the national economy.

Indexation in this context means periodic adjustment of salaries in line with the progression of the living cost as may be assessed by experts and competent authorities. Such adjustment aims at protecting the workers' cash payments against any decline in the purchasing power that the wages afford due to currency inflation and any consequent increase in the general cost of commodities and services.

Hence, the primary ruling regarding contracts' conditions is permissibility, except those that permit something prohibited (ḥarām) and prohibit something permissible (ḥalāl).

In case of overdue salaries, or if they become accumulated debt, they are therefore subject to Shariah rulings applicable to debts as stipulated in the Academy resolution no. 42 (4/5).

second: It is permissible for the creditor and debtor to agree on the day of settlement – but not before – to the debt settlement in a currency other than the one specified for the debt, provided the exchange rate applied is that applicable on the settlement date. Similarly, for debts due in installments in a specific currency, it is permissible for the parties to agree on the settlement day of any installment, to have it effected, in full, in a different currency at the prevailing

exchange rate on the date of settlement. A conditional requirement in all cases is that no part of the amount subject of the currency exchange should remain outstanding, with due consideration to the Academy resolution no. 50 (1/6) regarding Qabḍ (taking possession).

THIRD: It is permissible for both parties of the contract, at the time of contracting, to agree on the settlement of the deferred cost or salary in a specific currency to be settled in single payment or in several well-defined installments in a variety of currencies or against a given amount of gold. The settlement shall be made in accordance with the agreement, and it is also permissible for it to be made as indicated in the above article.

FOURTH: It is not permissible to agree on recording the debt resulted from a specific currency against the debtor in its counter-value in gold or other currencies because such a practice would make it compulsory to the debtor to settle the debt in gold or the other currency, as agreed upon for the settlement.

FIFTH: Reiterating the Academy resolution no. 42 (4/5) concerning *The Changing Value of Currency* (rates fluctuations).

RECOMMENDATIONS

The Secretariat General of the Academy shall assign competent Shariah and economics researchers renowned for their commitment to Islamic thought, to conduct an in-depth study on other issues related to currencies, to be submitted for consideration at future sessions. These issues may include:

a. The possibility of using legal currencies such as the Islamic Dinar, and particularly as regards the Islamic Development Bank's transactions, for the extension and settlement of loans, as well as for the fixation of term-loans to be settled at the equational rate between the legal currency in question and the foreign currency in which the settlement is to be affected, such as US Dollars.

b. Alternative Shariah-based methods for indexing deferred remunerations to the standard average price index.

c. The concept of banknotes stagnation and its effect on defining deferred rights and dues.

d. Inflation thresholds at which banknotes are considered stagnant.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 76 (7/8)

Problems of Islamic Banks

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning the *Problems of Islamic Banks*, which contained suggestions for dealing with these problems in their Shariah, technical or administrative aspects, as well as the problems of their relations with other different parties,

having listened to the discussions on these problems.

resolves

To submit the following list with its four themes to the Secretariat General of the Academy in order to commission experts to present their findings at future sessions, in the order of priority deemed appropriate by the planning division.

theme i: deposits and related issues

a. Guaranteeing investment deposits in ways consistent with Shariah-approved Muḍārabah rules.

b. Deposit exchange between banks on non-usury basis.

c. Shariah characterization of deposits and their accounting processing.

d. Extending credit to a person on condition to use it in dealing with the Bank in general or in a specific activity.

e. Muḍārabah costs and the party to bear them (Muḍārib or object of Muḍārabah),

f. Defining the relation between depositors and shareholders.

g. Brokerage in Muḍārabah, Ijārah (leasing) and collaterals.

h. Defining the Muḍārib in Islamic banking (shareholders, governing board, or executive management).

i. Islamic alternative for overdraft accounts.

j. Zakāh on Islamic banks' funds and deposits.

THEME II: MURĀBAḤAH

a. Murābaḥah in shares.

b. Postponing ownership registration in Murābaḥah sales to ensure that the bank's right to settlement remains guaranteed.

c. Deferred payment Murābaḥah with delegation of the purchase orderer and considering him as a trustee.

d. Procrastination in the settlement of debts resulting from Murābaḥah or deferred transactions.

e. Debt insurance.

f. Debt redemption.

THEME III: LEASING

a. Re-leasing to the owner of the leased asset or to someone else.

b. Letting people's services and sub-letting them.

c. Leasing, loaning, or mortgaging shares.

d. Maintenance of leased commodity.

e. Purchasing a commodity from a person on the condition that he leases it back.

f. Combining Ijārah and Muḍārabah.

THEME IV: CONTRACTS

a. Consensual condition to the bank's right to cancellation in case of default in payment of installments.

b. Consensual condition for change in the contract's type in case of default in payment of installments.

RECOMMENDATIONS

FIRST: Islamic Banks should continue their dialogue with the central banks in Muslim countries to enable the Islamic banks to fulfill their mission of investing their clients' funds, in accordance Shariah principles that governing banking activities and are compatible with their specific nature. Moreover, Central banks should respect the conditions required for the Islamic banks to play their active

role in national development, in compliance with the rules of control and with the distinct nature of Islamic banking.

The Organization of the Islamic Conference and the Islamic Development Bank are called upon to resume the meetings of Muslim states' central banks, which would make it possible to implement the requirements of these recommendations.

SECOND: Islamic Banks should train their managers and staff through adequate professional training appropriate to the nature of Islamic banking and by offering adequate training programs in collaboration with the Islamic Research and Training Institute (IRTI) and other parties concerned with training in Islamic banking.

THIRD: Give due attention to Salam (forward buying) and Istisna (manufacturing) contracts, as they offer Shariah-compliant alternatives to the conventional modes of productive financing.

FOURTH: To the extent possible, the use of Murābaḥah methods to the purchase orderer should be limited and restricted to instances which fall within the bank's supervision and where there is protection against deviations from Shariah principles governing them.

On the other hand, other modes of investment such as Muḍārabah, Musharaka and leasing should be developed with due attention to the monitoring and periodic assessment. Beneficial use should be made of the various accepted Muḍārabah instances, which would allow for a clear definition of the Muḍārabah activity and ensure an accurate accounting of the results.

FIFTH: Establish a market for commodities exchange among Muslim countries, replacing the international commodities market which is not free from Shariah deviations.

SIXTH: Redirect surplus liquidity to serve developmental objectives in the Muslim world, through collaboration among Islamic banks in consolidating joint investment funds and initiating joint projects.

SEVENTH: Expedite prompt action to find a Shariah-accepted index to be adopted as a substitute for usury rates of interest in the determination of profit margins in transactions.

EIGHTH: Expand the structure underpinning the Islamic financial market through joint action between Islamic banks, in cooperation with the Islamic Development Bank, in order to be more innovative and entrepreneurial in the exchange of Islamic financial instruments in all Muslim countries.

NINTH: Call upon states and relevant parties to establish specific regulations for dealing in Islamic investment modes such as Muḍārabah, Musharaka, Muzara'a, Musaqat, Salam, Istisna, and Ijar.

TENTH: Call upon Islamic banks to establish a database that would provide

adequate information on Islamic banks' clients and business men, so as to constitute a reference for Islamic banks and a source on which to promote transactions with reliable parties and avoid those who are not.

ELEVENTH: Call upon Islamic banks to coordinate the activities of their Shariah Supervisory Boards, either by reactivating the Supreme Shariah Supervisory Authority for Islamic Banks or by establishing a new one, so as to ensure the standardization of the activities of Shariah Boards of Islamic banks.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 77 (8/8)

Shareholding in Joint-Stock Companies Dealing with Ribā

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414H (21–27 June 1993),

having reviewed the research papers and recommendations of the Economic Symposium organized by the Academy in collaboration with the Islamic Research and Training Institute (IRTI) of the Islamic Development Bank (IDB), concerning the Shariah ruling on *Shareholding in Joint-Stock Companies Dealing with Ribā*,

having considered the importance of this subject and the need to pursue its study in all aspects, to cover all its details and to elicit all opinions in its regard,

resolves

The Secretariat General of the Academy shall commission further research on the subject to adopt an appropriate resolution in its regard at its next session.[18]

Indeed, Allāh is the Giver of success.

[18] Resolutions no. 63 (1/7) and no. 87 (4/9).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 78 (9/8)

Credit Cards

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Credit Cards*,

having listened to the discussions on the subject,

having considered the importance of this subject and the need to pursue its study in all aspects, to cover all its details and to elicit all opinions in its regard,

resolves

The Secretariat General of the Academy shall commission further research on the subject to adopt an appropriate resolution in its regard at the next session.[19]

Indeed, Allāh is the Giver of success.

[19] Resolutions no. 63 (1/7) and no. 87 (4/9).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 79 (10/8)

Confidentiality in Medical Professions

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Confidentiality in Medical Professions*,

having listened to the discussions on the subject,

resolves

first: A confidential matter is whatever someone tells another with either a prior or subsequent request to keep it secret. This includes matters which are conventionally known to be of confidential nature, including a person's private characteristics or defects that he or she is loath to make public.

second: A private matter is a confidence in the hands of the person entrusted with it, in accordance with Shariah principles and with the ethics of magnanimity and good conduct.

third: As a fundamental principle, disclosing secrets is a prohibited matter and disclosing them without a genuine motive warranting it, is reprehensible under Shariah.

fourth: Confidentiality is even more of a duty for professionals working in fields that are adversely affected by indiscretion, such as medical professions. Such professionals are resorted to for the sake of advice and assistance to people who open up to them and share anything that may help them fulfill their vital tasks properly. This may include information that is kept from everyone, including one's own family.

fifth: Exceptionally, the duty of confidentiality is not imposed in cases where the retention of secret may entail a damage greater than that which might otherwise be suffered by its patient, or where the disclosure of the secret may lead to a public interest that overweighs in importance the risks of its retention. Such cases are of two categories:

a. Cases where a secret must be broken on the grounds of the principle

of committing a lesser evil to avoid a greater one, and the principle of achieving a public interest which requires bearing individual harm to prevent public harm if necessary. These include two categories:

- To protect society against prejudice.
- To protect an individual against prejudice.

b. Cases where it is permissible to disclose a secret:

- To ensure a public interest.
- To prevent a public prejudice.

In all these cases, the objectives and priorities defined by Shariah must be respected in terms of the preservation of faith, life, intellect, progeny, and wealth.

SIXTH: Exceptional cases regarding the binding nature of confidentiality must be clearly stipulated in the codes of practice of medical and other professions. Such cases must be clearly defined and listed, with full details on how and to whom the secret can be disclosed. Relevant authorities need to familiarize each and everyone with these cases.

RECOMMENDATION

Calling on medical unions, health ministries and medical faculties, to include this subject in their curricula, give it its due importance and familiarize medical workers with the whole issue, as well as to issue relevant resolutions on this subject, and benefit from the research presented thereon.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 80 (11/8)

Doctor's Ethics: Liabilities and Guarantees

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Doctor's Ethics: Liabilities and Guarantees*,

having listened to the discussions on the subject,

resolves

To postpone the issuance of a resolution on this subject as well as on medical treatment with Shariah prohibited materials, to examine the medical code of practice developed by the Kuwait-based Islamic Organization for Medical Sciences.

Also, to request the Secretariat General of the Academy to commission further research on the said subjects for consideration at a forthcoming session.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 81 (12/8)

Treatment of a Female Patient by a Male Doctor

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers received by the Academy concerning the *Treatment of a Female Patient by A Male Doctor*,

having listened to the discussions on the subject,

resolves

As a principle, if a female specialist doctor is available, then she should be the one to examine the female patient. In the absence of such a specialist, the female patient may be examined by a trustworthy non-Muslim woman doctor, if not then by a Muslim male doctor, and if not, then by a non-Muslim male doctor, provided that in diagnosing and treating the ailment, the male doctor should see only the minimum necessary of the patient's body and lower his gaze to the extent possible.

The male doctor's treatment of a female patient should be in the presence of a maḥram (eligible blood relative) or a husband or a trustworthy woman, to avoid khalwah (unlawful seclusion of persons of opposite sex).

recommendation

Given the insufficient number of female medical doctors, especially in gynecology and obstetrics, health authorities must make every effort to encourage women to enroll in medical studies and their different specialties, in order to avoid resorting to the rules of exception.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 82 (13/8)

Acquired Immunodeficiency Syndrome (aids)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having examined the research papers submitted to the Academy concerning *Acquired Immunodeficiency Syndrome* (aids),

having listened to the discussions on the subject which concluded that since committing either of the two execrable sins of adultery and sodomy is the main factor behind sexual diseases, the most dangerous of which is aids,

having considered that combating depravity and guiding the media and tourism constitute are important weapons to cure these diseases,

having acknowledged that upholding the teachings of Islam, combating depravity, reforming the media, banning licentious films and series, and monitoring tourism are undoubtedly essential tools for the prevention of these diseases,

resolves

If one party of the married couple contracts this disease, he/she must inform the other and cooperate with him/her in all protective measures.

recommendations

first: Call on the competent authorities in Muslim States to take all necessary measures to protect against aids and punish whoever transmits it intentionally. Also, urging the government of the Kingdom of Saudi Arabia, to continue its intensive efforts to protect foreign pilgrims and take all necessary measures to protect them against aids.

second: Provide aids victims with the necessary care; meanwhile, victims and carriers of aids must avoid all that could transmit their disease to others. Also, adequate education should be provided to children carrying the disease.

third: The Secretariat General of the Academy shall commission medical

specialists and Fiqh scholars to conduct complementary research on the following subjects for consideration at future sessions.[20]

a. Quarantining AIDS carriers and victims.

b. Employers and their stance towards AIDS victims.

c. Abortion of pregnant AIDS victim.

d. Giving the right to women married to AIDS victims to rescind their marriage contract (faskh).

e. Should contracting AIDS be considered as a terminal disease in terms of the victim's behavior?

f. Implications for AIDS-infected mothers regarding their right to custody.

g. What is the Shariah ruling regarding a person who deliberately transmits AIDS to others?

h. Compensation of AIDS victims infected by blood transfusion, any of its substances, or by organ transplantation.

i. Undertaking premarital medical tests to avoid the risk of contagious diseases, namely AIDS.

Indeed, Allāh is All-Knowing.

≈

[20] Resolution no. 90 (7/9).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 83 (14/8)

Organizing Research Submissions and Discussions at the Academy's Sessions

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 8th session in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414h (21–27 June 1993),

having reviewed the publication rules and standards governing the Academy's research process and submissions,

having listened to the issues happening during the recruitment process and the determination of submission deadlines, in order to allow the Secretariat General of the Academy to evaluate the research papers in light of the above-mentioned publication rules,

resolves

first: In the event of failure to meet the deadline for receiving the research papers, the Secretariat General of the Academy may restrict itself to the research received before the deadline, without commitment to the research received after the deadline.

second: The Secretariat General of the Academy will not accept research papers submitted as a personal initiative by their authors without assignment from the Academy.

third: The session's discussions shall be limited to the invited members, experts and researchers of the Academy.

Indeed, Allāh is the Giver of success.

Resolutions and Recommendations of the 9th Session of the Council of the International Islamic Fiqh Academy

ABU DHABI
UNITED ARAB EMIRATES

1–6 Dhū al-Qi'dah 1415
1–6 April 1995

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 84 (1/9)

Gold Trading and Shariah Solutions to Combined Cash and Hawala

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415h (1–6 April 1995),

having examined the research papers submitted to the Academy concerning *Gold Trading and Shariah Solutions to Combined Cash and Hawala (Transfer)*,

having listened to the discussions on the subject,

resolves

gold trading:

a. It is permissible to purchase gold and silver by certified cheques provided that the exchange should be held in a majlis (attendance of the parties).

b. Confirming scholars' opinions regarding the impermissibility of exchanging gold jewelry for gold jewelry of higher value, as there is no sense in exchanging gold for other gold of a better quality or workmanship. Therefore, the Academy is of the opinion that it is not necessary to delve into this issue since it has lost its applicability and since nowadays, gold as a currency has been replaced by paper money. If it is exchanged with gold, it will be considered as another different type.

c. It is permissible to exchange a gold quantum for a lower quantum associated with a throw-in of a different nature, on the grounds that the difference in one of the elements exchanged is compensated by the throw-in.

d. Since the following issues require further conceptualizations as well as technical and Islamic research, it was decided to postpone the adoption of a resolution in their regard, until collecting the necessary data to distinguish them, notably:

- Purchase of shares in a gold or silver mining company.
- Owning and granting ownership of gold through the delivery and

receipt of certificates representing specific quantities of gold that are available in the safety boxes of the issuing party for him to use in accessing or disposing the gold whenever he wishes.

SECOND: SHARIAH SOLUTIONS TO COMBINED CASH AND HAWALA (TRANSFER)

a. Transfers made in a specific currency and which the client wishes to transfer in the same currency are permissible under Shariah, whether for a fee or not, within the limit of the actual charges. When carried out without a fee, it is considered as an absolute transfer for those who follow the Hanafi fiqh which does not stipulate the client's indebtedness. For other schools of fiqh, it is considered as "souftaja", which is the act of depositing a certain amount of money with someone to pay it for the depositor or his representative in another country.

In case transfer is made for a fee, then it is considered as an agent against a charge but if the transfer agents operate transfers for the general public, then they are considered as guarantors of the amount, under the guarantee of the common service provider.

b. If the transfer calls for the payment in a currency other than the one in which it was deposited, then the transaction involves an exchange and transfer of currency, in the sense indicated in paragraph (a). The exchange operation is affected prior to the transfer, the customer remitting the amount over to the bank, and the bank crediting its registers with the same amount, after agreement on the exchange rate set forth in the receipt delivered to the customer. Thereafter, the transfer operation is carried out in the sense indicated above.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 85 (2/9)

Salam Sale and its Contemporary Applications

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415h (1–6 April 1995),

having examined the research papers submitted to the Academy concerning *Salam Sale and its Contemporary Applications*,

having listened to the discussions on the subject,

resolves

first: salam sale

a. Commodities in which a Salam contract may take place include any permissible tradable goods with definable features, imputable as a debt, be they raw materials, agricultural products or manufactured goods.

b. Salam contract must be well-defined either by tying it to a well-known deadline or to an event whose happening is an absolute certainty even if the date of its occurrence may be subject to a slight difference not likely to cause discord such as the harvesting season.

c. Salam capital should – in principle – be received promptly during majlis al-aqd (attendance of the parties). However, it is permissible to defer it for two or three days, albeit on condition, the period of deferment being neither equal to nor above the date fixed in the Salam contract.

d. There is no restriction in Shariah for the purchasing party to take a pawn or a security from the recipient (the selling party).

e. It is permissible for the buyer to exchange the goods subject to Salam for something else other than cash after maturity of the deadline, be it of the same nature or not, since there is no specific Islamic text or consensus forbidding it, on condition that the substitute is itself amenable for Salam against the Salam capital.

f. In case the recipient (i.e. the selling party) fails to deliver the goods

subject to Salam on maturity date, then the creditor (i.e. the buyer) may, at his discretion, either wait until the goods are available or cancel the contract and recover his capital. However, if the default is due to genuine incapacity, then tolerance is in the order of the day until better times.

g. It is not permissible to include a penalty clause for the delay of providing the commodity since a commodity sold through Salam is a debt and it is not permissible to impose an additional charge for delayed repayment of debt.

h. It is not permissible to use a debt as a capital for a Salam sale since this would amount to selling a debt against another debt.

SECOND: CONTEMPORARY APPLICATIONS OF SALAM

Salam is considered today as a highly effective financing instrument in Islamic economy and in the activities of Islamic banks due to its flexibility and responsiveness to the various needs of financing, be it for short, medium or long terms, as well as its adaptability to the needs of various and multiple sections of customers, be they producers, agrarians, industrialists, building contractors, or traders, in addition to the capacity it offers to finance operating as well as other capital expenses. Hence, the wide range of Salam applications may include:

a. A Salam contract may be used to finance various agricultural operations, in which case the Islamic bank deals with farmers expected to have the commodity in the right season, either from their own crop or from that of others, which they may purchase and deliver in case of failure on their part to honor the delivery out of their own crops. Thus, the bank would extend to them this benefit of a great value and protect them against the failure to meet their production targets on account of financial deficit.

b. A Salam contract may be used to finance agricultural or industrial activities, particularly for financing the stages before the production and export of the tradable goods, by means of buying them with a Salam contract and remarketing them at profitable prices.

c. A Salam contract may be applied in the financing of handicraftsmen, small producers, farmers, and manufacturers by providing them with the necessary production requirements in the form of tools, equipment, or raw material as a forward capital (Salam capital) in order to access some of their products and remarking them.

To further elaborate the contemporary forms of Salam applications after conducting specialized research on the subject.[21]

Indeed, Allāh is the Giver of success.

[21] Resolution no. 63 (1/7), method 2, and no. 74 (5/8), article 3.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 86 (3/9)

Bank Deposits (Bank Accounts)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415H (1–6 April 1995),

having examined the research papers submitted to the Academy concerning *Bank Deposits (Bank Accounts)*,

having listened to the discussions on the subject,

resolves

first: Call deposits (current accounts) whether at Islamic banks or usury-based banks, are considered as loans in the Shariah perspective, since the bank receiving these deposits is answerable for their safety and is Shariah-bound to returning them on call. The ruling applicable to the loan is not affected by the bank's (borrower) solvency or otherwise.

second: Bank deposits are of two categories depending on the type of actual banking operations:

a. Deposits for which interest is paid, as in the case of usury-based banks, being usury loans, are prohibited whether they are call deposits (current accounts) or term deposits, notice deposits, or savings accounts.

b. Deposits placed in banks, which are seriously Shariah-compliant through an investment contract for a profit share, are considered as Muḍārabah capital, and are therefore subject to the rulings applicable to Muḍārabah (Qirad), including the ineligibility for the Muḍārib (bank) to guarantee the capital of the Muḍārabah transaction.

third: The guarantee for call deposits (current accounts) are attributable to the debtors (bank shareholders) as long as they have the exclusive benefit of the profits from their investment. Depositors in investment accounts are not called upon to participate in guaranteeing these current accounts, as they are associated neither in the borrowing nor in the profits due.

fourth: Mortgaging of deposits, whether call accounts or investment ac-

counts, is permissible, and mortgaging against their amounts can only take place through an arrangement precluding the account holder from having access to it for the duration of the mortgage. In case the bank operating the current account is itself the mortgage, the amount must be transferred to an investment account in such a way that the guarantee is no longer applicable to the conversion of the loan into a Qirad (Muḍārabah) and the profits arising from the accounted are credited to the account holder so as to prevent the mortgagee (creditor) from benefiting from any increase in the mortgage value.

FIFTH: Retention on the accounts is permissible if agreed upon by the bank and the customer.

SIXTH: The principal norm as to the legitimacy of these transactions calls for trust and honesty in disclosing data in a manner that would eliminate ambiguity or deception, and that would reflect reality in a way consistent with Shariah provisions. Rather, this is more of a duty for banks to the accounts they manage since their activities are based on their presumed credibility and to avoid misleading the involved parties.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 87 (4/9)

Investment in Shares and Investment Units

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415h (1–6 April 1995),

having examined the research papers submitted to the Academy concerning *Investment in Shares and Investment Units*, highlighting the issue of purchasing companies' shares whose objective and main activities are permissible, but borrow or deposit funds on a usurious basis,

having noted that no resolution has yet been issued on these companies although two seminars have been held on this subject and a preliminary resolution has been issued by the Academy at its seventh session, followed by another resolution at its eighth session,[22] to the effect that the Secretariat General of the Academy shall commission further research to issue an appropriate resolution at its next session,

having conducted discussions on the subject, it became clear that the subject needs in-depth studies to establish regulations for this type of companies which are more common inside as well as outside the Muslim world,

resolves

first: To postpone the examination of this subject provided further studies shall be carried out to clarify its technical and Shariah-related aspects, so that the Academy may adopt an appropriate resolution based on the recommendation of the eighth session.

second: To draw upon the three research papers on funds and investment bonds to elaborate the statute requested by the Academy resolution no. 30 (5/4).

Indeed, Allāh is the Giver of success.

[22] Resolutions no. 63 (1/7) and no. 77 (8/8).

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 88 (5/9)

Calls for Bids

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415h (1–6 April 1995),

having examined the two research papers submitted to the Academy concerning *Calls for Bids*,

having listened the discussions on the subject,

in accordance with the Academy's methodology, requiring the preparation of several studies on the same subject to examine its technical concepts and present its Fiqh opinions,

resolves

first: To postpone the issuance of a resolution concerning the themes examined under this subject, due to its importance, and to the need to complete the study in all its aspects and details, to elicit all related opinions, and to define the various fields in which bidding may take place, more particularly those fields which are prohibited such as usury-based financial instruments and treasury bonds.

second: The Academy's members and experts shall submit to the Secretariat General before the session's end, if possible or shortly after its conclusion, any technical or Shariah-related issues regarding the subject above, whether relating to the procedure, modes, or contracts used for the conclusion of the call for bids.

third: To commission further research on the subject to which technical, practical, and fiqh experts shall contribute.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 89 (6/9)

Currency-related Issues

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415h (1–6 April 1995),

having examined the research papers submitted to the Academy concerning *Currency-related Issues*,

having listened to the discussions highlighting that there are several directions to deal with the various cases of hyperinflation which lead to a serious decline in the purchasing power of some currencies, including:

a. Such exceptional cases also fall under the Academy resolution no. 42 (4/5) issued at its fifth session stipulating: "The norm in the settlement of debt incurred in a specific currency is that it should be settled in the same (currency), rather than in value terms, for debts must be settled in an identical resource, and fixed debts, whatever their origin, are not permissible to be tied to the level of prices."

b. The principle of indexation to the living cost shall be applied in such exceptional cases (taking into consideration the purchasing power of currencies).

c. The principle of indexation of banknotes to gold (referring to the currency's value in gold on maturity date).

d. The principle of mandatory agreement in honor is applied, after definition of damages incurred by the two parties (debtor and creditor).

e. A distinction shall be made between the decline in currency value through market forces of offer and demand, and the State devaluating its currency through a clear decision in such a manner that the paper currency's value which is normative and prescriptive may alter.

f. A distinction shall be made between the decline in the currency's purchasing power occasioned by government policies and that occasioned by external factors.

g. The principle of "cases of catastrophe" that falls under the consideration

of emergency circumstances shall be applied to these exceptional cases.

IN LIGHT OF these disparate opinions, which need to be duly studied and examined,

RESOLVES

FIRST: The Academy – in collaboration with one of the Islamic financial institutions – should organize a specialized symposium that would bring together several specialists in the fields of economics and Fiqh, including some of the Academy's experts and members, to explore the most sound and appropriate ways that could be agreed upon for the settlement of debts and the commitments in the aforementioned exceptional circumstances.

SECOND: The symposium's agenda should include:

a. Study of the concept of inflation, its different types, and its technical conceptions.

b. Study of the economic and social effects of inflation and their economic solutions.

c. Submit Fiqh solutions to solve inflation as mentioned in the preamble of this resolution.

THIRD: The conclusions of the symposium – together with its papers and minutes – shall be submitted to the Council of the Academy at its next session.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 90 (7/9)

Acquired Immunodeficiency Syndrome (aids) and its Shariah Rulings

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415h (1–6 April 1995),

having examined the research papers submitted to the Academy concerning *Acquired Immunodeficiency Syndrome (AIDS) and its Shariah Rulings*,

having listened to the discussions on the subject,

resolves

first: isolation of the patient

Medical data available today affirms that contagion with the human acquired immunodeficiency syndrome (aids) virus does not occur through cohabitation, ordinary contact, breathing, insects' bites, sharing of food, drink, swimming pools, seats, table-ware, or any of the other aspects of ordinary cohabitation. Instead, contagion can only occur through one of the following vehicles:

1. Sexual contact in any form.
2. Transfusion of contaminated blood or its by-products.
3. Use of contaminated needles, especially among drug addicts, as well as shaving blades.
4. Transmission from an affected mother to her child during pregnancy or at birth.

Given the above, it emerges that if there is no risk of contagion; hence, isolating victims from their healthy peers is not a Shariah obligation. The patients can be dealt with according to the approved medical procedures.

second: deliberate transmission of the disease

The deliberate transmission of aids to a healthy individual, in any manner, is haram and is considered one of the major sins and transgressions. It also calls

for the imposition of an earthly punishment which may vary depending on the severity of the act and its impact on the health of people and society.

If the purpose of the willful perpetrator is to spread this disease in society, then this act is considered a Hiraba (a crime against humanity) and a vicious act of evil-spreading, which warrants one of the punishments stipulated in the verse of hiraba: «Indeed, the penalty for those who wage war against Allāh and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; a heavy punishment is theirs in the Hereafter.» (Al-Mā'idah, 33)

If his intention in deliberately transmitting the disease, was to infect a specific person, and if the infection has indeed occurred but the victim of the transmission is still alive, the deliberate transmitter is subjected to appropriate punishment of Tazir (as decided by the Islamic judge). In case of the victim's death, then the death penalty is considered applicable to the transgressor.

In case, however, the transgressor's intention was to transmit the disease to a specific person, but the infection does not take place, the transgressor is subject to Tazir punishment.

THIRD: ABORTION OF AN AIDS-INFECTED MOTHER

Since the transmission of AIDS occurs, in the overwhelming majority of cases, only at the advanced stage of pregnancy (after the fetus has received life) or during delivery, it is therefore not permissible to abort the fetus, according to Shariah.

FOURTH: CUSTODY AND FEEDING OF AN AIDS-INFECTED MOTHER TO HER HEALTHY CHILD

Current medical data indicates that there is not definite danger in an AIDS-infected mother keeping her child in her custody and breastfeeding him/her, such a case being comparable to the case of ordinary association and cohabitation; therefore, there is no Shariah prohibition on the mother to keep her child in her custody and breastfeed him/her, unless there is a medical report otherwise.

FIFTH: HEALTHY SPOUSE'S RIGHT TO SEPARATION FROM THE AIDS-INFECTED SPOUSE

A wife has the right to request separation from the affected husband, considering that AIDS is a contagious disease that is transmitted primarily through sexual contact.

SIXTH: CONSIDERING AIDS AS A TERMINAL DISEASE IN SHARIAH

The disease of AIDS is considered a terminal disease according to Shariah if all its symptoms are present and the victim is no longer able to lead an ordinary living, and death becomes imminent.

RECOMMENDATIONS

FIRST: To postpone the subject of "the right to conjugal relationship" for further research.

SECOND: The need to maintain screening of Ḥajj pilgrims, to ensure that they are free of all contagious diseases, including AIDS.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 91 (8/9)

The Principle of Arbitration in Islamic Jurisprudence

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415h (1–6 April 1995),

having examined the research papers submitted to the Academy concerning the *Principle of Arbitration in Islamic Jurisprudence*,

having listened to the discussions on the subject,

resolves

first: Arbitration is an agreement between the two parties to a specific conflict to commission a third party to arbitrate between them and settle their disagreement through a binding verdict compliant with Shariah. Arbitration, thus conceived, is permissible, whether it is amongst individuals or in the field of international conflicts.

second: Arbitration is a non-binding contract for the two conflicting parties nor is it for the arbitrator. It is permissible for either party to decline it as long as the arbitration has not begun, and it is permissible for the arbitrator to dissociate himself from the matter – even after agreeing once – as long as he has not rendered a verdict. However, the arbitrator is not permitted to designate someone else as his replacement without the consent of both parties concerned, for their consent is tied to his persona alone.

third: Arbitration is not permissible in matters that are exclusive divine rights such as Ḥudūd (pl. of ḥad), nor in cases in which a verdict depends on the establishment or rebuttal of another verdict concerning a third party over whom the arbitrator has no guardianship, such as li'ān (cursing oath), due to its impact on the child's right. Arbitration is also not permissible in cases that fall under the exclusive realm of jurisdiction. Arbitration in cases that are not eligible for arbitration is null and void.

fourth: It is a condition for the arbitrator, as a fundamental principle, to meet the prescriptive requirements in a judge.

fifth: As a principle, the verdict issued by the arbitrator should be enforced

voluntarily. If either party refuses to do so, the matter is submitted to the court for enforcement, and the latter cannot abrogate the verdict unless it is found to constitute a clear inequity or deviation from Shariah.

SIXTH: In the absence of international Islamic Courts, Muslim States or Islamic institutions are permitted to seek arbitration from non-Islamic international courts to quest for a Shariah-permissible settlement.

RECOMMENDATION

Call on the Member states of the Organization of the Islamic Conference to finalize the necessary procedures for establishing an International Islamic Court of Justice and enable the latter to carry out its tasks as stipulated in its statute.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 92 (9/9)

Sad Dharai
(Blocking Means to Evil)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 9th session in Abu Dhabi, United Arab Emirates, on 1–6 Dhū al-Qi'dah 1415H (1–6 April 1995),

having examined the research papers submitted to the Academy concerning *Sad Dharai (Blocking Means to Evil)*,

having listened to the discussions on the subject,

resolves

1. The preemption of the means to evil is one of the fundamental principles of Shariah. It is defined as the prohibition of an otherwise permissible matter but which may be used to commit corruptions or prohibitions.
2. The preemption of the means to evil is not limited to matters that call for questioning or caution, rather it can extend to all that could be used as gateway to any prohibited matter.
3. The preemption of means to evil calls for blocking the way to any tricks that paves the way to the commitment of forbidden acts or to the nullification of any provision or requirement of Shariah. A trick differs from Dhari'a (sing. evasive legal devices) in that the former depends on the existence of deliberate intention, whereas the latter does not.
4. Dharia (evasive legal device) are of several categories:
    - The first category is subject to a legal consensus regarding its prohibition:

      This category includes evasive devices that are stipulated in the Holy Quran and the Sunnah, and those which are definitely or most probably conducive to evil action, regardless of whether the medium used is itself permissible, desirable, or obligatory, such is the case of contracts which are concluded for the purpose of committing a

prohibited act by stipulating it in the contract.

- The second category is unanimously subject to an open character:

  This includes cases where the benefit exceeds the harm that can be caused.

- The third category is subject to a legal disagreement:

  This includes cases where to all appearance, the intention is a sound one but is still surrounded by a suspicion of a gateway to something prohibited, due to its frequent use to such a purpose.

5. The legal norm for the permissibility of a Dhari'a is that it rarely leads to an evil action or that the action's benefits are more likely than the harm that results.

The legal norm for the prohibition of a Dhari'a is that it definitely or in most cases leads to an evil action, or that the harm likely to result from it is greater than the benefit.

Indeed, Allāh is All-Knowing.

Resolutions and Recommendations of the 10th Session of the Council of the International Islamic Fiqh Academy

JEDDAH
KINGDOM OF SAUDI ARABIA

23–28 Ṣafar 1418
28 June – 3 July 1997

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 93 (1/10)

Invalidators of Fasting in Medical Treatments

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 10th session in Jeddah, Kingdom of Saudi Arabia, on 23–28 Ṣafar 1418h (28 June – 3 July 1997),

having examined the research papers submitted to the Academy concerning the *Invalidators of Fasting in Medical Treatments*,

having reviewed the recommendations of the 9th Medical Fiqh Symposium organized by the Islamic Organization for Medical Sciences of Kuwait, in cooperation with the Academy and other institutions, held in Casablanca, Kingdom of Morocco on 9–12 Ṣafar 1418h (14–17 June 1997),

having listened to the discussions on the subject with the participation of Fiqh scholars and medical specialists,

having considered the legal proofs of the Quran, the Sunnah and the opinions of Fiqh scholars,

resolves

first: the following substances do not invalidate fasting

1. A drop in the eye or the ear, ear washing, nasal drop or spray as long as the substance reaching the throat is not swallowed.
2. Tablets placed under the tongue to treat chest angina or another illness, provided nothing is swallowed.
3. Anything introduced into the uterus, be it suppositories, lotion, ureteroscope or pelvic examination.
4. Entering a ureteroscope into the uterus, an intra-uterine device (IUD) or any other similar device.
5. Anything entered into the urinary tract of a man or a woman: probe, ureteroscope, radiopaque substances, liquid for bowel cleansing.
6. Tooth removal or cleaning teeth with a toothpick, a toothbrush or a miswak, provided nothing is swallowed.

7. Mouthwash, gargle, mouth-spray, provided nothing is swallowed.
8. Subcutaneous, intramuscular, or intravenous injections, excluding any perfusions and injection of nutritious fluids (serums).
9. Oxygen
10. Anesthesia by vaporization, provided nutritious fluids are not injected to the patient.
11. Anything penetrating the body through the skin, like creams, ointments or cutaneous patches containing medicinal or chemical substances.
12. Introduction of catheter for coronagraphs of heart vessels or other organs.
13. Fibroscopy by laparoscopy to examine the intestines for surgery.
14. Biopsy of the liver or other organs without addition of liquids (fluids) or other substances.
15. Fibroscopy or gastroscopy without addition of liquids or other substances.
16. Entering any instrument or substance into the brain or spinal cord for treatment.
17. Involuntary vomiting, other than deliberate vomiting.

SECOND:

The Muslim doctor should recommend to his or her patient to postpone any of the above-mentioned treatments until breaking fast, should such a delay do no harm to his or her health.

THIRD:

To postpone issuing a resolution on the below-mentioned cases pending further study and research regarding their effect on fasting, focusing the aḥādīth of the Prophet ﷺ and the accounts of his Companions رضي الله عنهم in regard to their rulings.

1. Bronchodilatory vaporization and inhalation of medicinal sprays.
2. Hijama (phlebotomy) and safd (bloodletting).
3. Blood sampling for analysis and blood transfusion (for the donor as well as for the receiver).
4. Peritoneal hemodialysis, which involves placing a tube into the abdomen to inject an appropriate ionic solution to replace the blood ions (through the peritoneum) or from artificial kidneys.
5. Entering anything into the anus such as rectal injection, suppositories,

rectoscopes or rectal exams during a medical consultation.

6. Surgery under general anaesthesia, when the patient has previously declared his or her intention to fast and has not received any solution or nutritious fluids.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 94 (2/10)

Human Cloning

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 10th session in Jeddah, Kingdom of Saudi Arabia, on 23–28 Ṣafar 1418h (28 June – 3 July 1997),

having examined the research papers concerning *Human Cloning*,

having reviewed the recommendations of 9th Medical Fiqh Symposium organized by the Islamic Organization for Medical Sciences of Kuwait, in cooperation with the Academy and other institutions, held in Casablanca, Kingdom of Morocco on 9–12 Ṣafar 1418h (14–17 June 1997),

having listened to the discussions on the subject with the participation of Fiqh scholars and medical specialists,

concludes

preamble

Allāh the Almighty has created the human being in the best of his/her form and has surrounded him/her with His Generosity. Hasn't the Almighty said, «We have honored the sons of Adam, provided them with transport on land and sea, given them for sustenance the best and purest and conferred on them special favors above a great part of our Creation.» (al-Isrā', 70)?

Allāh the Almighty has endowed man with a spirit, has honored him by making him responsible, has made him His regent on earth, has allowed him to build this planet and has honored him by entrusting him with a mission compatible with his nature – this indeed is man's very nature. The Almighty has said, «So direct your face toward the religion, inclining to truth. [Adhere to] the fitrah of Allāh upon which He has created [all] people. No change should there be in the creation of Allāh. That is the correct religion, but most of the people do not know.» (al-Rūm, 30)

Islam insists on the necessity of preserving man's innate nature, by maintaining the five universal principles: religion, life, reason, progeny and property; and also by protecting man from any corruptive modification both at the level of causes and consequences, as witnessed by the following a ḥadīth qudsī as

quoted by al-Qurṭubī from the narration of al-Qāḍī Ismā'īl, "I have created my servants all pure, but the Devils have come to deviate them from their religion… and ordered them to change my creature." (Tafsīr al-Qurṭubī, 5/389)

Allāh the Almighty has taught man what he ignored and ordered him to research, observe, think, and meditate. In many verses of the Holy Quran, Allāh the Almighty calls out man: «Don't they see?», «Don't they look out?», «Doesn't man see that We created him from a drop of sperm?», «these are signs for those who understand», «this is a reminder for the conscious-minded», «Read! In the Name of Your Lord Who has created man from a clot.»

Islam does not place any obstacle or obstruction to the freedom of scientific research that constitutes a mean to discover the system established by Allāh the Almighty in His creation. Nevertheless, Islam stresses that the door cannot be left wide open without norms to the generalized implementation, without limit, of the results of scientific research, without examining them closely in the light of Shariah to authorize what is lawful and prohibit what is not. It is not allowed to apply a discovery just because such an application is technically possible. It has to be a useful science serving public interest and protecting people from harms. Science must respect human dignity, its place in the world and the purpose for which the Almighty Allāh has created him. Man should never be a field for experimentation. In any way, should his identity, his specificity and his particularity be violated. Science should neither shake the stability of social structure, nor destruct the foundation of parenthood, marriage links and family structures as they have been known through the history of mankind and preserved by the Divine Law on sound and strong bases set by the Almighty.

One innovation of our time concerns a topic that has focalized public attention worldwide, through the mass media, which is "Cloning." It was therefore necessary to let people know the rulings of Shariah on this issue, after having it studied, in all its details, by an elite group of Muslim experts, scientists, and scholars specialized in this field.

DEFINITION OF CLONING

It is generally known that the order set forward by Allāh stipulates that any human being created is the result of the encounter between a spermatozoid and an ovule which nucleus contains a number of chromosomes equal to half the number of chromosomes contained in the cells of the human body. When the spermatozoid of the father (the husband) unites with the ovule of the mother (wife), the result transforms into an embryo containing a complete genetic map and capable of reproducing itself.

Once it fixes itself in the mother's womb, this embryo gradually develops to become a complete being that will be borne by the will of Allāh. Thus, the initial

cell divides itself into two identical cells, then four, then eight, and so on, until reaching the stage of determining the differentiation of the embryonic being. If one of the cells of the embryo divides itself into two identical parts, we obtain identical twins. Such an experience has been possible with some animals and has resulted in giving birth to identical twins. This operation has been considered as a form of cloning or procreation, inasmuch as it yields identical copies or species. This technique has been called "cloning by division."

There is another method of cloning a fully-grown being. It consists in taking the nucleus of a cell containing the complete DNA of a subject and injecting it into an enucleated ovocyte. A new embryo containing a complete DNA and capable of reproducing itself is therefore created. Implanted into the uterus, the embryo develops, reaches its full shape and becomes a living being, given birth fully constituted, by the will of Allāh the Almighty. This type of cloning, known as "nuclear transfer" or "nucleus replacement," is called "cloning," and it has led to the birth of the ewe "Dolly," but this new creature is not an identical copy of the original because the enucleated ovule of the mother still contains remains of the nucleus in the area surrounding the removed nucleus. These remains have a noticeable effect on the transformation of the characteristics inherited from the cell. At our knowledge, such an experience has not yet, been applied to human being.

Cloning is therefore giving birth to one or several living beings, either by transplanting the nucleus of a cell into an enucleated ovule or by dividing a fertilized egg before the tissues and limbs differentiation stage.

No one ignores that such operations do neither constitute a total creation, nor a partial one. Allāh the Almighty has said, «Or do they assign to Allāh partners who have created (anything) as He has created, so that the creation seemed to them similar? Say: Allāh is the Creator of all things: He is the One, the Supreme and Irresistible.» (al-Raʿd, 16)

Allāh the Almighty also said, «Have you seen that which you emit? Is it you who creates it, or are We the Creator? We have decreed death among you, and We are not to be outdone. In that We will change your likenesses and produce you in that form which you do not know. And you have already known the first creation, so will you not remember?» (Al-Wāqiʿah, 58–62)

And the Lord also said, «Does man not consider that We created him from a [mere] sperm-drop – then at once he is a clear adversary? And he presents for Us an example and forgets his own creation. He says, "Who will give life to bones while they are disintegrated?" Say, "He will give them life who produced them the first time; and He is, of all creation, Knowing." [It is] He who made for you from the green tree, fire, and then from it you ignite. Is not He who created the skies and the earth Able to create the likes of them? Yes, [it is

so]; and He is the Knowing Creator. His command is only when He intends a thing that He says to it, "Be," and it is.» (Yāsīn, 77–82)

The Almighty also said, «And certainly did We create man from an extract of clay. Then We placed him as a sperm-drop in a firm lodging. Then We made the sperm-drop into a clinging clot, and We made the clot into a lump [of flesh], and We made [from] the lump, bones, and We covered the bones with flesh; then We developed him into another creation. So blessed is Allāh, the best of creators.» (Al-Mu'minūn, 12–14)

BASED ON the studies, discussions, and Shariah principles previously presented,

THE ACADEMY RESOLVES

1. It is prohibited to clone a human being as in the two cases mentioned above or by any other method that results in the multiplication of human species.
2. In case of violation of Shariah rulings underlined in the first paragraph, consequences of such acts should be brought to the Academy's notice to clarify Shariah rulings concerning them.
3. Are prohibited all cases implying the intervention of a third party in the procreation process, whether a uterus, an ovule, a spermatozoid, or a body cell for cloning.
4. It is permissible in Shariah to use cloning techniques and genetic engineering in the fields of microbiology, botany and zoology, and thus within the norms prescribed by Shariah, in order to serve general interest and prevent evil consequences.
5. Call on Muslim countries to adopt laws and regulations to close all direct and indirect channels to local or foreign institutions, research institutes and foreign experts so as to prevent them from using Muslim countries as experimentation fields for the propagation of cloning.
6. The Academy and the Islamic Organization for Medical Sciences of Kuwait shall jointly monitor the issue of cloning and any new discovery in this field, and shall establish the terminology of cloning and organize seminars and meetings to clarify Shariah rulings regarding this subject.
7. Calling for the creation of specialized committees composed of experts and Fiqh scholars, to establish the rules of ethics in the field of biological research to be adopted in Muslim countries.
8. Calling for the creation and strengthening of scientific institutions and centers dealing with biological and genetic research, but in field oth-

er than human cloning, in compliance with Shariah rules, so that the Muslim world would not be remain in a state of dependency in this field.

9. Devoting the handling of scientific discoveries from an Islamic perspective and calling the media to adopt godly and faithful positions regarding these issues, and to avoid using these discoveries in ways that are contrary to Islam, as well as making public opinion aware of the right to verify information before any taking any decision, as required by the Almighty Allāh who said, «And when information about safety or fear comes to them, they spread it, but if they had referred it to the Messenger or to those in authority among them, then those who can draw correct conclusions would have known about it. If it were not for Allāh's favor upon you and His mercy, you would have followed Satan, except for a few.» (Al-Nisā', 83)

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 95 (3/10)

Animal Slaughters

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 10th session in Jeddah, Kingdom of Saudi Arabia, on 23–28 Ṣafar 1418h (28 June – 3 July 1997),

having examined the research papers submitted to the Academy concerning *Animal Slaughters*,

having listened to the discussions on the subject with the participation of Fiqh scholars, medical and nutrition specialists,

having recalled that animal slaughtering is one of the issues subject to Shariah rulings confirmed by the Quran and the Sunnah,

having considered that observing these rulings is part and parcel of the respect towards Islamic rites and symbols distinguishing Muslims from non-Muslims, as the Prophet ﷺ said, "He who does his prayer as we do; who turns his face as we do towards the Qibla, who eats the meat of the animal we have slaughtered, is a Muslim and enjoys the protection of Allāh and His Prophet,"

resolves

first: The lawful slaughter of an animal is performed in one of the following methods:

1. Cutting the animal's throat (Dhabḥ): it consists of cutting the esophagus, the two jugular veins, and the pharynx of the animal. This is the method preferred by Shariah for slaughtering cattle, sheep, goats, and poultry. It is also permissible for other animals.
2. Plunging a knife in the base of the neck (Naḥr): This is the method preferred by Shariah for slaughtering camels and similar animals. This method is also permissible for the cattle.
3. Wounding (ʻAqr): it consists in wounding an animal when there is no other choice, at any part of the body. This method is applied for wild animals hunting of which is lawful, or ferocious domestic animals. If the animal is captured alive, it should be slaughtered using the first or the

second method.

SECOND: The lawful slaughter of an animal is subject to the following conditions:

1. The person performing the slaughter must be of appropriate age and enjoying full mental faculties; he must be a Muslim or belonging to the People of the Book (Jews or Christians). It is not permissible to eat the meat of an animal killed by pagans, atheists, non-believers, Magus, apostates, or any other disbelievers, with the exception of the People of the Book.
2. The slaughtering must be performed with a sharp cutting instrument, either made of steel or other metal, capable of making the blood spurt, at the exception of teeth and fingernails which should not be used.
   It is prohibited to eat the meat of animals killed by suffocation, or knocked out with a blunt object (stone, stick, etc.), or killed after a deadly fall from an elevated spot or in a ravine or after receiving a blow from the horn of another animal, or the remains of an animal devoured by wild animals or birds of prey not trained for hunting. Nevertheless, if the animal is captured alive, then slaughtered, it is lawful to eat it.
3. The person performing the slaughter must invoke the Name of Allāh at the beginning of the operation. The use of a recorded Tasmiya (invocation of the Name of Allāh) cannot replace this act, but if the person performing the slaughter forgets to invoke the Name of Allāh, the meat of the slaughtered animal is indeed lawful for consumption.

THIRD: The slaughter of an animal should be performed in accordance with the rules of ethics prescribed by Shariah, like being merciful and gentle towards the animal, before, during and after the slaughter.

The sharpening of the instrument should not be done in front of the animal. An animal should not be slaughtered in front of another animal. It is forbidden to kill an animal with a non-sharpened instrument. The animal to slaughter should not be tortured. No part of its body should be cut off and it should not be skinned, or thrown into boiling water, or plucked, before one makes sure it is completely dead.

FOURTH: The animal to be slaughtered must be free from any contagious disease that would alter the consistency of its flesh and be harmful to the consumer's health. This sanitary requirement is imperative concerning the meat sold on the marketplace or imported.

FIFTH:

1. The lawful slaughter must, in principle, be carried out without stunning the animal, as the Islamic method, by its requirements and ethics, is the best because it is more merciful towards the animal and shortens its suffering. Therefore, competent authorities are called upon to develop the means and instruments to be used for the slaughter of large animals, so as to fully comply with these requirements.
2. While complying with the provisions of the above paragraph, it is permissible to consume the meat of a lawfully slaughtered animal after it has been stunned, if it is technically certified that the animal did not die from this operation before its slaughter. This procedure is defined by Muslim experts as follows:
    a. Application of two electrodes on the temples or the animal's forehead or nape.
    b. The voltage should be between 100 and 400 volts.
    c. The electric power should be between 0.75 to 1 ampere for sheep and between 2 and 2.5 amperes for cattle.
    d. The electrical shock should last 3 to 6 seconds.
    e. It is prohibited to knock out the animal with a needle gun, an axe, a hammer or by inflating it as in the English method.
    f. It is prohibited to stun poultry with electric shocks, as experience has shown that many animals die before slaughter with this method.
    g. It is not prohibited to consume the meat of an animal lawfully slaughtered after stunning it by using a mixture of carbon dioxide and air or oxygen or by using a round-headed gun that would not cause the death of the animal before slaughter.

SIXTH: Muslims living in non-Muslim countries must strive, through legal ways, to obtain permission to slaughter animals following the Islamic method, without stunning.

SEVENTH: Muslims travelling abroad or living in a non-Muslim country are allowed to consume the meat of lawful animals slaughtered by the People of the Book, after making sure it is free from any forbidden material. However, this meat is prohibited if it is proved that the animal has not been slaughtered according to the Islamic method.

EIGHTH: The slaughter of poultry or other animals should – in principle – be performed manually with the butcher's hand; however, it is not prohibited to

use mechanic instruments for slaughtering poultry if conditions prescribed in paragraph (2) above are met. It is also permissible to invoke the Name of Allāh once before the slaughtering of several animals, provided that there is no interruption in the process. If the operation is interrupted, the invocation should be repeated.

NINTH:

1. If meat is imported from countries where the majority of the population is from the People of the Book and where animals are killed in modern slaughterhouses, following one of the lawful methods and abiding by the Shariah conditions in this regard in Paragraph (2), then their consumption is lawful, in compliance with the Divine Words, «The food of the People of the Book is lawful to you.» (Al-Mā'idah, 6)
2. The meat imported from countries where the majority of the population does not belong to the People of the Book are forbidden since there is a strong suspicion that the slaughter of the animals has been carried out by an unauthorized person in the regard of Shariah.
3. The consumption of meat imported from countries defined in the above paragraph (2) is permissible only if a certified Islamic institution supervises the slaughtering process and if the person operating is a Muslim or from the People of the Book.

RECOMMENDATIONS

1. Call upon the governments of Muslim countries to approach the authorities of non-Muslim countries where Muslims live, in order to offer the Muslim community, the possibility of slaughtering animals using the Shariah-compliant method, without stunning.
2. In order to eliminate all problems related to the importation of meat from non-Muslim countries, it is necessary to implement the following measures:
    a. To develop livestock production in Muslim countries to achieve self-sufficiency in this field.
    b. To rely, to the extent possible, on importing meat only from Muslim countries.
    c. To import live animals and slaughter them according to the Islamic method, to ensure that the Shariah conditions are fully respected.
    d. To request the Organization of the Islamic Conference to establish

a unified Islamic Authority to undertake control operations over imported meats, thus creating an institution entrusted with the elaboration of detailed rules specifying Shariah requirements for slaughter, and to carry out control and supervision directly on site, with the assistance of experts in Shariah and technicians. A distinctive trademark registered and protected internationally by law should be stamped on the meat certified by this authority.

e. To endeavor making the institution mentioned in paragraph (d) the only authority entrusted with this control task and to call upon Muslim countries to recognize this exclusive authority.

f. Pending the implementation of the recommendation contained in paragraph (d) above, meat importers and exporters are requested to commit themselves to full compliance with the Shariah conditions for slaughtering any animal intended for consumption in Muslim countries, in order to prevent Muslims from falling into prohibited acts by resorting to effortless solutions and importing meat without ensuring at the outset that the animal has been slaughtered in accordance with Shariah.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 96 (4/10)

Credit Cards

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 10th session in Jeddah, Kingdom of Saudi Arabia, on 23–28 Ṣafar 1418h (28 June – 3 July 1997),

having examined the research papers submitted to the Academy concerning *Credit Cards*,

having listened to the discussions on the subject with the participation of Fiqh scholars and economists,

resolves

a. Entrust the Secretariat General of the Academy with making an on-site inventory of the various conditions and conventions relating to cards issued by banks.

b. Establish a committee to study the types of bank cards to identify their characteristics and their differences, and to define their Shariah characterization, and this, after collecting enough data on cards issued by banks in the Arab, Muslim and other countries.

c. Organize a seminar to discuss this topic, in light of the previous preparations, in order to prepare comprehensive and thorough conclusions to be submitted at the next session of the Academy.

recommendations

a. To emphasize the necessity to reformulate economic terminology regarding this subject and the Shariah purposes concerning lawful and unlawful transactions, according to their proper realities and in full transparency with regard to their content.

In this regard, it is necessary to give preference to existing terms in Shariah terminology, in order to consecrate their form and content, especially the terminology likely to have a Shariah jurisprudential impact, and thus in order to rectify the economic terminology and harmonize it with Fiqh terminology, drawing from the heritage of the Ummah and its Shariah concepts.

b. To insistently urge competent authorities in Muslim countries to forbid banks from issuing usury-based credit cards, in order to protect the Ummah from the risks inherent in usury and to preserve national economies and individual properties.

c. To establish a Shariah-based economic and financial authority to protect people from exploitation by banks and to safeguard their rights in accordance with Shariah provisions and financial policies, and to protect national economies and introduce carefully defined regulations intended to protect society from banks' exploitation as well as to protect the Ummah from the negative effects of their practices.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 97 (5/10)

The Role of Muslim Women in Development

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 10th session in Jeddah, Kingdom of Saudi Arabia, on 23–28 Ṣafar 1418h (28 June – 3 July 1997),

having reviewed the recommendations on the *Role of Muslim Women in Development*,

having listened to the discussions on the subject,

resolves

To entrust the Secretariat General of the Academy to establish a committee for examining the recommendations concerning the *Role of Muslim Women in Development*, and to submit their results to the next session of the Academy.

Indeed, Allāh is the Giver of success.

Resolutions and Recommendations of the 11th Session of the Council of the International Islamic Fiqh Academy

MANAMA
KINGDOM OF BAHRAIN

25–30 Rajab 1419
14–19 November 1998

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 98 (1/11)

Islamic Unity

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419H (14–19 November 1998),

having examined the research papers submitted to the Academy concerning *Islamic Unity*,

in light of the discussions emphasizing that this subject is one the most important issues, both theoretically and practically, and that one of the Academy's main objectives is to strive towards the unification of the Ummah intellectually, legally and politically, and to bind it strongly to Tawḥīd,

resolves

first: Islamic unity is a duty which the Almighty Allāh has commanded us to adhere to and achieve and made it a concomitant description of this Ummah when He said, «And hold firmly to the rope of Allāh all together and do not become divided.» (Āl 'Imrān, 103); and He also said, «Indeed this, your religion, is one religion, and I am your Lord, so worship Me.» (Al-Anbiyā, 92).

The Prophet's Sunnah stressed this call by words and deeds. The Prophet ﷺ said "All the Muslims' blood is of equal value, and all the Muslims are like one hand against others, and the lowest of rank among them moves around freely under their protection."

This unity was achieved by the Prophet ﷺ in practical life by forging brotherhood between the al-Muhājirūn (immigrants from Makkah) and al-Anṣār (supporters, inhabitants of Madinah). He also laid it down in the first document of the establishment of the Islamic State in al-Madinah al-Munawwarah, in which he described the Muslims as being "a single Ummah unlike the rest of people."

The meanings of such verses from the Holy Quran and from the sayings of the Prophet ﷺ make it incumbent upon the believers to unify their ranks under the banner of Islam, by holding firmly to the Quran and Sunnah, and renounce historical enmity, tribal differences and disputes, personal ambitions and racial slogans.

When the Muslims abode by the above Islamic teachings, during the Prophet's lifetime and the era of the early Muslims, the religion of Islam and its rule spread in the East and in the West, and Ummah guided humanity through the Islamic civilization, which was the most glorious civilization as it was established on the principle of servitude to Allāh alone; thus justice, freedom and equality prevailed.

SECOND: Islamic unity lies in ensuring servitude to Allāh the Almighty, in belief, words, and deeds, under the guidance of the Quran and Sunnah. It also lies in preserving what unifies Muslims on standard terms in the various intellectual, economic, social and political spheres of life. When Ummah abandoned the factors of its unity, reasons of discord began to emerge, deepening further, later on, disunity among Muslims.

This was due to various reasons, among which the efforts of colonization that raised the banner "divide and rule," thus splitting Ummah and the ranks of Arabs and Muslims into small parts based on nationalist and ethnic grounds. Besides, most of the orientalists' efforts focused on the perpetuation of discord and disunity in their studies and books, which they disseminated among Muslims.

THIRD: Jurisprudential (Fiqh) differences which are based on Ijtihād (jurisprudential interpretation) in understanding the meanings of Shariah sources are, in themselves, natural consequences. They, in fact, contributed to the enrichment of legislation which realizes the purposes and characteristics of Shariah, by making things easy and bearable for Muslims.

FOURTH: It is a Muslim duty to preserve the status of all the Prophet's Companions رضي الله عنهم. The 'Ulamā (Islamic scholars) should be called upon to extol the Companions' position and services in conveying Shariah to the Ummah and highlight their rights over it. Also, governments should be called upon to issue regulations that punish whoever denigrates or looks down upon them in any way whatsoever. This will preserve the sanctity of the Prophet's Companions رضي الله عنهم and nip in the bud one of the reasons of discord.

FIFTH: It is a Muslim duty to adhere to the Holy Quran and Sunnah and to the guidance of the Ummah's pious predecessors and those who follow their footsteps. It is also a Muslim duty to discard delusions, avoid what spreads seditions among Muslims and what leads to their disunity, and instead channel Muslim efforts to the call for Islam and the propagation of its principles among non-Muslims.

RECOMMENDATIONS

Needless to say, that our age is an age of regional blocks, which serve various intellectual, social and economic purposes under the banners of globalization, secularism and modernism, and also because of the media's unrestricted open-

ness. This makes the Muslim world targeted in a bid to put an end to its distinctive features, destroy its basic elements and undermine the foundations of its spiritual and intellectual civilization. Our Ummah cannot be protected from these perils and threats except by unifying its ranks and eliminating the reasons of discord, especially that our Ummah has all factors of unity which include a common creed with common social, economic, legislative and cultural aspects.

Hence, the Academy makes the following recommendations:

a. Confirming the Academy resolution no. 48 (10/5) regarding the application of the Islamic laws and the subsequent recommendations on the same topic, and the Academy resolution no. 69 (7/7) regarding intellectual imperialism, the subject matter of the first recommendation.

b. Calling upon the governments of Muslim countries to support the efforts made by both the Organization of the Islamic Conference and the International Islamic Fiqh Academy, considering that these efforts are manifestations of unity among Muslims, politically and intellectually.

c. Leaving behind historical disputes, for their effects only lead to inflaming enmity and deepening discord.

d. Maintaining positive opinion and mutual trust between Muslims, both as governments and citizens, through directing the media to fostering the spirit of unity, promoting the ethics of dialogue, and accepting opinions based on Ijtihad.

e. Benefiting from fateful issues which unify Ummah, principally the issue of Al-Quds and Al-Aqsa Mosque, the first of the two Qiblas and the Prophet's Masrā (station of his night journey), to ward off the dangers which threaten its Islamic character. The Academy also stresses that the issue of Al-Quds and Al-Aqsa Mosque is an issue concerning all Muslims.

The participants to the session appeal to the governments of Muslim countries to give this issue, and other similar issues, due attention and take prompt and appropriate measures, which include the following:

- Denouncing the policies of expulsion, judaization and settlement which Palestinian lands and people are being subjected to, and denouncing the occupation, injustice, oppression, deprivation, killing and dislodgement which the Palestinians are suffering from. Added to this are the humiliation of human dignity and the abuse of fundamental human rights.
- Extending full support to the struggling Palestine, its blessed land, and Al-Aqsa Mosque, the first of the two Qiblas, as well as to its fight for

independence, and siding with it and with the Palestinian people in their resistance.

- Condemning the Zionist movement and the Israeli occupation for the forms of oppression and the various aspects of ugly aggression against the struggle of the Palestinian people for freedom and for the liberation of sacred sites.

f. Paying due attention to the priority mechanisms proposed for the achievement of Islamic unity through stages, including:

1. Designing educational curricula on Islamic principles.
2. Formulating a joint Islamic media strategy.
3. Establishing a common Islamic market.
4. Establishing an Islamic Court of Justice.

g. The Secretariat General of the Academy should establish a committee from among its members and experts to prepare practical studies that are considering the current situation of Ummah. Such studies should include the cultural, social and economic aspects and put down mechanisms of achieving unity in these areas while benefiting from the current efforts of Arab and Muslim organizations and seeking the assistance of experts in these various disciplines.

Finally, in order to ensure the effectiveness of such a committee and the implementation of the findings of its studies, we recommend that its members and duties be approved by the Organization of the Islamic Conference.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 99 (2/11)

Secularism

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419h (14–19 November 1998),

having examined the research papers submitted to the Academy concerning *Secularism*,

in light of the discussions that highlighted the dangers of secularism against the Ummah,

resolves

first: Secularism, which is the separation between religion and life, started as a reaction to the arbitrary acts committed by the Church.

second: Secularism spread in Muslim lands with the force of colonization and its stooges, and under the effect of orientalism, and thus led to the fragmentation of Ummah, to casting doubts on the creed of Islam and to the distortion of the brilliant history of our Ummah. It also led to the propagation of a misconception among the young generation that there is a discrepancy between reason and Shariah sources; and thus, secularism worked to replace the Noble Shariah with man-made laws and promote licentiousness, moral degradation and the destruction of noble values.

third: From secularism spread destructive ideologies which invaded our countries under different names, such as racism, communism, Zionism, freemasonry, etc. which led to the dissipation of the Ummah's resources and the deterioration of economic conditions. The result was the occupation of some of our lands, such as Palestine and Al-Quds, which indicates the failure of secularism to do any good to our Ummah.

fourth: Secularism is a man-made system based primarily on the principles of atheism which is against Islam, in part and whole. It converges with international Zionism and calls for licentiousness. Therefore, it is an atheistic approach that is rejected by Allāh, His Messenger and by all believers.

fifth: Islam is a religion, a governing system and a complete way of life,

which is suitable for every time and place. It does not approve of the separation between religion and life and it requires that all laws and regulations emanate from it, and that practical life follow its system whether in politics, economics, social life, education, media, or any other field.

RECOMMENDATIONS

a. Muslim governments should prevent the methods of secularism against Muslims and their countries and take the necessary measures to protect them from its dangers.

b. Muslim scholars should include in their dawah and reformation efforts the denunciations of secularism and the dissemination of its dangers.

c. Developing a comprehensive Islamic education plan for schools, universities, research centers and information networks in order to formulate a single and comprehensive media, educational, and intellectual discourse and to emphasize the need for the revival of the role of the Mosque, to pay special attention to sermons, preaching and guidance, to train preachers with adequate qualifications that meet the requirements of our time, to refute misconceptions about Islam, and to preserve the objectives of Shariah.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 100 (3/11)

Islam versus Absolute Modernism

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419H (14–19 November 1998),

having examined the research papers submitted to the Academy concerning *Islam versus Absolute Modernism*,

in light of the discussions that highlighted the dangers of this issue, and revealed the true nature of modernism as an intellectual theory based on the deification of reason, the rejection of the unseen, the denial of revelation and the destruction of everything related to beliefs, values and morals,

The following are the most important characteristics of modernism in the minds of its supporters:

- Absolute dependence on the intellect and restriction to the data of empirical science, far away from the genuine Islamic creed.
- Complete separation between religion and all cultural, social, economic, political and charitable institutions; and thus, their alignment with secularism.

hence, the academy resolves

first: Modernism, as mentioned above, is an atheist concept that is rejected by Allāh, His Prophet, and believers because it contradicts the principles of Islam and its fundamentals, no matter what clothes it wears, such as the so-called jealousy for Islam and the claim to revive it.

second: Within the teachings of Islam and its law, there are sufficient solutions for humanity anywhere and anytime, because Islam is built on firm foundations without which human life cannot stand, and on variables that ensure progress and development and welcome everything new and beneficial through Ijtihād, which is governed by and based on the various sources of Islamic legislation.

a. The Organization of the Islamic Conference should form a committee of Muslim thinkers to monitor the phenomenon of modernism and its results and study it in a comprehensive, objective, and scientific manner to warn against its falsehoods and protect the Muslim youth from its severe consequences.

b. Muslim governments should use all means to repel the mischievous methods of modernism and take the necessary measures to protect their countries and Muslim citizens from this phenomenon.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 101 (4/11)

Debt Sale, Loan Debentures, and their Shariah-based Alternatives in the Public and Private Sectors

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419H (14–19 November 1998),

having examined the research papers submitted to the Academy concerning *Debt Sale and Loan Debentures and their Shariah-based Alternatives in the Public and Private Sectors*,

in light of the discussions highlighting the importance of these issues in contemporary financial transactions,

resolves

first: It is not permissible to sell a deferred debt by the non-debtor for immediate cash, of its type or otherwise, because this results in ribā (usury). Likewise, it is not permissible to sell it for a deferred cash, of its type or otherwise, because it is similar to selling a debt for a debt, which is prohibited in Shariah, regardless of whether the debt is the result of a loan or a deferred sale.

second: Emphasizing the Academy resolution no. 60 (11/6) concerning *Bonds*, issued at its sixth session held in Saudi Arabia on 17–23 Sha'bān 1410H (14–20 March 1990) and paragraph (3) of the Academy resolution no. 64 (2/7) regarding discounting commercial papers, issued at its seventh session held in Saudi Arabia on 7–12 Dhū al-Qi'dah 1412H (9–14 May 1992).

third: The Academy reviewed other forms of the debt sale and decided to postpone the issuance of resolutions on the subject to conduct further research. It, therefore, requests the Secretariat General to establish a committee to study these forms and suggest Shariah-compliant alternatives to debt sale, to be submitted at the next session of the Academy.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 102 (5/11)

Currency Trading
(Foreign Exchange Market)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419h (14–19 November 1998),

having examined the research papers submitted to the Academy concerning *Currency Trading (Foreign Exchange Market)*,

having listened to the discussions on the subject,

resolves

first: Confirming the Academy resolution no. 21 (9/3) concerning banknotes and the changing value of currency, resolution no. 63 (1/7) concerning the stock exchange, paragraph (3) on trading in commodities, currencies and indexes of organized markets, and no. (2) concerning currency exchange, and resolution no. 53 (4/6) concerning Qabḍ (taking possession), paragraph (2-i-c).

second: It is not permissible in Shariah to sell currencies by deferred sale, nor to set a date for the exchange of their price, as has been proven by the Quran, Sunnah and Ijmā‘.

third: Ribā (usury), currency trading, and currency exchange that do not abide by the rulings of Shariah are among the most important causes of the economic crises and financial fluctuations that have hit some countries.

recommendation

It is incumbent upon Muslim governments to exercise control over financial markets and compel them to regulate their activities, such as in currencies and other transactions in accordance with the provisions of Shariah, as these principles are the safety valve against economic disasters.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 103 (6/11)

Maintenance Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419h (14–19 November 1998),

having examined the research papers submitted to the Academy concerning *Maintenance Contracts*,

having listened to the in-depth discussions on the subject,

resolves

first: A maintenance contract is a novel and independent contract to which the general rulings of Shariah for contracts apply. Its jurisprudential characterization and ruling vary according to its different forms. It is, in fact, a compensation contract that involves an undertaking by one party to inspect and repair, periodically or in case of emergency, a machine or anything else necessary in the form of periodical or emergency repairs for a specified period in exchange for specific compensation. The maintenance contractor may undertake to provide labor only or both labor and materials.

second: A maintenance contract includes many forms, among which have been explained above, namely:

1. A maintenance contract which is not related to another contract, whereby the maintenance contractor undertakes to provide labor only or provide ordinary materials that the contracting parties usually do not consider. This contract is regulated as an Ijārah contract to provide labor, and it is permissible in Shariah, provided the labor period and wages are known.
2. A maintenance contract is not related to another contract, whereby the maintenance contractor undertakes to provide labor, while the client undertakes to provide materials. The jurisprudential characterization and ruling of this form are the same as the first one above.
3. Conditional maintenance in the sale contract which is to be provided by the seller for a specific period of time. This is a contract in which sale and

condition are combined and it is permissible in Shariah, whether maintenance is done with or without the provision of materials.

4. Conditional maintenance in Ijārah contract which is to be provided by both parties of the contract. This is a contract in which Ijārah and condition are combined. The ruling of this form of contract is that maintenance, if it is of the type that depends on the fulfillment of benefit, then it is binding to the owner of the hired property without condition. However, it is not permissible to impose it as a condition on the client. As for maintenance which is not conditional on the fulfillment of benefit, it is permissible to be imposed as a condition for either party, if it is specified in a manner that precludes ignorance. There are other forms which the Academy decides to postpone for further study and research.

THIRD: In all forms, it is a required that maintenance be specified in a manner that precludes ignorance that leads to disputes. The same applies to the specification of materials if they are to be supplied by the maintenance contractor. Likewise, it is a requirement to specify wages in all cases.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 104 (7/11)

Ways of Making Use of Nawāzil (Fatāwā)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419H (14–19 November 1998),

having examined the research papers submitted to the Academy concerning *Ways of Making Use of Nawāzil (Fatāwā)*,

having listened to the discussions on the subject,

resolves

1. Making use of the heritage of jurisprudential fatāwā (eg. fatwā, fiqh al-nawāzil) with all their forms to find solutions to contemporary issues, whether in relation to the methodology of iftā under the general rules of Ijtihād, Istinbāṭ (inference), takhrīj (extraction) and Fiqh maxims, or in relation to the Fiqh branches which fuqahā (fiqh scholars) had previously dealt with in issues similar to the practical applications of their times.
2. Academic editing of the most important Fiqh books, and reviving the auxiliary Fiqh manuals, such as *al-Tanbīhāt ʿala al-Mudawwanah* (Commentary on Fiqh Codes) by al-Qāḍī Iyāḍ, *al-Barnāmaj* (Curriculum) of Sheikh Adhoom, Fatāwā of al-Imam al-Ghazzālī, *Taqwīm al-Naẓr* (Strengthening Observation) by Ibn al-Dahhān, and other books dealing with practices of Madinah in the Malikite school as well as of its scientific capitals, such as Fes, Kairouan and Cordoba, in addition to *al-Maʿrūḍāt* (Exhibits) by Abū al-Suʿūd, and such other works which are a way of highlighting the vitality of Fiqh.
3. Preparing an in-depth book clarifying the principles of Iftā and the methodologies of Muftīs, the terminology of the different schools of Fiqh, the methods of tarjīḥ (preponderance) and takhrīj (extraction) in each school of Fiqh (madhāhib), including the collection of common practices within the Malikite and other schools of Fiqh, as well as publishing *al-Madkhal ilā fiqh al-Nawāzil* (Introduction to the Fiqh of Contemporary Issues) authored by the President of the Academy.

4. Introducing other Fatwa books as part of the planning for Ma'lamah al-Qawā'id al-Fiqhiyyah (Encyclopedia of Fiqh Maxims) to facilitate access to the maxims on which the fatwās are based but which are not often included in Fiqh writings.

RECOMMENDATIONS

1. Extreme caution should be taken against the fatwas that are not backed by a Shariah principle or not based on Shariah-accepted evidence but are rather based only on an illusional benefit disproved by Shariah and stemming from fancies and influenced by circumstances and customs that are in conflict with the principles, rulings and purposes of Shariah.
2. Calling on Iftā workers, namely Muftīs, authorities, and committees, to take into consideration the resolutions and recommendations of Fiqh Academies, in order to regulate, coordinate and unify fatwās in the entire Muslim world.
3. Restricting the issuance of fatwās to scholars known for their knowledge, scholarship, righteousness, and piety of Allāh the Almighty.
4. Those who issue fatwās should respect Iftā rules stipulated by scholars in this regard, namely:
    a. Abiding by the legal proofs of the Quran, Sunnah, Ijmā', Qiyās (legal analogy), and other proofs of Shariah, in addition to abiding by the rules of Istidlāl (establishing evidence) and those of Istinbāṭ (inference).
    b. Giving due attention to the order of priorities in the realization of benefits and the elimination of evils.
    c. Taking into consideration the jurisprudence of reality (fiqh wāqi'), customs, changes of situations, and the time conditions, which do not contradict a principle of Shariah.
    d. Keeping pace with the developments of modern civilization by combining genuine public interests with due respect to the provisions of Shariah.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution No. 105 (8/11)

Heredity, Genetic Engineering, and the Human Genome

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419H (14–19 November 1998),

HAVING EXAMINED the research papers submitted to the Academy concerning *Heredity, Genetic Engineering, and the Human Genome*,

HAVING REVIEWED the resolutions and recommendations of the 11th Medical Fiqh Symposium held jointly by the International Islamic Fiqh Academy in Jeddah, the Islamic Organization for Medical Sciences (Kuwait), the Regional Office of the World Health Organization (Alexandria), and the Islamic Organization for Education, Science and Culture (ISESCO), on 23–25 Jumādā al-Ākhirah 1419H (13–15 October 1998) in the State of Kuwait,

RESOLVES

To postpone the issuance of a resolution on this subject pending further research and study.

Indeed, Allāh is the Giver of success.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 106 (9/11)

Expert Symposium on the Role of Women in the Development of Muslim Society

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 11th session in Manama, Kingdom of Bahrain, on 25–30 Rajab 1419h (14–19 November 1998),

having discussed and consulted on the above subject,

resolves

To postpone the issuance of a resolution on the subject pending further research.

For this purpose, a committee was established and composed of Sheikh Dr. Bakr bin Abdullah Abu Zayd, President of the Academy, Sheikh Mohamed Ali Al-Taskhiri and Sheikh Muhammad Taqi Usmani. This committee shall submit its report to the next session of the Academy.

Indeed, Allāh is the Giver of success.

Resolutions and Recommendations of the 12th Session of the Council of the International Islamic Fiqh Academy

RIYADH
KINGDOM OF SAUDI ARABIA

25 Jumādā al-Ākhirah – 1 Rajab 1421
23–28 September 2000

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 107 (1/12)

Supply and Bidding Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having examined the research papers submitted to the Academy concerning *Supply and Bidding Contracts*,

having listened to the discussions of the Academy's members and experts and several Fiqh scholars on the subject,

resolves

1. Supply Contracts

   first: A supply contract is a contract under which the first party undertakes to deliver, at specific periods, successive amounts of a well-defined commodity to another party, for a specific sum of money with a total or partial deferred payment.

   second: If the commodity in question is of the type that needs to be manufactured, the contract is Istiṣnāʿ and should abide by the Istiṣnāʿ rulings as stipulated in the Academy resolution no. 65 (3/7).

   third: If the commodity is not of the type that needs manufacturing and if it is a well-defined commodity that should be delivered at a specific future date, the contract may be of two forms:

   A. When the orderer pays the whole price when signing the contract, this contract will then abide by Shariah rulings on Salam and thus becomes permissible as provided for in the Academy resolution no. 85 (2/9).

   B. When the orderer does not pay the whole price when signing the contract, this contract becomes not permissible if it is based on the exchange of binding mutual promises (Muwāʿadah) between the two parties. The impressibility of such arrangement, as indicated in the Academy resolution nos. 40–41, is due to the fact that the exchange

of binding promises between any two parties is similar to concluding a contract. Hence, a sale contract concluded in this manner would entail the prohibited practice of selling debt for a debt.

If, however, the promises exchanged between the two parties are not binding on one or both of them, the transaction becomes permissible provided that the sale should be concluded with either a new contract or on delivery.

2. Bidding Contracts

FIRST: Bidding means asking for the lowest price offer to purchase a commodity or a service. The party requesting the commodity or service calls for bids from interested suppliers according to given conditions and specifications.

SECOND: Bidding is permissible in Shariah. It resembles auctioning; and therefore abides by the same rulings, whether bidding is public or limited, internal or external, open or discreet. The Academy issued a resolution no. 73 (8/4) in this regard at its eighth session.

THIRD: It is permissible to restrict bidding to officially classified bidders or those who obtain government licenses, provided that such classification or licensing is based on equitable grounds.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 108 (2/12)

Unsecured Credit Cards

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

based on the Academy resolution no. 63 (1/7) concerning *Financial Markets*, which resolved to postpone adopting a resolution on the Shariah characterization of this type of cards to the next session of the Academy,

in reference to the Academy resolution no. 96 (4/10),

having examined the research papers submitted to the Academy concerning *Credit Cards*,

having listened to the discussions of Fiqh scholars and economists on the subject,

having recalled the Academy resolution no. 63 (1/7), which defined the credit card as follows:

> The credit card is a document given by its issuer to a natural or a legal person on the basis of a contract between them enabling the second party to buy goods or services from a vendor who approves the document, without paying the price immediately as the document includes the issuer's commitment to pay. Payment is made from the account of the issuer who will afterwards charge the cardholder at regular time intervals. Some issuers used to impose usurious interest on the total outstanding balance that the cardholders owe to them, after due date of payment, while other do not.

resolves

first: It is not permissible to issue unsecured credit cards or use them if their terms involve the imposition of usurious interest. This is so even if the cardholder intends to pay within the moratorium period before charging interest.

second: It is permissible to issue unsecured credit cards that do not have a condition to charge interest on the debt. Permissibility of this transaction entails two further considerations:

A. The card issuer is permitted to charge from the cardholder a specific fee at the time of issuing or renewing the card. Such amount constitutes the actual fee that the issuer deserves according to the services it provides to the cardholder.

B. The issuing bank is permitted to charge a commission on the trader's goods or services purchased by the cardholder, provided that such goods or services are sold at the same price whether in cash or credit.

THIRD: Cash withdrawal is considered a loan from the card issuer and is therefore not objectionable under Shariah if it does not involve a usurious interest. The service charge for withdrawal is not considered usurious because it is not associated with the loan amount or its duration in exchange for this service.

However, any other charge over the actual services is prohibited for being Ribā, which is prohibited by Shariah according to the Academy's two resolutions no. 10 (10/2) and no. 13 (1/3).

FOURTH: Unsecured credit cards are not permissible for the purchase of gold, silver, and currencies.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 109 (3/12)

Penalty Clause

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having examined the research papers submitted to the Academy concerning the *Penalty Clause*,

having listened to the discussion of the Academy's members and experts and other scholars,

resolves

first: A penalty clause, in legal terminology, is an agreement between the two contracting parties on how to assess the compensation for the entitled party in case of default or delay of the other party.

second: Confirming the Academy's previous resolutions concerning the penalty clause, namely:

- Resolution no. 85 (2/9) on *Salam*: "It is not permissible to include a penalty clause for delay of providing the commodity since a commodity sold through Salam is a debt and it is not permissible to impose an additional charge for delayed repayment of debt."
- Resolution no. 65 (3/7) on *Istiṣnāʿ*: "It is permissible to include a penalty clause if both contracting parties agree, unless subject to inevitable circumstances."
- Resolution no. 51 (2/6) on *Installment Sale*: "When the purchaser delays the payment of due installments, it is not permissible to impose any additional charge whether by virtue of a predetermined condition or otherwise. Such a practice amounts to a commitment of the prohibited usury."

third: It is permissible to include the penalty clause in the original contract or make it a separate agreement that succeeds the contract prior to the occurrence of the anticipated loss.

fourth: It is permissible to include a penalty clause in all financial contracts

except when the original commitment is a debt. The imposition of a penalty clause in debt contracts is usurious in the strict sense.

Accordingly, it is permissible, for instance, to make a penalty clause on the contractor in the construction contract, the supplier in supply contracts and the manufacturer in Istisna contracts if they fail to or delay in meeting their commitments.

It is not permissible, for instance, to make a penalty clause in Installment Sale on a debtor who delays the payment of unpaid installments, whether due to insolvency or payment evasion. It is also not permissible to impose such a clause in the Istisna contract on a purchaser who fails to meet his obligations.

FIFTH: The loss, which is permissible to compensate, includes the actual financial loss suffered by the partner, any other material loss and the certainly realisable gain that he misses due to his partner's default or delay. This does not include moral prejudice.

SIXTH: The penalty clause should become null and void when the concerned partner proves that his failure to meet obligations was due to reasons that fall out of his control, or when he proves that his partner has suffered no loss as a result of his breach of the contract.

SEVENTH: The Court is permitted, if so required by one of the two parties, to adjust the compensation amount, subject to a reasonable justification, or when the compensation proves to be exaggerated.

RECOMMENDATION

To organize a specialized symposium to research and study the terms and regulations that could be proposed to Islamic banks to guarantee the recovery of their owed debts.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 110 (4/12)

Renting Ending in Ownership and Leasing Bonds

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having examined the research papers submitted to the Academy concerning *Renting Ending in Ownership and Leasing Bonds*,

having listened to the discussions of the Academy's members and experts and other scholars,

resolves

1. Renting Ending in Ownership

first: The criteria for the permissible and prohibited forms are as follows:

A. Prohibition Criteria:

When the transaction involves conclusion of two different contracts at the same time, for the same commodity and for the same duration.

B. Permissibility Criteria:

1. The presence of two completely separate and independent contracts as to the time of their conclusion, and in which the sale contract succeeds the lease contract or the presence of a promise allowing the lessee to become the owner at the end of the contractual period. The option and the promise are on an equal footing with regard to their Shariah rulings.
2. The existence of a genuine desire from both parties to conclude the lease contract and not just to use it as a mere veil for the sale contract.
3. The leased property should be guaranteed by the owner and not the lessee. In this sense, the owner should bear any damage that is not caused by the lessee's misuse or negligence. The lessee has nothing to bear, even if such damage has

rendered the property completely useless.

4. If the contract includes property insurance, the cooperative insurance should be non-commercial, Shariah-compliant, and the sole liability of the owner.
5. During the entire lease period, the contract should be subjected to Shariah rulings regarding Ijara, whereas Shariah rulings on ownership should be observed when the property ownership is transferred to the lessee.
6. The cost of maintenance, excluding operational expenses, should be borne by the lessor and not by the lessee during the entire lease period.

SECOND: Some Prohibited Forms

C. A Renting Ending in Ownership contract that leads to the transfer of ownership to the lessee against the amounts of rent he pays during the contract period, without signing a separate sale contract. In other words, it is when the same lease contract automatically changes into a sale contract.

D. A Lease contract according to which the property is given to the lessee against a specific amount of rent and for a specific duration, coupled with a sale contract that becomes effective only when the lessee pays the whole amount of rent agreed upon, or at a specified date in the future.

E. An appropriate lease contract including an option for the owner to sell the property to the lessee, at the end of the leasing period.

The above-mentioned legal opinions have been adopted in the resolutions and fatwās of various Islamic authorities, including the Council of Senior Scholars of Saudi Arabia.

THIRD: Some Permissible Forms

F. A lease contract that allows the lessee to make use of the leased property against a specific amount of rent and for a specific period, along with a separate contract offering the property as a gift to the lessee. The latter contract takes effect at the end of the lease period and when the lessee has paid all the amounts of rent agreed upon. A promise from the owner to give the property as a gift to the lessee, after the lease period and full payment of due rent, is also acceptable, as per the Academy resolution no. 13 (1/3) on *Hibah* (gifts) at its third session.

G. A lease contract offering the option to the lessee to purchase the property, after the lease period and the full payment of due rent, at the then-prevailing market price, as per the Academy resolution no. 44 (6/5) at its fourth session.

H. A lease contract that allows the lessee to use the leased property against a specific rent amount and for a specific period coupled with a promise from the owner to sell the property to the lessee, after the full payment of due rent, at a price to be mutually agreed on.

I. A lease contract that allows the lessee to make use of the leased property for a specific amount of rent and a specific period, while the owner gives the option to the lessee to own the property at any time if he so wishes. The sale, in this case, is to be made according to a new contract in due time and at the then-prevailing market price, as per Academy resolution no. 44 (6/5), or at any other price to be agreed upon at the time of concluding the sale contract.

FOURTH: There are some other forms of Renting Ending in Ownership that still remain controversial among Fuqahā (fiqh scholars). These forms require a thorough study to be presented to the Academy in one of its forthcoming sessions.

2. Leasing Bonds

The Academy resolved to postpone adopting a resolution on the subject, pending further research and study to be presented in one of its forthcoming sessions.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 111 (5/12)

Investment of Awqāf Resources

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having examined the research papers submitted to the Academy concerning the *Investment of Awqāf Resources*,

having listened to the discussions of the Academy's members and experts and other scholars,

resolves

To postpone the issuance of a resolution on this subject, pending further research and studies, namely in the following aspects:

1. Investment of Waqf.
2. Financial Waqf.
3. Ibdāl-Istibdāl (Sell-Exchange of Waqf).
4. Merging Awqāf Properties.
5. Differentiation between Waqf and Trust.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 112 (6/12)

Legal Evidence by Presumptions and Signs

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having examined the research papers submitted to the Academy concerning *Legal Evidence by Presumptions and Signs*,

resolves

To postpone the issuance of a resolution on this subject in order to restrain research on their new updates and Shariah rulings.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 113 (7/12)

Rights of Children and Elders

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having examined the research papers submitted to the Academy concerning the *Rights of Children and Elders*,

having reviewed the recommendations of the Medical Fiqh Symposium on the Rights of Children and Elders, held in the State of Kuwait under the auspices of the Academy and the Islamic Organization for Medical Sciences of Kuwait, on 9–12 Rajab 1420H (18–21 October 1999),

having listened to the discussions of the Academy's members and experts and other scholars,

first: rights of children

The preservation of childhood is the foundation of a morally sound society. Islam has paid much attention to the observance of children's rights, urging people to get married and advising couples to carefully choose their prospective spouses to ensure a stable and healthy family environment.

hence, the academy resolves

1. The protection of the fetus in the womb from all types of practices that may be harmful to the fetus or the mother, such as alcohol and drugs, is an obligation according to Shariah.
2. The fetus has the right to survive from the beginning of its formation. Hence, it should not be subjected to hazardous acts such as abortion, deformation or any other injury.
3. After birth, every child enjoys several financial and moral rights. His material rights include, among others, the rights of ownership, inheritance, bequest, donation and Waqf, while their moral rights include the right to have a good name, a kinship, religious upbringing and a national affiliation.

4. Society and the state must guarantee the rights of all children, including orphans, foundlings, homeless children, and child victims of war who have no one to support them.
5. The child has the right to natural breastfeeding up to the age of two.
6. The child has the right to be nursed and raised in an appropriate and healthy family environment. The mother, if capable, is the most suitable person to look after him, followed by another kin in the order prescribed by the Shariah.
7. Guardianship over the child's person and property, whether by relatives or a legal authority, is an indispensable right for the child. This right must be guaranteed until the child reaches maturity, then they should be left free to manage their own affairs.
8. Proper upbringing, moral commitment, education, training, gaining experience, self-reliance, and acquiring professional skills permissible under Shariah, are among the children's most fundamental rights. In addition, gifted children should be given special attention to developing their exceptional skills. All of these measures must be taken within the guidelines of Shariah.
9. Islam prohibits neglect of children, whether by parents or any other person, to safeguard them from vagrancy and loss. It also prohibits the exploitation of children by subjecting them to work that leads to the abuse of their physical, mental, and psychological capacities.
10. Assault on the beliefs, personality, honor, property and minds of children is a serious crime in Islam.

SECOND: RIGHTS OF ELDERS

Islam has given much attention to human being at the various stages of his/her life. Honoring all descendants of Adam is a well-emphasized aspect of the Shariah as Allāh the Almighty said in the Holy Quran, «We have certainly honored the children of Adam» (Al-Isrā', 70) and He also said, «And your Lord has decreed that you worship not except Him, and to parents, good treatment.» (Al-Isrā', 23) In this regard, Prophet Muhammad ﷺ said, "Every youth who honors an aged for the sake of being so, Allāh will make somebody else do the same with him at that age," reported by al-Tirmidhī. The Prophet ﷺ also said, "Alienated from us, he who neither confers mercy upon our young nor acknowledges the honor of our aged," reported by al-Tirmidhī and Aḥmad.

HENCE, THE ACADEMY RESOLVES

1. Elders should be educated about their needs in order to enjoy a healthy physical, spiritual and social life. They should also be educated about the rulings and guidelines of Shariah for the fulfillment of their religious and social commitments, as well as for the blessing and reward of Allāh the Almighty.
2. Elders should have a role to play in their societies and should enjoy all human rights.
3. The family is the best place where an elder can enjoy a happy life. In such an environment, the elder will be in a position to receive support from their children, grandchildren, relatives, friends and neighbors. For those who have no families to stay with, a proper family environment has to be made available to them at the aged hostel.
4. Educational systems and mass media should be used to raise public awareness of the position of the elderly and their rights, with emphasis on filial piety.
5. Hostels for the elderly should be established to accommodate those who have no one to support them or those whose families are unable to support them.
6. More attention should be given to promoting geriatric studies in medical colleges and health institutes, training physicians on diagnosis and treatment of geriatric diseases and establishing specialized geriatrics centers in hospitals.
7. Elders should have their special seats in public transportation and public places and their special areas in parking lots.
8. Adopting the Kuwait Declaration on the Rights of the Elderly.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 114 (8/12)

The Islamic Declaration on the Role of Women in the Development of Muslim Society

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having reviewed the recommendations of the Expert Symposium on The Role of Women in the Development of Muslim Society held in Tehran, Islamic Republic of Iran on 17–19 Dhū al-Qi'dah 1415H (17–19 April 1995), in implementation of resolution no. (10/7) of the Seventh Islamic Summit, which the Iftā Division amended at the ninth and tenth sessions of the Academy,

emphasizing the values that Islam has conferred on women, but violated by the international conferences, particularly those of Cairo, Beijing and others,

in light of the previous Islamic declarations against such abominable campaigns,

resolves

first: One of the objectives of Islam is to build a society in which both man and woman have a vital role to play in the process of development and prosperity. For this reason, Islam has given women their full rights that correspond to their character, abilities, needs, aspirations and essential role in life. In Islam, society is considered a unit within which the integral roles of man and woman are to be determined. The Holy Quran and the Sunnah also emphasize the unity of the Ummah as a whole, state the distinct characteristics of men and women, and specify the position of each in Muslim society.

second: A family that is based on an Islamic marriage constitutes the cornerstone of a healthy society. Therefore, Islam prohibits any other form of constituting a family. It also prohibits any other alternative relationships that fall beyond Shariah boundaries. By virtue of motherhood and other characteristics, women play a vital role in the stability and prosperity of the family.

third: Motherhood is one of the natural roles of the woman, which she can only fulfill properly and build up the generations to come if she obtains all the

rights given to her by Islam, which also help her fulfill her duties in her own areas of life.

FOURTH: Women and men are equal in the sense that both enjoy the honor of belonging to humanity. Moreover, women have various rights and obligations that correspond to their nature, abilities and character. Although men and women have different natural characteristics, their responsibilities are considered complementary in Shariah.

FIFTH: Call on for the respect of women in all areas of life and rejects all offensive practices that she suffers from at the present times, such as domestic violence, sexual exploitation, licentious practices, prostitution, procurement and inducement of women to commit adultery. These practices are quite prevalent in societies that degrade women and disregard their Islamic rights. Islam is sacrosanct from all these evil practices.

SIXTH: Media should enhance the positive role of women in society and reject any form of exploitation of women, for example, by using them as a medium in the shameful commercial advertising presentations and thus abusing their character and dignity.

SEVENTH: Exert extensive effort to alleviate the sufferings of women, especially Muslim women who are victims of violent struggles, colonization, poverty and foreign economic pressures.

EIGHTH: Comprehensive and sustainable development can be achieved only on solid religious and moral grounds. This necessitates the rejection of all attempts to impose foreign cultural and social concepts on the society with the condemnation of the perpetual attacks against Shariah rulings related to women.

NINTH: Denunciate some governments' practices in preventing Muslim women from practicing their religion, observing its directives, and divine commands concerning modesty as in the case of the observance of ḥijāb.

TENTH: Work on separating women's educational institutions at all levels from those of men so that female students can practice their full rights under Shariah and adhere to their religious directives.

ELEVENTH: The original sources of Shariah shall be the only reference for the interpretation and elaboration of the clauses of this declaration.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 115 (9/12)

Inflation and the Changing Value of Currency

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having reviewed the final statement, recommendations, and suggestions of the Economic Fiqh Symposium on Inflation Issues (in its three sessions at Jeddah, Kuala Lumpur, and Manama),

having listened to the discussions of the Academy's members and experts and other scholars,

resolves

first: Confirming the Academy resolution no. 42 (4/5), which stated that "The norm in the settlement of debt incurred in a specific currency is that it should be settled in the same (currency), rather than in value terms, for debts must be settled in an identical resource, and fixed debts, whatever their origin, are not permissible to be tied to the level of prices."

second: It is permissible for both parties, and as a precautionary measure against an expected inflation, to make the debt in terms of a medium other than the currency that will decline in value. In this case, debt can be contracted by one of the following means:

A. Gold or silver
B. A homogeneous commodity
C. A homogeneous commodities basket
D. Another more stable currency
E. Currency basket

The amount repaid in the above forms should be exactly similar to the original debt (concerning the amount and type of currency), as the borrower should be indebted with no more than what he has received actually.

The aforementioned forms differ totally from the prohibited arrangement in which the two parties first specify the debt amount in a certain currency, and then agree that the settlement would be made in another stable currency

or basket of currencies (indexation). This latter arrangement has been strictly prohibited by the Academy resolution no. 75 (6/8) paragraph (4).

THIRD: It is not permissible in Shariah, at the time of concluding the debt contract, to link the repayable amount to any of the following cases:

A. An accounting currency.
B. Cost of living index or any other index.
C. Gold or silver.
D. The price of a specific commodity.
E. Growth rate of the Gross National Product (GNP).
F. Another currency.
G. Interest rate.
H. The price of a commodities basket.

Indexation in this way is prohibited because it involves a great deal of Gharar and Jahālah (uncertainty and lack of information) since both parties will not be able to know what the commitment will be at the end. This lack of information violates one of the fundamental conditions for the validity of the contract. If the indicator used for indexation happens to show an increase, this will lead to discrepancy between the original debt amount and the amount to be repaid i.e. commitment of usury.

FOURTH: INDEXATION OF SALARIES AND RENTS

A. Confirming the Academy resolution no. 75 (6/8) clause no. 1, which stipulates the permissibility of indexing salaries according to the change in the price rate.

B. It is permissible to both contracting parties, in case of long period leasing of property, to specify the amount of rent of the first period and then agree in the contract on indexation of the rent for the forthcoming periods according to a specific indicator, provided that the rent amount becomes known at the beginning of every period.

RECOMMENDATIONS

1. Since the main cause of inflation is the increase in the quantity of money issued by the relevant authorities for various well-known reasons, the Academy calls upon these authorities to make every effort to eliminate this underlying factor which causes great harm to society. Inflationary financing, whether to reduce the budget deficit or to finance development programs, should be avoided. At the same time, the Academy urges

Muslim societies to abide by Islamic values in matters of spending and to refrain from extravagance, wealth and profligacy that lead to inflation.

2. Increasing economic cooperation among Muslim countries, particularly in trade and exerting efforts to substitute industrial imports from industrialized countries with similar products from Muslim countries. Efforts should also be made to strengthen the negotiative and competitive position of Muslim countries.

3. Conducting studies at the level of Islamic banks to determine the effect of inflation on its assets and propose suitable measures for safeguarding depositors and investors against adverse effects of inflation; Also, conducting studies, at the level of Islamic financial institutions, to develop accounting standards that could be used during inflation.

4. Conducting a study on the extensive use of Islamic financing and investment instruments on inflation and their effect on the Shariah ruling relating to them.

5. Study the possibility of returning to some form of linking currency with gold standard in order to avoid inflation.

6. Considering that increasing production and the actual utilization of the production capacity are two of the main methods of fighting inflation in the short and medium term, efforts should be made to improve the volume and quality of production in Muslim countries. This could be achieved by devising plans and measures that stimulate savings and investment levels and thus facilitate the attainment of sustainable development.

7. The Council calls upon the governments of Muslim countries to exercise stricter control over their budgets (including current, development and independent budgets) that draw on public revenue sources. These criteria include minimizing and rationalizing public expenditures in light of the directives of Shariah. When it is absolutely necessary to find ways to meet the budget deficit, governments of Muslim countries should resort to common Islamic financial instruments based on partnership, sale and lease. They should refrain from usurious borrowing, either from banks and financial institutions or through the issuance of debt bonds.

8. Adherence to Shariah criteria on using fiscal policy instruments, whether in the manipulation of revenues or public expenditures. This could be done by establishing such policies on the principles of justice, public interest, helping the poor and distributing the tax burden fairly among

members of society so that each takes the share that corresponds to his or her financial capacity (measured in terms of income and wealth).

9. It is necessary to use all the Shariah-accepted tools in fiscal and monetary policies as well as the methods of moral persuasion and economic and administrative policies to protect Muslim societies from the harms of inflation. These arrangements should aim towards reducing the rate of inflation to a minimum.

10. Make the necessary arrangements to ensure the independence of central banks' decision-making in monetary management and their commitment to achieving stability and combat against inflation. Moreover, arrangements shall be made to facilitate continuous cooperation between the central bank and the economic and financial authorities to achieve economic development, economic and monetary stability, and the elimination of unemployment.

11. Conducting in-depth studies of public enterprises to assess their economic feasibility and to consider the possibility of privatizing them according to the Islamic method. Such arrangements are expected to improve the productivity of privatized enterprises, reduce the budgetary burden and thus mitigate the adverse effects of inflation.

12. The Academy urges Muslims and Muslim governments to abide by the rulings of Shariah and respect its economic, educational, moral and social principles.

13. Solutions to inflation:

The Academy resolved to postpone the discussion on the proposed solutions to inflation to one of its forthcoming sessions.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 116 (10/12)

Translation of the Noble Quran

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having reviewed the working paper on the *Translation of the Meanings of the Holy Quran*, received from the Secretariat General of the Conference of the Ministers of Awqāf and Islamic Affairs, which was prepared by the King Fahd Glorious Quran Printing Complex, concerning the criteria, special conditions and procedures for the translation of the meaning of the Holy Quran,

having examined the above subject in detail,

having listened to the in-depth discussions of the Academy's members and experts and other scholars,

resolves

Approval of all the articles indicated in the working paper concerning the translation of the meanings of the Holy Quran.

recommendation

The establishment of an organization specialized in Tafsīr (Exegesis) and the Sciences of the Holy Quran, which should be attached to the King Fahd Glorious Quran Printing Complex.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 117 (11/12)

The Creation of an Islamic Organization for the Noble Quran

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having examined the items and contents of the working paper regarding the *Creation of an International Islamic Organization for the Holy Quran*, submitted by the Ministry of Awqāf and Islamic Affairs of the State of Qatar,

having discussed the subject in depth,

resolves

Coordination be made in this regard between the Ministry of Awqāf and Islamic Affairs of the State of Qatar, the Ministry of Awqāf and Islamic Affairs of the Kingdom of Saudi Arabia, and the King Fahd Glorious Quran Printing Complex.

Indeed, Allāh is the Giver of success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 118 (12/12)

al-Quds al-Sharif (Jerusalem)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 12th session in Riyadh, Kingdom of Saudi Arabia, on 25 Jumādā al-Ākhirah – 1 Rajab 1421H (23–28 September 2000),

having followed the aggressive statements and unfair suggestions by Israeli officials regarding al-Quds al-Sharif (Jerusalem),

resolves

1. Jerusalem constitutes a part of the Muslim creed. It concerns Muslims worldwide because this city witnessed the miracle of Isra and Miraj (Prophet Muhammad's Night Journey and Ascention to the Seven Skies) mentioned in the Holy Quran.
2. The fact that Jerusalem is an Islamic city is well underlined in the Quran and can never be revoked, changed or amended. There is no room for midway solutions in this regard.
3. Al-Aqsa Mosque is for Muslims only, and Jews have no connection with this Mosque. It is, therefore, necessary to beware of the dangers of violating the sanctity of this Mosque.
   The Israeli occupation authorities are held responsible for any offensive action that may take place against it. The status of Al-Aqsa Mosque is far above all negotiations and reconciliation efforts.
4. A just peace and stability in the region can never be achieved until Zionist Jews refrain from occupying Jerusalem and its Holy Mosque and return Palestine to its people.

recommendation

The participants in this session call on the leaders and peoples of the Muslim and Arab world to defend al-Quds and Al-Aqsa Mosque and support its inhab-

itants, who have already engaged in the struggle, to stop the judaization and internationalization of the city, which will never be accepted.

Indeed, Allāh is the Giver of success.

Resolutions and Recommendations of the 13th Session of the Council of the International Islamic Fiqh Academy

KUWAIT CITY
STATE OF KUWAIT

7–12 Shawwāl 1422
22–27 December 2001

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 119 (1/13)

Investment of Awqāf and their Revenues

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422h (22–27 December 2001),

having examined the research papers submitted to the Academy concerning the *Investment of Awqāf and their Revenues*, presented in the 12th and present session,

having considered the Academy resolution on Waqf at its fourth session,

having listened to the discussions of the Academy's members and experts on the subject,

resolves

Postponement of issuance of a resolution on the Investment of Awqāf Properties and Revenues to a forthcoming session, for further deliberations and for conducting more research and study on the subject.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 120 (2/13)

Zakāh on Agriculture

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422H (22–27 December 2001),

having examined the research papers submitted to the Academy concerning *Zakat on Agriculture*,

having listened to the discussions of the Academy's members and experts on the subject,

resolves

first: Expenses relating to irrigation of the plants should not be deducted from the Zakāh-liable assets because Shariah has already taken them into consideration when fixing the payable Zakāh amount.[24]

second: Expenses of land reclamation/preparation, digging irrigation canals, and soil transfer should not be deducted from the Zakāh-liable assets.

third: Expenses for purchasing seeds, fertilizers and pesticides to protect the crops against agricultural diseases and their likes, should not be deducted from the Zakāh-liable assets, if the Zakāh payer has paid them out of his own funds. If the Zakāh payer, for lack of resources, had to borrow for paying such expenses, then whatever is borrowed for the crop is deductible from his Zakāh-liable assets.

This ruling is based on what has been reported from some of the Companions, including Ibn 'Umar and Ibn 'Abbās رضي الله عنهم that the farmer deducts what he borrowed (for spending) on the fruits then he pays Zakāh on the remaining balance.

fourth: Expenses for delivering the Zakāh amount to its deserving recipients is deductible from it.

Indeed, Allāh is All-Knowing.

[24] i.e. rate for Zakāh in agriculture is 10% of the crop when plants have been irrigated by natural rain or rivers. This rate is 5% when plants are watered by means requiring extra expenses.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 121 (3/13)

Zakāh on Shares Owned to Earn their Income

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422H (22–27 December 2001),

having examined the research papers submitted to the Academy concerning *Zakat on Shares Owned to Earn their Income*,

having listened to the discussions of the Academy's members and experts on the subject,

having considered the Academy resolution no. 28 (3/4) concerning *Zakāh on Company Shares*, which states in its paragraph (3) as follows:

> If the company, for any reason did not pay Zakāh on its wealth it becomes obligatory on shareholders to pay Zakāh on their respective shares. Therefore, if the shareholder is able to know, from the accounts of the company, the exact amount of Zakāh due on his shares had the company paid the due Zakāh; he should pay that amount, as this is the normal original way for determining the Zakāh due amount.
>
> If, however, the shareholder is unable to know that amount and his intention of retaining the shares is to benefit from their annual return, not for the sake of trading them he should apply the rules of Zakāh on returns. The owner of such shares is not required to pay Zakāh on the assets of shares, but only on the returns, which is at a rate of ¼ of ⅒ after the elapse of one (lunar) year from the date of the actual reception of the dividends, provided that all other conditions are met and no impediment exists.[25]

resolves

If the Zakāh non-paying company owns Zakāh-liable properties such as cash balances, goods for trade, and debts owed by solvent debtors; and the shareholder fails to know from the company's accounts the exact portion of the Zakāh-liable properties that correspond to his own shares; he should make the maximum possible investigations and then pay Zakāh for the portion of the Zakāh-liable

[25] Resolution no. 120 (3/13) concerning *Zakāh on Shares and their dividends*.

properties that correspond to his shares. This arrangement holds true if the company is not facing large deficits where their debts exhaust all its assets.

However, if the company has no properties liable to Zakāh, the resolution no. 28 (3/4) applies to its shares so that: "the shareholder should pay Zakāh on the income only and not on the principal of the shares."

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 122 (4/13)

Diminishing Mushārakah in light of Contemporary Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422H (22–27 December 2001),

having examined the research papers submitted to the Academy concerning *Diminishing Mushārakah in light of Contemporary Contracts*,

having listened to the discussions of the Academy's members and experts on the subject,

resolves

Postponement of deliberations and issuance of a resolution on *Diminishing Mushārakah in light of Contemporary Contracts* to a forthcoming session, for conducting further research and study on the subject.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 123 (5/13)

Qirad or Joint Muḍārabah in Financial Institutions (Investment Accounts)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422H (22–27 December 2001),

having examined the research papers submitted to the Academy concerning *Qirad or Joint Muḍārabah in Financial Institutions (Investment Accounts)*,

having listened to the discussions of the Academy's members and experts on the subject,

resolves

first: definition of joint-muḍārabah

Joint Muḍārabah is a Muḍārabah in which several investors entrust, together or successively, to a natural or legal person the task of investing their funds. The person thus entrusted (Muḍārib) is, in most cases, left free to undertake investments that he deems suitable for pursuing the parties' interest. His mandate may also be restricted to a particular area of investment. The process entails explicit or implicit permission (to the Muḍārib) by funds' owners to mix their funds together or with his own funds, and sometimes the Muḍārib agrees that funds' owners may withdraw their funds, totally or partially, when they need, subject to certain conditions.

second: legitimacy of joint-muḍārabah

Joint Muḍārabah is based on what the Fuqāhā have decreed as to permissibility of having several funds owners and participation of the Muḍārib with them in (providing) capital and that such Muḍārabah is not outside the permissible forms of Muḍārabah as long as it adheres to the Shariah known standards of Muḍārabah while considering what is necessitated by the funds mixing so that it is kept within the limits of Shariah requirements.

THIRD: PARTIES OF MUḌĀRABAH

The investors, all, Arbāb al-Māl and the relation among them, including the Muḍārib when he mixes his funds with their funds, is fund-sharing. The party entrusted with investing their funds is the Muḍārib, whether he is a natural or legal person such as banks, and financial institutions, while the relation between him and the owners of the funds is Muḍārabah (Qirad) since he is entrusted with making the decisions on investment, management and organization. When the Muḍārib assigns a third party to invest, a second Muḍārabah then exists between the first Muḍārib and this third party, rather than an act of brokerage between this third party and the funds' owners (owners of the investment accounts).

FOURTH: MIXING OF FUNDS IN JOINT-MUḌĀRABAH

Nothing prevents the mixing of funds from different funds' owners with each other or with those of the Muḍārib since this is done by explicit or implicit mutual consent. Additionally, when the Muḍārabah and investment arrangement are undertaken by a legal person, there would be no fear that funds owners may be hurt as the respective shares of each of them in the capital is clearly specified while the funds mixing raises the financial capacity to expand activities and increase profits.

FIFTH: COMMITMENT TO MUḌĀRABAH IN SPECIFIC PERIOD

In principle, Muḍārabah is a contract that can be terminated by either of its two parties (non-Lāzim contract). However, there are two cases in which a Muḍārabah contract can not be dissolved, namely: (1) If the Muḍārib has already commenced his work, Muḍārabah, in this case, becomes binding till the time of actual or legal liquidation, and (2) When the owner of the funds (the Rabb al-Māl) or the Muḍārib undertakes not to dissolve the contract within a specific period. In this case, he has to honor his pledge to not interrupt the investment process during that period.

SIXTH: SETTING MATURITY DATE FOR MUḌĀRABAH

There is no Shariah restriction on setting a specific maturity date for Muḍārabah by mutual consent of the two parties so that Muḍārabah expires at maturity with no need for termination by any of the two parties. The effect of duration setting is confined to restrict entering into new transactions after the specified time limit without preventing liquidation of the ongoing transactions.

SEVENTH: DISTRIBUTION OF PROFITS USING NUMAR TRADITIONAL CALCULATION METHOD IN JOINT-MUḌĀRABAH

It is all right for profit (calculation and) distribution to use the *numar* traditional method, which is based on considering the principal of each investor and its period of stay in the investment (pool). This is because all the investors' funds have jointly contributed to realizing the earning according to their respective amounts and periods. Hence the entitlement of each of these funds to a share of the profit commensurate to its respective amount and period of stay is the fairest way of remunerating the investors.

This is so because the mere acceptance of partners to take part in mixed-funds or joint Muḍārabah indicates their implicit consent to forgive trivial inequities, which is difficult to account for; besides, the very nature of sharing accommodates a partner benefiting from the profits earned by the funds of his co-partner. This calculation method does not make any interruption in the (principle) sharing the profit, and it is well covered by the partners' consent of resulting proportionate shares.

EIGHTH: FORMING A VOLUNTARY COMMITTEE TO PROTECT RIGHTS OF FUNDS' OWNERS (SHAREHOLDERS COMMITTEE)

Since the investors (funds' owners) have rights on the Muḍārib to ensure that the declared investment conditions on whose basis they entered in the mixed-fund Muḍārabah, it is not restricted in Shariah to form a voluntary committee selected from among them to safeguard these rights and observe the implementation of the agreed-upon Muḍārabah conditions without interference in the Muḍārib's investment decisions except by offering non-binding advices.

NINTH: INVESTMENT TRUSTEE

Investment trustee in this context refers to any bank or financial institution of a high financial rating, experience and solvency, entrusted with receiving the funds and the documents that represent the assets so as to keep them in its custody and prevent the Muḍārib from disposing of them contrary to the Muḍārabah conditions. Such arrangement encounters no Shariah restriction, provided that it is mentioned in the articles of incorporation or the manual (of the institution and the Muḍārabah) so that investors will have full transparency and provided that the investment trustee would not interfere in the investment decisions. His involvement will remain confined to custodianship and verification of adherence to the Shariah and technical requirements of the investment.

TENTH: SPECIFICATION OF A HURDLE RATE OF PROFIT AND A MUḌĀRIB INCENTIVE

It is permissible in Shariah to set up a rate of expected profit and stipulate that if realized profit exceeds that rate, the Muḍārib shall be entitled to a specific share of this increment. This is to be done after specifying (in the contract) each party's share in the profit regardless of its amount.

ELEVENTH: IDENTIFICATION OF THE MUḌĀRIB IN CASE MUḌĀRABAH IS ADMINISTERED BY A LEGAL PERSON (BANK OR FINANCIAL INSTITUTION)

When a legal person, such as banks and financial institutions, manages the Muḍārabah that legal person is the Muḍārib, regardless of any change that might take place in the general assembly, board of directors, or the executive management. The relationship between the owners of the funds and the Muḍārib will not be affected by such changes as long as they conform with the declared governing rules on whose basis the mixed-fund Muḍārabah is accepted (by investors).

Also, the Muḍārabah should not be affected by the merger between the legal person who manages it and another legal person. However, if one branch of the institution that manages the Muḍārabah becomes independent and obtains its own legal personality, the funds' owners will have the right to exit from the Muḍārabah, even if the contract period has not yet expired.

Since the institution manages the Muḍārabah through its employees and workers, it should bear their expenses and all other indirect expenses because such expenses are supposed to be covered from the profit share earmarked for the Muḍārib. The Muḍārabah should not bear anything other than direct expenses that belong to it. The same applies to the expenses of tasks that are not required to be done by the Muḍārib, such as help it solicits outside the Muḍārib's staff.

TWELFTH: GUARANTEE IN MUḌĀRABAH AND SHARIAH RULING REGARDING THE MUḌĀRIB'S GUARANTEE

The Muḍārib is a trustee, and therefore he should not guarantee any loss or damage unless such loss or damage is due to misconduct or negligence, which include violation of Shariah requirements or the terms and conditions of the investment contract, which are the basis of entering into the Muḍārabah.

This ruling holds true for the individual as well as mixed-funds Muḍārabah and does not change under a claim that it is similar to common Ijārah, or by stipulating and pledging such a guarantee in the contract. On the other hand, provision of a guarantee by a third party is permissible, in accordance with the Academy resolution no. 30 (4/5) paragraph (9).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 124 (6/13)

Medical Insurance and Medical Cards

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422h (22–27 December 2001),

having examined the research papers submitted to the Academy concerning *Medical Insurance and Medical Cards*,

having listened to the discussions of the Academy's members and experts on the subject,

resolves

Postponement of deliberations and issuance of a resolution on Medical Insurance and Medical Cards to a forthcoming session, for conducting further research and study on the subject.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 125 (7/13)

Incidents in Palestine and Other Events

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422H (22–27 December 2001),

OBSERVING the realities and the Ummah, and the tendencies of enmity and aggression against Islam and Muslims, with the aim of:

- Distorting the image of Islam through degrading the Muslims' faith and raising doubts about the rulings of the Shariah.
- Desecrating the sanctities of Muslims, occupying their territories, shedding their blood, seizing the wealth of their countries and damaging their economies,

It is incumbent upon the Academy's scholars to shoulder their sacred responsibility of clarifying to Muslims the Shariah rulings that relate to their affairs. They should not keep the word of truth they come to know and ought to disclose because Allāh ﷻ has taken a pledge from those who are knowledgeable not to conceal their knowledge and threatened anyone who attempts to do so by saying, «Ah! who is more unjust than those who conceal the testimony they have from Allāh? But Allāh is not unmindful of what ye do…» (al-Baqarah, 140).

The ancient Israelite scholars were duly cursed and excluded from the Grace of Allāh because of concealing what they had been taught. In this regard, Allāh ﷻ says, «Those who conceal the clear (signs) We have sent down, and the guidance after We have made it clear for the people in the Book, on them shall be Allāh's curse, and the curse of those entitled to curse…» (al-Baqarah, 159). The ruling in this verse is stated in general terms so as to include everyone who conceals knowledge that he should disclose. The Prophet ﷺ said, "Anyone who acquires knowledge and conceals it shall come in the Day of Hereafter with a bridle of fire." (Narrated by Ibn Mājah).

CONSIDERING that such a declaration should not be delayed when it is time to be declared or need arises since among the most pressing issues of the Ummah that need clarification is the Palestine issue and other similar events in some Muslim countries,

FIRST: The land of Palestine is the land of Al-Aqṣā Mosque – the first of the two Qiblas and the third Holy Mosque of Islam – which Muslims are encouraged to visit for prayers. This land from which the Prophet Muhammad, started his Midnight journey to Skies (Isrā' wa Mi'rāj), the Prophets' cradle, belongs rightly to Muslims.

This right of ownership makes it incumbent upon every Muslim to provide the form of support he affords to the cause of protecting this right despite the efforts that deceivers may exert to provoke regressions and tendencies of surrendering. Justice will always prevail for those who have the lawful rights, and against those who serve and support the cause of oppression.

The Fuqahā (Fiqh scholars) of the Ummah have unanimously declared non-permissibility of acknowledging the stay of an extorting enemy in any part of the Muslims' territories that he seizes because doing so amounts to encouraging the extorters to continue their trespassing and aggression. In Islam, it is the duty of those who face such aggression to fight their oppressors till they drive them with humiliation out of their lands.

SECOND: It is, therefore, the duty of the governments and people in the Muslim countries to exert efforts to get back the extorted Muslim land of Palestine to its rightful people and preserve Al-Aqṣā Mosque from being desecrated by the occupying Jews, who have continued to show nothing but hatred and hostility towards Islam and Muslims since the early days of the Islamic religion and they still create animosity for them and have become now more powerful and more arrogant.

THIRD: It is mandatory upon all Muslims to spare no effort in funding and in persons, according to their individual means, in providing moral and material support to the Palestinian people so that they can defend their land, preserve their Holy Places, and resist the Zionist arrogance which has been shedding blood, killing innocent people, including women and children, wrecking houses, and use their most lethal war arsenal, such as missiles, heavy tanks, military helicopters and planes, in addition to the economic war they launch against the Palestinians by dredging agricultural lands uprooting trees and plantations and preventing delivery of food supplies to the blockaded Palestinian territories.

Supporting the Palestinian people is the duty of Ummah as a whole, including governments of the Muslim countries and Muslim people. Muslims are one hand in supporting each other and facing their enemy, just like the building blocks of a solid wall, which support one another.

FOURTH: The governments of Muslim countries must also exert every effort, through international organizations and all other political and economic forums,

to stop the influx of political and military help, which the enemy receives from external sources.

FIFTH: The Palestinian people have every right to establish their independent state that comprises all their lands, including Al-Quds as its capital city. They have the right to defend themselves against the enemy using all lawful means of resistance. It is, in fact, a great honor and an incommensurable gain for a Muslim to die as a martyr in serving the cause of Allāh ﷻ.

RECOMMENDATIONS OF THE ACADEMY TO THE UMMAH AS GOVERNMENTS AND PEOPLES

FIRST: COMMITMENT TO ISLAMIC FAITH AND SHARIAH

The underlying cause of the internal and external hardships, crises, and wars that the Ummah is facing nowadays is the lack of observance of the Islamic faith and the Shariah, which constitute the quintessence of the Message and of guidance from Allāh ﷻ who says, «But whosoever turns away from my message, verily for him is a life narrowed down» (Ṭāhā, 124). A long period of non-observance of the Shariah results in widening the gap between governments and their people and increasing tendencies towards faulty interpretations and individual and group deviations of thoughts and behaviours.

The Academy reiterates the recommendation adopted in its 7th session which calls upon the governments of the Muslim countries to defend and strengthen the cause of the Islamic faith, pave the way for empowering it in its pure form, and warn against any act that could lead to its violation, or raise doubts about its sources, or endanger the overall Muslims' unity and plant divisions and conflicts among them.

The Academy also reiterates its call to the governments of the Muslim countries to "pursue the application of the Shariah, and use it as a guide for developing policy frameworks of their internal and external political relations."

SECOND: SUPPORTING MUSLIMS

Muslims anywhere are one nation, united by their faith in the Oneness of Allāh and by the Shariah and one direction in prayers. As the Prophet ﷺ said, "… they are like a single body when a part of it aches, the whole body feels pain." Therefore, it is the duty of every Muslim to support other Muslims, wherever they are, when they face aggression, seizure of land, or any other type of calamity. In this regard, Allāh ﷻ said, «The believers, men and women, are protectors, one of another: they enjoin what is just, and forbid what is evil.» (Al-Tawbah, 71). The Prophet ﷺ also said, "A Muslim is the brother of the other Muslim, he neither oppresses him nor does he hand him over (to the enemy), and when

a Muslim attends to the need of his (Muslim) brother he will get his own need attended to by Allāh, and when he dispels the agony of his (Muslim) brother Allāh will dispel one of the agonies of the Day of Resurrection for him." (Ṣaḥīḥ Muslim, 1830).

Support could be personal, financial, moral, or political, depending on ability, surrounding situation, and changing circumstances.

Furthermore, the Academy reiterates the recommendation of its 7th Session in which it "urged the Arab and Muslim countries to support Muslims who are facing persecution in the various parts of the globe and to use all possible means to defend their causes and ward off the assault they are suffering."

THIRD: PROHIBITION OF AGGRESSION IN ISLAM

Islam strictly prohibits unjustified aggression, such as terrifying safe and innocent people and those whose blood is protected. Any aggression of this type amounts to prohibited terrorism.

Preparation of means of strength for frightening the enemy is a Shariah requirement as has been indicted by Allāh ﷻ Who said, «Against them make ready your strength to the utmost of your power, including steeds of war, to strike terror into (the hearts of) the enemies of Allāh and your enemies, and others besides, whom ye may not know.» (Al-Anfāl, 60)

There is no doubt that a person who resists, with all his means and strength, those who have extorted his land and occupied his country, is discharging a lawful duty. This is precisely the situation of the Palestinian people when they resist the occupying Zionists who seized their lands and violated all their rights.

It is regrettable to note that some great powers use double standards when dealing with the Palestinian issue. They consider the lawful owner of the land who defends his life and property as a terrorist, whereas the aggressive invader who violates all human rights and values and uses the most powerful weapons of destruction to shed blood and stands against all international laws and traditions, as an underdog self-defender.

It is one of the bitterest forms of oppression and terrorism to go on associating Islam with terrorism. In contrast, in reality, it is the religion of justness and moderation, or to keep fighting many missionary and charity organizations and Islamic financial institutions in the name of fighting terrorism, without the slightest proof against such institutions.

FOURTH: ISLAMIC ETHICS

Today's world is in dire need of the Islamic ethics of peace and war in order to enjoy the predominance of justice that underlies the existence of earth and skies and discard oppression, arrogance and depravity that prevail over today's

world. In fact, the underlying reason for rebellions and afflictions is the division of the world into classes, and the state of monopoly that rich countries assume on power and wealth, and on knowledge which Allāh ﷻ has celebrated in His Holy Books and sent his messengers to promote among all mankind so that they can maintain right and justice. Allāh ﷻ said, «We sent our apostles with clear signs and sent down with them the Book and the Balance (of right and wrong) that men may stand forth in justice.» (Al-Ḥadīd, 25).

FIFTH: CLOSING REMARKS

The Academy expresses its appreciation for the comprehensive and important speech of H.E. the Secretary General of the Organization of the Islamic Conference delivered on his behalf by the Assistant Secretary General for Political Affairs and Muslim Minorities, in which he said:

> Your respectful session is being held in very critical and sensitive circumstances, in which the challenge to our existence has escalated to an unprecedented level. The aggression facing us today is a threat that endangers our fate and surrounds us with a host of gloomy realities, and therefore should make the whole of us, governments and people, stand in one line, with the firm will of defending our sacred places and our religious and cultural heritage.
>
> You can easily see the boastfulness and blustering of the Zionist enemy and the gravity of its crazy impulse of aggression. This enemy pushes the whole region to the edge of a destructive explosion by continuing its genocidal war against the brave Palestinian people, depending in all its egoistic arrogance on the unconditional blind military, economic, and political support that comes to it from external sources.
>
> In addition to Palestine, a fierce war with foggy objectives has also broken out in the Islamic land of Afghanistan to exacerbate the suffering of the aged, children and women who have no offence to be punished for.
>
> Therefore, preservation of the Islamic identity against the external factors stemming from international political developments falls right in the heart of your specialized intellectual work, which has a pivotal role in the formation of public opinion, consolidation of thinking, and deepening of the sense of belonging to the genuine Islamic civilization which can never be rooted out no matter how violent the aggression may be.
>
> That is because the provision of ideological and intellectual guidance to men and women is a central issue that supersedes all other issues due to its close link with the fate of the Ummah. Provision of such guidance deserves to have the due consideration and to be expressed in the form of earnest and productive efforts for

laying down the civilization fundaments of the Muslims' renaissance.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 126 (8/13)

Human Rights in Islam

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 13th session in Kuwait City, State of Kuwait, on 7–12 Shawwāl 1422H (22–27 December 2001),

believing that dignity has been bestowed upon human beings by Allāh ﷻ The Creator, to form the basis for rights and duties of human beings. Along with dignity, Allāh ﷻ has imposed some duties that human beings should observe towards their Lord, their own self, their fellow human beings, and their surrounding environment.

A deep, comprehensive, and impartial look into the Shariah is reasonably sufficient to ascertain its suitability to human society and consistency with human nature, as well as to the nature of the whole universe. This is why Islam is known as "The Natural Religion." This has been indicated by Allāh ﷻ by saying, «So set your face steadily and truly to the Faith, it is the nature from Allāh that He has given to mankind.» (Al-Rūm, 30)

Human Rights in Islam refer to privileges arising from the Divine honor bestowed by Allāh ﷻ on human beings and compelled everybody to respect and observe as outlined in Shariah criteria and conditions.

believing in the unanimous stand of the Ummah that Shariah is suitable for all places and times, and in the right of nations to maintain their distinctive cultural and religious characteristics, and in their right to choose their rules and legislative systems, the Academy confirms what is stated in the Cairo Statement on Human Rights in Islam, issued by the foreign ministers of the Muslim countries, on 14 Muḥarram 1411H (5 August 1999), and the recommendations of the Seminar on Human Rights, held by the International Fiqh Academy in Jeddah, on 8–10 Muḥarram 1417H (25–27 May 1996).

The Muslim peoples, by their own unequivocal will, have committed themselves to the Islamic systems and laws of personal affairs, woman affairs, family relations, and so many other social and economic matters, which go along with the Universal Declaration of Human Rights issued in 1948 by the United Nations General Assembly in several aspects especially the general content and

objectives while it differs in some other aspects, especially with Islamic ethics and social system.

CONSIDERING that Shariah has decreed its rulings for the preservation and achievement of its ethical objectives of which the most important are issues related to the five fundaments which ensure the fundamental human rights in regards to life (self), religion, property, mind, and honor (and posterity). Furthermore, in order to bar the way to any deviation, the Shariah – as all other legal systems anywhere and at any time would do – has set down preventive and restraining measures that would protect the society against violation of these five fundamental rights. Many international organizations and conferences have recognized the effectiveness of Islamic law in handling and curing many problems, which compel all rational people to consider it seriously.

CONSIDERING that Charter of the United Nations provides for the right of every state to spread its sovereign authority within its geographical boundaries and prevent others from interfering in its internal affairs and that laws of sovereign countries supersede foreign laws and systems.

RESOLVES

FIRST: It is incumbent upon the various organizations concerned with the issues of Human Rights, regardless of their charters and regulations, to refrain from interfering into those aspects of Muslims' life, which are governed by the Shariah. Such organizations have no right to impose upon Muslims regulations and values entirely different from their own or hold them accountable for not observing rules that they do not adopt. The Academy confirms that the internal legislations of sovereign states should not be subjected to foreign regulations and conventions.

SECOND: The Academy decided to establish a center for Human Rights reporting to it and commence necessary arrangements for that, including preparation of the statute of the center.

RECOMMENDATIONS

FIRST: The Academy calls upon states and international and human rights organizations to respect the rights of Muslim minorities in the various parts of the world and treat them fairly, especially in these critical times, in order to maintain justice and observe the rights of all people.

SECOND: The Academy expresses its readiness to communicate with jurists, academic institutions, international organizations, official and non-official forums, and any other concerned bodies from anywhere, to sit together, explore and exchange views on appropriate ways and means for enhancing cooperation

and mutual understanding in areas of Human Rights, so as to maintain peace, justice, tolerance, prosperity and noble life for all, and ward off misbehaviour as shown by the preceding principles. Let our slogan be the holy words of Allāh ﷻ, «Surely Allāh commands justice, the doing of good, and liberality to kith and kin, and He forbids shameful deeds and injustice and rebellion; He instructs you, that ye may receive admonition.» (Al-Nahl, 90), and what the Prophet ﷺ declared in his Farewell Pilgrimage to Makkah when he announced, "Indeed, your bloods, properties, and honor are inviolable among you, just like the inviolability of this day, this month, and this city."

Indeed, Allāh is the Giver of Success.

Resolutions and Recommendations of the 14th Session of the Council of the International Islamic Fiqh Academy

DOHA
STATE OF QATAR

7–13 Dhū al-Qi'dah 1423
11–16 January 2003

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 127 (1/14)

Contests Cards

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar, on 7–13 Dhū al-Qi'dah 1423H (11–16 January 2003),

having examined the research papers submitted to the Academy concerning *Contests Cards*,

having listened to the discussions on the subject,

resolves

first: definition of a contest

A contest is a transaction based on the competition of two persons or more for realizing or performing a task against a reward (prize) or without reward (prize).

second: permissibility of contest

1. A contest without reward (prize) is permissible in all matters that are not prohibited by Shariah or lead to skipping of a Shariah duty or committing a forbidden act.
2. A contest with reward is permissible subject to the following criteria:
    a. The objectives, means, and areas of the contest should be permissible.
    b. The reward (prize) should not be resourced from all contestants.
    c. The ultimate end of the contest should be acceptable in Shariah.
    d. It should not lead to skipping a Shariah duty or committing a prohibited act.

third: Contest cards (coupons) in which part or all of the proceeds are used for the prize are not permissible according to Shariah because they are a kind of gambling.

fourth: Betting between two parties or more on the result of a material or

immaterial act by any others is prohibited on the basis of the texts of the Quran and the Sunnah, which prohibit gambling.

FIFTH: payment for telephone calls for participation in contests is prohibited if the amount paid or part of it is used in the prizes; this is in the forbiddance of unlawful acquisition of people's properties.

SIXTH: It is permissible for prizes offerers to gain the benefit from their commodities promoted through permissible contests without getting any financial gain (from the contests) provided that no part of prizes' funds comes from the contestants and that the promotion does not involve cheating, deluding, or deceiving consumers.

SEVENTH: Increasing and decreasing the amount of the prize by successive gains and losses is not permitted in Shariah.

EIGHTH: Cards of hotels, airline companies and other institutions, which entitle their holders to points leading to Shariah-acceptable benefits, are permissible when given free of charge. If, however, such cards are given against fees, they become not permissible for involving *gharar* (uncertainty).

RECOMMENDATIONS

The Academy advises all Muslims to seek what is *ḥalāl* (permissible) in all their transactions and intellectual and promotional activities and keep away from extravagance and squandering.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 128 (2/14)

Humans Rights and International Violence

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar,on 7–13 Dhū al-Qi'dah 1423h (11–16 January 2003),

having examined the research papers submitted to the Academy concerning *Human Rights and International Violence,*

having listened to the discussions on the subject,

resolves

1. Islam confers honor upon a human as a human being and takes care of confirming and protecting his rights and dignity. The Islamic Fiqh is the first jurisprudence in the world to present a complete set of local and international legislations on human relations in times of peace and war.
2. Terrorism refers to aggression, scaring, or physical/psychological threatening, unlawfully inflicted by an individual, a group of people or a state on a person in his/her life, faith, dignity, mind or property in any form and with no right; it is a form of corruption or misdeed on the earth.
3. The Academy affirms that jihād and martyrdom for the sake of furthering and defending the Islamic faith and protecting one's homeland is not terrorism but an act of defending fundamental rights. Therefore, it is the right of the helpless nations, subject to occupation, to seek every possible means for regaining their freedom.
4. It should be noted that concepts like jihad, terrorism, and violence, which are now widely used in the media, are specific terms; none of them should be used out of its appropriate context.
5. As regards Shariah ruling on the act of plunging oneself into the enemy – martyrdom operations – the Council resolved to postpone the subject to a forthcoming session to be separately researched.

1. Preparing an Islamic written code on International Human Law, similar to the familiar legal codes, and translated into major languages. This Islamic Code should be made available in university libraries and in the libraries of the institutions of the United Nations. This is far better than repeating that Islam has nothing to do with terrorism and is more suitable for portraying the clear standpoint of Islam to non-Muslims.
2. Establishing a committee of knowledgeable persons to prepare an Islamic Charter that clearly articulates the Islamic viewpoint on the relationships with non-Muslims. This charter should also be translated into major languages and published through different media devices. This is the way to refute false accusations and show the essence of Islam to non-Muslims.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 129 (3/14)

Manufacturing and Construction Contracts: Essence, Characterization, and Forms

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar,on 7–13 Dhū al-Qi'dah 1423h (11–16 January 2003),

having examined the research papers submitted to the Academy concerning *Manufacturing and Construction Contracts: Essence, Characterization and Forms*,

having listened to the discussions on the subject,

having considered the legal proofs, principles, and ultimate objectives of Shariah and the need to preserve public interests in contracts and transactions,

having recognized the importance of manufacturing contracts and their important role in boosting industry and opening up broad opportunities for Islamic financing, and promoting Islamic economies,

resolves

1. A manufacturing contract is a contract according to which one party undertakes to manufacture something or perform a task against a specific amount that the other party undertakes to pay. It is a permissible contract whether the manufacturer is to provide both the work and the raw material – and in this case, the contract is called by Fuqahā, an Istiṣnā contract – or the manufacturer is to provide the work only, which is the case of Ijāra contract according to Fuqahā.
2. When the manufacturer provides raw material and work, the contract becomes subject to the Academy resolution no. 65 (3/7) on Istiṣnā.
3. When the manufacturer provides work only, the reward should be pre-determined.
4. Agreement on the determination of the price is permissible to be in any of the following ways:
    a. Agreement to a total price based on the tender documents, designs and specifications that have been precisely specified.

b. Agreement on the price per a specific standard unit with agreed-upon drawings and designs to be applied the quantity.

c. Agreement to determine the price based on the actual cost plus a definite percentage as profit. In this case, the manufacturer/contractor should present detailed accounts and lists that clearly tabulate his actual cost according to specifications so that these can be used for calculating the contract's value of cost-plus.

5. A manufacturing contract may include a penalty clause to enforce fulfillment of what has been agreed upon, except in case of force majeure. In this connection, Academy resolution no. 109 (3/12) on *Penalty Clause* should be applied.

6. It is permissible in manufacturing contracts to postpone payment of the contract price or make it payable in installments at pre-determined maturities or in accordance with dates' performance phases.

7. It is permissible to agree on amendments and additions to the contract.

8. If the manufacturer made amendments or additions with the owner's permission, but without mutual agreement on additional payment, the manufacturer is entitled to compensation based on similar works.

9. If the manufacturer made amendments or additions without the owner's permission, the former is entitled to no additional payment or compensation for such amendments or additions.

10. The manufacturer should be liable for indemnity in cases of infringement, negligence, or breach of contract on his part and for defects and mistakes he causes. However, the manufacturer should not be held liable for what the owner has caused or what has come as a consequence result of force majeure.

11. If the owner made a condition that the manufacturer should do the work personally, the latter should not assign the work to a sub-contractor.

12. If the owner did not make a condition that the work should be done by the manufacturer personally, the latter may assign the work to a sub-contractor unless the work itself is meant to be done by the manufacturer, due to particular merits that normally differ from one craftsman to another.

13. The manufacturer is accountable for the work of his sub-contractors, and his responsibility towards the owner remains valid as per the contract's stipulations.

14. It is not acceptable to stipulate in manufacturing contracts a condition that relieves the manufacturer from liability.
15. It is permissible to stipulate liability for a specific period.
16. It is not acceptable to stipulate in manufacturing contracts a relief of liability for defects during the guarantee period stated in the contract.

RECOMMENDATION

To conduct special studies on some other forms of manufacturing contracts such as BOT contracts (Build, Operate, and Transfer).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 130 (4/14)

Shariah Rulings on Modern Companies: Holding and Other Companies

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar,on 7–13 Dhū al-Qi'dah 1423h (11–16 January 2003),

having examined the research papers submitted to the Academy concerning *Shariah Rulings on Modern Companies: Holding and Other Companies*,

having listened to the discussions on the subject,

resolves

first: definition of modern companies

1. Capital Association Companies

   They are companies that depend, in their establishment and formation, on the capital funds of the partners, regardless of the independent personality of each of them. These types of companies, which have tradable shares, include the following:

   a. Joint Stock Company: a company with its capital divided into equal tradable shares, and the liability of each of its partners is limited to his share in the capital.

   b. Limited Shares Company: a company with its capital in the form of tradable shares, and its partners of two types: (1) Joint partners who have full liability towards the debts of the company, and (2) Limited (silent) partners whose liability is limited to their respective shares in capital.

   c. Limited Liability Company: a company with its capital owned by a limited number of partners (number varies under different laws), each has a liability commensurate with his shares in the capital. The shares of this type of company are not tradable.

2. Personal Association Companies

They are companies that are established on the basis of the persons who form them. That is to say, consideration here goes to the persons who all know each other and have confidence in each other.

This type of company includes the following:

a. Joint Liability Company: a company established between two persons or more for business purposes. The partners share capital contribution and assume, personally, joint liability towards the company's debtors even in their personal properties. This type of company is based on personal acquaintance among partners.

b. Limited Partnership Company: a company formed between one joint partner or more and one dormant partner or more. The joint partners assume liability towards the company's debtors, and the dormant partners, known as limited partners, are kept away from management; the latter's liability is limited to their respective shares in the capital.

c. Particular Partnership Company: is a hiding company with no legal personality and is formed between two persons or more; each has a well-defined share in the capital. The partners agree to share the profits and losses resulting from the business transactions they perform jointly or in the name of only one of them. When one partner performs a business on behalf of the others, his liability towards debtors remains limited to his person (and other partners remain non-liable toward debtors.

3. Holding Company
A company that owns stocks or shares in other independent companies' capital at a ratio that enables it to dominate its management and control its business plans.

4. Multinational Company
A company that comprises a group of subsidiary companies and has a principal center located in one country, while its subsidiaries are located in different countries, usually carrying their respective nationalities. The principal center of the multinational company and its subsidiaries are linked together through a comprehensive business strategy that aims at achieving specific investment objectives.

SECOND: In principle, companies are permissible as long as they do not perform Shariah-banned activities. However, if the main line of business is prohibited, such as usury-based banks or companies that entirely or partially deal in

prohibited things such as narcotics, pornography, or pigs, these are prohibited companies, and it is prohibited to own or trade their shares. Furthermore, the activities of companies should also be free from *gharar* (uncertainty), un-knowability that could lead to dispute, and any other reasons that cause the company' establishing agreement to be considered null and void from the Shariah perspective.

THIRD: It is prohibited for the company to issue jouissance shares, preference shares, or bonds.

FOURTH: In case of capital loss, each partner should bear in proportion to his capital share.

FIFTH: The shareholder in the company owns a common share in its assets in proportion to his capital share and remains as the owner of that share until ownership title is shifted to someone else through an exit or any other form of ownership transfer.

SIXTH: As regards the collection of Zakāh on company shares, in cases of holding and multinational companies, refer to resolution no. 28 (3/4) of the 4th Session, and resolution no. 121 (3/13) of the 13th Session of the Academy.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 131 (5/14)

Liability of Public Transport Drivers in Case of Accidental Homicide and Multiplicity of Kaffārah (Expiation)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar,on 7–13 Dhū al-Qi'dah 1423h (11–16 January 2003),

having examined the research papers submitted to the Academy concerning the *Liability of Public Transport Drivers in Case of Accidental Homicide and Multiplicity of Kaffara (Expiation)*,

having listened to the discussions on the subject,

resolves

Postponement of the subject for conducting separate research studies on the following Shariah issues:

1. Multiple *kaffārah* claims on the multiplicity of accidental homicide.
2. Alternative arrangements in the absence of A*qilah* (collective blood-money liability) or inability to bear the *diyah* (blood-money compensation).
3. Depriving a perpetrator of accidental homicide from inheritance.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 132 (6/14)

Adhesion Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar,on 7–13 Dhū al-Qi'dah 1423h (11–16 January 2003),

having examined the research papers submitted to the Academy concerning *Adhesion Contracts*,

having listened to the discussions on the subject,

resolves

1. Adhesion Contract is a western recent legal term given to agreements characterized by the following terms and conditions:
    a. The contract relates to goods or services that all people need and cannot do without, such as water, electricity, gas, telephone, mail services, public transport, etc.
    b. The supplier of such goods or services has an actual or legal monopoly status in their provision or at least controls their provision to the extent that makes competition very restricted.
    c. The supplier alone has exclusive control over the detailed terms and conditions of the contract, leaving no room for the other party to negotiate, drop, or amend any of them.
    d. The offer (supply) is made unified and continuously open to the whole public with the same terms and conditions.
2. The Adhesion Contract is concluded by the meeting of the offer and acceptance, which are presumed in any means that indicates the mutual consent of its two parties and the conformity between their two wills to conclude it, according to the terms and conditions presented by the supplier, and without making it conditional to a certain form of wording or a specific written format.
3. In view of the fact that the dominating party may misuse his control

over the price and other terms of the contract, and hence fix them at a level that harms the public, it is mandatory in Shariah that adhesion contracts must be subject to state revision before implementation so that the state can endorse those which prove to be fair, and amend or cancel those which could lead to oppression of the complying party; this is in application to the Shariah vital principle of justice.

4. From the standpoint of Fiqh, actually concluded adhesion contracts could be divided into two categories:

   FIRST CATEGORY: adhesion contracts that have a fair price, and do not contain any oppressive conditions regarding the complying party. A contract of this kind is valid in Shariah and binding to its two parties. Neither the state nor the judiciary has the right to interfere for cancellation or amendment of such contract, as there will remain no Shariah justification for doing so. That is because the party who controls the good or the service has willingly offered it at the Shariah-acceptable price, which is the normal price for similar goods or services (trivial inequity in price is condoned by Shariah and usual and customary tradition, for being inevitable in financial exchange transactions) and also because selling a commodity to somebody, who is compelled to buy it, at a fair price is unanimously accepted by Shariah scholars.

   SECOND CATEGORY: is adhesion contracts, which are oppressive to the complying party because of their unjust price (comprising extreme inequity) or its arbitrary and harmful conditions. In this case, the state should interfere to enforce a fair price and safeguard those who need to buy the good or the service in question. That is to say, the state may reduce the price to be commensurate with the price generally charged for similar goods or services, or it may cancel or amend the unfair conditions to achieve justice between the two parties to the contract. Interference of the state in this manner is based on the following justifications:

   a. It is the state's duty (*walī al-Amr*) in Shariah to ward off the harm encountered by the public when an individual or a company monopolizes a particular good or service and refrains from selling it to them at a fair price. Interference of the state to enforce the fair price, in this case, will ensure observation of two rights: the right of the public to be relieved from the harm resulting from a miscast of the monopolist with regard to price or conditions, and the right of the monopolist to get fair compensation.
   b. Such pricing implies that more priority is given to the common

interest of those who are in need to buy the goods or services for a fair price, over the private interest of the oppressive monopolist who refrains from selling the good or service to them except for an exorbitant price or unfair conditions. This priority order is well affirmed and established in the Fiqh Maxims that "Public interest supersedes private interest" and that "Private harm should be endured for warding off public harm."

5. In the exclusive agency of imports, three cases should be distinguished:

FIRST CASE: when there is no indispensable need for the good or service in question whether for the public at large or of a group of them, such as when the good or service is of entertainment nature that people can do without or when there is a necessity or need that is not specific for this good or service because there exists another substitute available in the market at a fair price. In this case, the agents who has the exclusive right of imported good or service is entitled to sell it at the price he agrees upon with the buyer. Neither the state nor the judiciary has any right to interfere in fixing the price, as – in principle – contract validity is based on mutual consent of the two parties and the contract's outcome is what they willingly commit themselves to. Moreover, because the agent's exclusiveness of the product and its monopolization (if the word monopoly is taken in its strict linguistic sense) are permissible in Shariah, providing that the deal does not involve any harm or oppression to the public; a matter which makes pricing not permissible.

SECOND CASE: when there is an indispensable public or group need for the good or service in question and the agent is willing to offer it at a fair price, i.e. a price that does not involve any excessive inequity or oppressive control. In this case, also the state (or the judiciary) has no right to interfere in fixing the price because the act of the agent of exclusively owning the good or service in question and monopolizing it is a lawful act of disposing of own property, without causing harm to others. Then there should be no interference with him on this.

THIRD CASE: when there is an indispensable public or group need for the good or service in question, and the agent is unwilling to offer it except for an excessively high price or subject to oppressive conditions; in such a case, the state must interfere with warding oppression off those who need it by way of enforced pricing on the agent.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 133 (7/14)

Problem of Arrears in Islamic Financial Institutions

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar,on 7–13 Dhū al-Qi'dah 1423h (11–16 January 2003),

having examined the research papers submitted to the Academy concerning the *Problem of Arrears in Islamic Financial Institutions*,

having listened to the discussions on the subject,

resolves

first: The method of dealing with delinquencies in Islamic financial institutions differs from the method used by conventional banks because conventional banks deal with prohibited interest. Hence, it would be suitable to start with emphasizing the prohibition of banking interest on the following grounds:

a. Functions of Conventional Banks

By virtue of the rules that regulate their work, conventional banks are not allowed to pursue investments that involve profit and loss. Banks receive deposits from the public as loans and limit their functions – as lawyers and economists say – to interest-based borrowing and lending, and credit creation through interest-based lending of deposited funds.

b. Relationship between Conventional Banks and Depositors

From the Shariah and the legal viewpoints, the relationship between depositors and banks is lending rather than an agency relationship. This fact is also well-established by the rules and regulations governing banks. This is so because an investment agency is a contract according to which one party delegates the other to invest an amount of money that the principal still owns against a specific lump sum or a given percentage of the return on investment. In such arrangement, Fiqh scholars are, unanimously, of the view that the principal continues being the owner of the invested capital, and therefore he is entitled to its return (Ghunm) and should bear its loss (Ghurm), and the agent is entitled to the wage stipulated in

the agency contract if the deal is a wage-based agency.

Accordingly, conventional banks are not an agent of the depositors in investing their funds because such funds are given to the conventional bank as loans guaranteed by the bank, and therefore the bank owns the right to dispose of them the way it likes committed to their repayment. In Shariah, a loan has to be repaid in the same amount, without any stipulated increment.

c. Conventional Banks' Interests being a Shariah-Prohibited Usury

Interest on bank deposits is a Shariah prohibited Riba, as per the texts of the Quran and the Sunnah. Several resolutions have well affirmed this fact and Fatāwā (Shariah opinions) since the second Islamic Conference of the Islamic Research Academy, held in Cairo in Muḥarram 1385H (May 1965) and attended by eighty-five most renowned Fiqh scholars and representatives of thirty-five Muslim countries. That conference mentioned in the first item of its resolutions that: Interest on all types of loans is a prohibited Riba. Several other resolutions and recommendations of numerable conferences followed, including:

- The First International Conference on Islamic Economics, held in Makkah al-Mukarramah in 1396H (1976) which was attended by more than three hundred Fiqh scholars and economic and banking experts and which emphasized the prohibition of bank interest.
- The Second Conference of Islamic Banks held in Kuwait in 1403H (1983), which also confirmed the same.
- The International Islamic Fiqh Academy of the Organization of the Islamic Conference, in its Second Session held in Rabī' al-Awwal 1406H (December 1985), stated in its resolution no. 10 (2/10) that "any increase or interest charged on a debt that fell due and the debtor failed to repay it against its rescheduling, and any increment or interest on a loan stipulated at the time of initiating the contract are Shariah-prohibited Riba."
- The Islamic Fiqh Council of the Muslim World League of Makkah al-Mukarramah in its 9th Session held in the year 1406H (1986) affirmed that any money procured as interest is a prohibited Riba according to Shariah.
- The Ifta Committee of Al-Azhar University, emphasized the prohibition of returns on investment certificates of type (A) and (B).
- The *fatwā* (Shariah opinion) of the former Mufti of the Al-Azhar,

> Sheikh Mohammad Sayed Tantawi in Rajab 1409H (1989) which stated that "depositing funds with banks as well as lending them or borrowing from them in any form, against predetermined interest is prohibited."

Added to all that are the fatwas of several Fiqh fora such as Fiqh Councils of Muslim countries, fatwa committees, seminars and conferences, and fatwas of individual Fiqh scholars and experts in the fields of economic and banking activities throughout the Muslim world. These Shariah opinions constitute a clear consensus of contemporary Muslim scholars that banking interest is prohibited; this should not be violated or overlooked.

d. Pre-Specification of the Investment Return as a Lump sum or a Capital Percentage

It is a well-admitted fact that the interest-based loan contract differs from the Shariah-based Muḍārabah contract because, in the former, the borrower is entitled to the full return and has to bear the loss. In contrast, in the Muḍārabah, the two parties share return and the fund-owner bears loss when it happens in the application of the Prophet's ﷺ saying, "entitlement to return is related to risk-bearing," (an authentic ḥadīth reported by Imam Ahmad and in the four books of Sunnan) which means that the party who bears the risk of damage, total destruction, or defects deserves the returns, increments and appreciations. From this ḥadīth, Fiqh scholars derived the famous Fiqh Maxim that "Gain is related to risk-bearing." It is also reported that the Prophet ﷺ "forbade a return of [a thing] whose risk is not assumed." (Four Books of Sunnan)

For centuries, there has been unanimity among scholars from all Fiqh schools that return on investment in Muḍārabah or any other form of partnership should not be pre-determined as a lump sum or a percentage of the invested funds (the capital), because such an act involves guaranteeing the principal, contrary to the explicit directives of the Shariah. It also leads to interrupting the principle of profit and loss sharing, which is necessary for partnership and Muḍārabah. This unanimous position is well established and affirmed as there exist no reports that dispute it. In this regard, Ibn Qudamah, in his book *al-Mughni* (34/3), says:

> All knowledgeable Fiqh scholars whose viewpoints have been reported, unanimously annul Qirad (Muḍārabah) if it contains a condition granting either or both parties a pre-determined amount of money as return.

Unanimity of opinion (Ijmā‘) is a stand-alone evidence as established in Shariah. Therefore, the Academy, while deciding this in unanimity, advises Muslims to continuously seek for permissible (*ḥalāl*) income and avoid prohibited (*ḥarām*) returns, in obedience to Allāh ﷻ and His Prophet ﷺ.

SECOND: OUTSTANDING DEBTS

a. Regarding penalty clauses in contracts: the Council re-emphasizes its previous resolutions on the subject as stated in its resolution no. 85 (2/9) on *al-Salam*, which reads, "Penalty clause for delinquency in delivery of the *salam* commodity is not permissible because it is an (in-kind) debt, as imposing any increment for delayed debts payment is prohibited," and its resolution no. 109 (4/12) on Penalty Clause which states:

> …default penalty can be imposed in all financial contracts except those in which the basic commitment is a debt. Increment as a delinquency penalty in debt is a pure *ribā*. Accordingly, it is prohibited, for instance, to impose a delinquency penalty in the installment sale contract for delay of payment by the debtor of any remaining installments, whether for insolvency or evasion or in an Istiṣnā‘ contract for a manufacturer who delays complete delivery of his obligation.

b. The Academy reconfirms its previous resolution no. 51 (2/6) on *Installment Sale*, which comprises the following points:

> THIRD: if the indebted buyer delays payment of due installments, he should not be obligated – with or without a pre-condition – to pay any increment, because that is prohibited Ribā.
>
> FOURTH: While it is prohibited for a solvent debtor to delay payment of due installments, it is still not permissible in Shariah to claim compensation for his delinquency.
>
> FIFTH: It is Shariah-permissible for the seller in Installment Sale contracts to include a condition that the buyer should prematurely pay all the remaining installments in case of default in some of them, and the buyer, in this case, is bound by this condition as he had accepted it at the time of contracting.
>
> SIXTH: the seller has no right to retain the ownership of the sold asset after concluding the sale transaction, but he has the right to demand mortgaging the asset to him so as to ensure payment of his installments.

c. It is important for Islamic banks to give adequate care to studying the reasons behind the problem of debts' defaulting. They should give attention to Murābaḥah and deferred-contract transactions, observance of technical means of financing (e.g. feasibility studies), and obtaining

sufficient guarantees.

RECOMMENDATIONS

a. Islamic banks should commit themselves to the Islamic economic approach and its parameters in their activities. They should also pursue technical and managerial reforms that would enable them to have more progress through promoting direct investments and partnerships in order to achieve social and economic development that is one of the most important objectives of Islamic banks and financial institutions,

b. Efforts should also be exerted for developing new mechanisms for solving the problem of over-dues in Islamic financial institutions. In this regard, a study on the subject should be presented to a forthcoming session of the Academy for discussion.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 134 (8/14)

New Global Order, Globalization, Regional Blocs, and their Impacts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 14th session in Doha, State of Qatar,on 7–13 Dhū al-Qi'dah 1423h (11–16 January 2003),

having examined the research papers submitted to the Academy concerning the *New Global Order, Globalization, Regional Blocs, and their Impacts*,

having listened to the discussions on the subject,

resolves

definition of globalization and new global order

Globalization in its apparent form and manifestations means easy movement of goods and ideas and removal of barriers between peoples and nations to the extent that it transforms the whole world into a small global village which is a direct consequence of contemporary advancement in technology and the emergence of new forms of global interaction such as Regional Groupings, World Trade Organization, cross-continent Companies, etc. This has been accompanied by deliberate efforts of the super powers to enforce the influence of western culture to serve their interests and impose control and hegemony over several aspects of human life. These super powers have continued to work for directing technological advancement to devise more modes and mechanisms for building their capabilities on the one hand and exercising more control and hegemony over human life on the other hand.

These developments are closely linked to what is called the *New International Order*, a concept now widely celebrated by international organizations and conferences that tend to deal with educational, economic, social, demographic and environmental issues in a way that serves the interests of the super powers and deepens the materialistic values of contemporary western culture.

Globalization in this form constitutes a flagrant challenge to the Ummah and the divine message that underlies its rightly guided civilization that realizes goodness for the human race in all aspects of life. This imposes a huge responsibility on scholars, politicians, thinkers, and leaders to pursue practical means

of bringing about a comprehensive renaissance of the Ummah in the different walks of political, cultural, economic and informational life. These efforts for revival are necessary in the following two areas:

FIRST: consolidating the resilience of the Ummah generations against challenges of contemporary practices of globalization and their accompanying westernization. This requires tremendous efforts to reconstruct the contemporary Islamic personality, which can face such challenges with the utmost consciousness, sagacity and deep, moderate, and well-balanced understanding of Islam. Such understanding integrates knowledge with faith, originality with modernity, and constant ideals with openness to time achievements. All this necessitates giving much care to the systems and curricula of education with particular emphasis on religious subjects, and resisting any external interference in this respect.

SECOND: Taking the reins of an initiative to deal with the tools and mechanisms of Globalization with comprehensive and rational plans that address contemporary human societies in ways and languages they understand, without extemporization, shallowness, or shortsighted theorizing. Such initiative should cover, among others, areas of intellectual thinking, culture, and information and pursue the objectives of enhancing innovative practices in science and socio-economic development to ensure a decent life for every human being in the global society.

GIVEN these comprehensive plans and that Islam is a universal religion that has come for the good and happiness of all humanity in this life and in the after-life, and given the fact that Islam is the final religion and the only faith that can be accepted by Allāh ﷻ from any individual,

THE ACADEMY RECOMMENDS

1. There should be a scholarly and objective wide-scope spread of information about the universality of Islam and the ideal solutions it offers for human beings' problems in an approach that applies all possible means.
2. Empowerment of the Organization of the Islamic Conference and its affiliate institutions as well as all other Islamic organizations, and enhancing their roles to deepen the process of Islamic groupings, especially in the field of economy.
3. Hard work has to be done to establish Common Islamic Markets and promote joint ventures and intra-investment in the Arab and Muslim countries.
4. Efforts should be exerted to reshape the relationship between the Muslim world and the New International Order in a way that affirms the in-

dependence of the Muslim countries and ensures full respect to their sovereignty and privacy to preserve the Islamic identity of their peoples.

5. Working seriously to upgrade the scientific and technological capabilities of the Muslim countries and domestication of up-to-date technology.
6. Working to strengthen the relationships among the Islamic nations and achieve the Islamic unity in the face of various challenges.
7. Emphasizing the co-existence of originality and modernity as the two fundamental elements of the Islamic Discourse and developing the tools that the Islamic Discourse could use for enlightening the Muslim masses and disseminating the noble progressive message of Islam without exaggeration and extremism on the one hand, or remissness and slackening on the other.
8. Enhancing scholarly diligence in the institutes, colleges and universities of Shariah education, as well as fatwa Councils and Fiqh academies, so that the Ummah can be able to tackle emerging issues and new problems in the light of deep and comprehensive Shariah insight and work out the appropriate solutions.
9. Using contemporary means and devices of communication, such as the satellite channels and the Internet, to disseminate prudent Islamic knowledge and portray the shiny picture of this religion.
10. Coordination among governments and voluntary organizations of the Muslim countries in enlightening the international organizations and conferences about the distinct Islamic positions that can safeguard humanity against risks and evils that may occur.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement by the International Islamic Fiqh Academy to the Ummah concerning Palestine and Iraq

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The Academy has been closely observing the dangerous situations encountered by the Arab and Muslim countries, especially Palestine and Iraq, and the state-run terrorism being exercised by the Zionist authority in the occupied land of Palestine through the killing of innocent armless children, women and elderly and committing indiscriminate raids, arrests and assassinations as well as the destruction of houses over the heads of dwellers, dredging of agricultural lands, and exercising continuous military sieges on the Palestinian towns, villages and refugee camps especially the city of al-Quds, the city of the Heavenly Journey of the Prophet ﷺ which constitutes an essential part of the Muslim faith and religion, and the deprivation of Palestinian people from their religious right of performing their prayers in the al-Aqsa Mosque.

Despite all this state terrorism, Israel pretends to be pursuing peace and claims that its criminal leader is a man of peace while calling the martyrs who defend their religion, lives, land and dignity, as terrorists.

There is no doubt that such aggression by the Israeli occupying forces is the real terrorism itself and a clear violation of human rights and international conventions. All these practices take place under the eyes and ears of the whole world, including those countries which claim the protection of freedom, democracy, equity and human rights.

The Anglo-American aggression that threatens Iraq today is, actually, targeting the lives of its Muslim people and wealthy land, without listening to the loud calls of Muslims to stop this flagrant aggression or paying the slightest attention to the resolutions of the official and popular organizations in the Arab and Muslim countries, or showing any care for all the calls that are coming from peace-loving countries and nations. This position of the invading powers is a mere denial of the international values and conventions that ban abusive acts against the sovereignty, lands, and citizens of other countries.

Given all this, the Academy calls upon the governments and people of the Ummah to provide full support, which is an obligation by Allāh, to the Iraqi and Palestinian peoples to preserve lives and blood that Allāh forbids wasting. In

this regard, Allāh ﷻ said, «The believers are, but a single brotherhood» (al-Ḥujurāt, 10), and He ﷻ said, «The believers men and women are protectors of one another, they enjoin what is just and forbid what is evil.» (al-Tawbah, 71). The Prophet ﷺ also said in this regard, "Believers are like the building blocks of a wall, each of them supports the other," (Agreed upon) and he ﷺ also said, "Each Muslim is the brother of the other Muslim, he never aggrieves him, betrays him, or hand him over to the enemy." (Agreed upon)

In the light of these texts of the Quran and the Sunnah, in addition to what has been said earlier, the Academy confirms the following:

FIRST: It is not permissible, in Shariah, to support aggressors or help them achieve their aggressive objectives through shedding the respected blood of innocent people.

SECOND: Aggression against any Muslim country amounts to aggression against the whole Islamic Ummah.

THIRD: According to Shariah, all Muslim governments are called on to bear their responsibility of providing support and discharging their duties towards their religion, Ummah, and countries.

All Praise is due to Allāh, Lord of the Worlds.

Resolutions and Recommendations of the 15th Session of the Council of the International Islamic Fiqh Academy

MUSCAT
SULTANATE OF OMAN

14–19 Muḥarram 1425
6–11 March 2004

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 135 (1/15)

Islamic Discourse: Characteristics and Challenges

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425H (6–11 March 2004),

having examined the research papers submitted to the Academy concerning the *Islamic Discourse: Characteristics and Challenges*,

having listened to the discussions on the subject,

having recalled the verses of the Holy Quran that require the approach of wisdom and good preachment in the call for Allāh, and the Sunnah's directives and teachings, whether in verbalization or in setting practical examples,

having considered the necessity of observing the circumstances of those to whom the discourse is addressed and on selecting the best possible approach depending on the situation and on characterizing the discourse with moderation and balance, making it suitable to persons to whom it is oriented,

resolves

a. The term "Islamic Discourse" refers to the method of expression used for presenting the facts, teachings and rules of Islam concerning the various public and private aspects of life.

b. The debate, which is currently raised on the subject, necessitates a clarification of the beautiful characteristics of the Islamic Discourse and refutation of the suspicions raised around it to defeat the aggressive attacks against Islam and resist the fierce media campaigns aim at distorting the image of Islam.

c. Nevertheless, renewal of the Islamic Discourse should not lead to any change in its fundamental principles or to any attempt to discard any principle of Islam or established rulings of Shariah.

a. Working for integration of the efforts of preachers and intellectuals concerned with the Islamic Discourse, whether in Islamic or non-Islamic societies, to ensure observance of the directives of the Quran and the Sunnah regarding Islamic Da'wah, and the emphasis they should put on wisdom and good preachment, and avoidance of any ways that could lead to frustration of those who are invited to Islam.

b. There is a need for making use of all modern means and techniques of communication so that the Islamic Discourse can reach all levels of society.

c. Muslim governments and wealthy Muslims are called upon to donate money and exert efforts for dissemination of the Islamic Discourse through the media, especially space channels and the internet, so as to reveal the facts of Islam, remove all doubts that are being raised about it, and purify media devices from any misrepresentation of Islam.

d. Encouragement of constructive thinking for renewal of the approach of the Islamic Discourse so that it blends originality with modernity, i.e. it observes fundamental principles of Islam while catering for temporal interests and accommodating traditions that do not violate the established fundaments of Shariah.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 136 (2/15)

Diminishing Mushārakah and its Shariah Criteria

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425h (6–11 March 2004),

having examined the research papers submitted to the Academy concerning *Diminishing Mushārakah and its Shariah Criteria*,

having listened to the discussions on the subject,

resolves

1. Diminishing Mushārakah is a new form of relationship involving a partnership between two parties in an income-producing project, and in which one party undertakes to, gradually, purchase the share of the other, whether out of the purchaser's share in the project income or from any other source.
2. Diminishing Mushārakah is based on the contract concluded between the two parties in which each of them subscribes to a specific share of the capital of the partnership, whether in cash or another type of cash-evaluated assets after they determine the share of profit distribution, providing that each party bears his share of the loss (if incurred) commensurate to his share in the capital.
3. Diminishing Mushārakah is characterized by the presence of a binding undertaking from only one party to buy out the share of the other party, provided the latter has the option (to sell or not). The buyout is effected by concluding a series of sale contracts when buying each share; these sale contracts can be performed through exchange of offer and acceptance notifications.
4. It is permissible for any of the two parties of the Mushārakah to rent the share of his other partner against a specific amount and a specific period. In this case, the two parties' commitment towards the cost of essential maintenance remains as per their respective capital shares.

5. Diminishing Mushārakah is permissible as long as it adheres to the general Shariah rulings on partnerships and to the following conditions:

   a. The pledge should not be for purchasing the shares of the other party at par value because the pledge, in that case, amounts to providing a guarantee of the principal. The purchase price of the shares should be determined at market value, or a price mutually agreed upon, on the same day of concluding the sale transaction.

   b. There should be no condition burdening any of the two parties along with the costs of insurance, maintenance, and the other expenses, because such costs and expenses should be charged to the Mushārakah account, as per respective shares of the partners.

   c. The respective profits of the Mushārakah parties should be stipulated in the contract as percentage shares in the profit. It is not permissible to specify in the contract a lump sum or a percentage of the subscribed principal as a profit for any of the two parties.

   d. The contracts and commitments relating to the Mushārakah transaction should be kept independent from each other.

   e. There should be no stipulation in the contract that gives any of the two parties a right to get back his subscribed principal (finance).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 137 (3/15)

Ṣukūk al-Ijārah (Leasing Bonds)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425H (6–11 March 2004),

having examined the research papers submitted to the Academy concerning *Ṣukūk al-Ijārah (Leasing Bonds)*,

having listened to the discussions on the subject,

resolves

1. The idea of Ṣukūk al-Ijārah is based on the concept of "securitization," which refers to the issuance of tradable securities representing income-producing assets. The purpose of Ṣukūk al-Ijārah is to transfer the assets and usufructs relating to the lease contract to securities (Ṣukūk) that can be traded in secondary markets. Therefore, Ṣukūk al-Ijārah are defined as "documents of equal values representing common shares in the ownership of income-producing assets or usufructs."
2. Ṣukūk al-Ijārah do not represent a specific amount of money or a debt owed by a particular party – be it natural or legal personality – but it is financial security representing a common portion (share) in a usable asset such as a building, an aircraft, or a ship; or a group of assets – similar or otherwise – that can be leased to generate income determined through the lease contract.
3. Ṣukūk al-Ijārah may be issued to specific names, i.e., may carry a specific owner's name. In this case, ownership's transfer is to be by recording in a specific register or by writing the new owner's name on the security itself. Alternatively, Ṣukūk al-Ijārah may also be issued to the bearer, where ownership transfer occurs by handing over the security.
4. It is permissible to issue and trade negotiable Ṣukūk that represent shares in leased assets, provided that the assets satisfy the conditions which permit their leasing (being, for instance, a building, an aircraft, or a ship),

as long as the Ṣak (singular of Ṣukūk) represents ownership of tangible assets that are leased for yielding income.

5. It is permissible for the owner of the Ṣak to sell it in a secondary market to any buyer against a price mutually agreed upon regardless of whether such price is equal to, less than, or more than the purchase price, because prices of assets are always governed by the market forces (supply and demand).

6. The owner of the Ṣak is entitled to its share in the return – which is the rent – at the due dates indicated in the issuance prospectus, after deducting the costs and expenses incurred by the owner or lessor as per the lease contract.

7. It is permissible for a leaseholder who has the right of sub-leasing to issue Ṣukūk al-Ijārah representing common shares in the usufructs that he owned through leasing, and uses such Ṣukūk for sub-leasing provided that such sub-leasing Ṣukūk are issued before signing the contracts with potential sub-lessees, whether the rentals of the sub-leasing contracts are equal to, less than, or more than the rent in the original lease contract. But if the leaseholder has already signed the contracts with the sub-lessees, it would not be permissible for him to issue the sub-leasing Ṣukūk as these Ṣukūk would represent debts owed by the sub-lessees to the lessor or issuer.

8. The issuer or manager of Ṣukūk al-Ijārah should not guarantee the principal or return of the Ṣukūk, and in case of total or partial damage of the leased assets, the loss has to be borne by the Ṣukūk holders.

RECOMMENDATION

Holding a specialized seminar, in coordination with the concerned financial institutions to study Shariah rulings on forms of Ṣukūk al-Ijārah presented in some of the research papers, and not covered by this resolution, so that the Academy may issue a resolution on them in the light of the results of the seminar. Most noticeable among these forms are the following:

1. The ruling on Ṣukūk al-Ijārah that represent assets leased on "lease ending with ownership" to the person from whom the assets are purchased.

2. The ruling on the issuance and trading of Ṣukūk al-Ijārah of described assets that are yet to be constructed (mawsufah bi al-dhimmah).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 138 (4/15)

Islamization of Education Curricula

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425h (6–11 March 2004),

having examined the research papers submitted to the Academy concerning the *Islamization of Education Curricula*,

having listened to the discussions on the subject,

resolves

1. The process of Islamizing the education curricula should concentrate on designing the objectives, contents and evaluation methods of the curricula within the framework of the overall comprehensive Muslim world view of human being, universe, and life for the purpose of raising good individual, committed to his faith and capable of shouldering the function of vicegerent of Allāh ﷻ on earth, and accomplishing his assigned task of developing it in line with the Islamic values and principles.
2. The educational activities should aim to implant and deepen Islamic values in young generations' minds and enable them to assimilate put them to real practice.
3. The educational subjects and courses should be designed within the framework of the Muslim worldview, with due emphasis on incorporating the various aspects of the Islamic vision (faith, Shariah, and way of life) in the course contents.
4. Adopting the Islamic methodology with regard to approaches and means of education while making use of the modern means and techniques in this field. Special schemes may also be introduced to achieve specific promotional objectives, such as awarding prizes to inventors and innovators.
5. Adherence to the Islamic values in performance appraisal of educational activities while making use of modern techniques and promoting coordination and exchange of information among the educational institutions

of the Muslim countries.

6. Updating, improving and developing the education curricula that exist in the Muslim countries, in order to reflect the Islamic originality as well as contemporary advancements without interference from any external parties.
7. Expanding the teaching of Arabic language in all levels of education so as to make the language of the Quran and the Sunnah the medium of education in order to preserve the Islamic identity and maintain linkage with the cultural heritage of Islamic studies which is mostly in this language.
8. Purifying the teaching subjects in all disciplines from all intruding alien concepts, which do not conform to Islamic principles.
9. Enhancing the spirit of innovation, invention, constructive criticism, dialogue, and moderation in the educational operation.
10. Giving much care to the behavioral, epistemic, and educational preparation of teachers and using teaching materials and learning books that align with the principles and values of Islam.
11. Providing free and compulsory education at the primary level in all Muslim countries so as to eradicate illiteracy and equip the younger generations with Islamic principles and modern knowledge.
12. Abolishing the present dichotomy in education systems and adopting a consolidated system that flows from Islamic givings and principles while attending to the needs in the times in terms of scientific and specialized knowledge and empowering teachers to stand for present and future challenges.
13. Giving much attention to the Islamic principles and fundaments of education, as they should form the principal guide to the educational operation. Due care should also be given to moral education in order to equip students with the appropriate norms of conduct and behavioural values of Islam.
14. Education curricula should include the essential teachings for enhancing Islamic unity, tolerance and pro-active co-living with the other nations.
15. Requesting the Secretariat General of the Academy to organize – in coordination with the Islamic Organization for Education, Science and Culture (ISESCO) and other concerned parties – a special seminar on *Islamization of the Education Curricula*, and make use of the previous efforts in this field, to prepare a comprehensive strategy for development and Islamization of the education curricula in the Muslim world. The

recommendations can then be submitted to the Organization of the Islamic Conference to present them to the Ministers of Education of the Muslim countries for consideration.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 139 (5/15)

Credit Cards

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425h (6–11 March 2004),

having examined the research papers submitted to the Academy concerning *Credit Cards*,

having listened to the discussions on the subject,

having recalled the previous Academy resolutions concerning this subject, including resolution no. 63 (1/7) containing the definition and forms of credit cards, and resolution no. 108 (2/12) on issuance and dealing in unsecured Credit Cards, the fees related to them, the discount (fee) charged to merchants and service providers who accept the cards, cash withdrawal, and using credit cards for purchasing gold, silver, and currencies,

resolves

1. It is permissible to issue and deal in unsecured credit cards, provided that issuing such Cards or dealing in them does not involve charging interest for repayment defaults.
2. Issuance of secured credit cards should be subject to the rulings stated in resolution no. 108 (2/12) concerning issuance fees, discount charged to merchants and service providers, and cash withdrawal subject to the conditions indicated in the resolution.
3. It is permissible to use secured credit cards for purchasing gold, silver, and currencies.
4. It is not permissible for the issuing institutions to grant the cardholder any prohibited benefits, such as commercial insurance or access to Shariah-banned facilities. In contrast, it is permissible for them to grant him Shariah-acceptable benefits, like service priority and price discounts.
5. Islamic financial institutions that issue unsecured credit cards should observe the Shariah conditions and criteria in this connection and avoid

any suspicion of interest or an excuse that may lead to it, such as "Debt-for-Debt Swaps."

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 140 (6/15)

Investment of Waqf, its Yields, and Incomes

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425H (6–11 March 2004),

having examined the research papers submitted to the Academy concerning the *Investment of Waqf, its Yields, and Incomes*,

having listened to the discussions on the subject,

having considered the resolutions and recommendations of the seminars and conferences held on the subject,

resolves

first: investment of waqf properties

1. Investment of the Waqf properties refers to the efforts to develop the assets or increase the Waqf's income through Shariah-acceptable means of investment.
2. The Waqf property should be preserved to ensure continuity of its asset and benefits.
3. Waqf properties, whether real estate and moveable assets, should be invested, except when such properties are intended for being utilized directly by the beneficiaries.
4. The donor's condition should be observed whether if he stipulates that part of the Waqf income should be used for its development, because such condition is not contrary to the Shariah requirements of Waqf or if he stipulates that all the Waqf's income should be spent on its objectives, then nothing should be retained for asset development purposes.
5. The principle is: It is not permissible to invest any part of the income when the Waqf founder makes no reference to investing out of the Waqf's income except with approval of all beneficiaries in the family Waqf, while in Charity Waqf such investment decision could be made when there is a likely interest to be achieved, and subject to the conditions that shall be

stated later in this resolution.

6. It is permissible to invest the excess income of the Waqf for developing the Waqf property or its income. This should be done only after payment of amounts due to beneficiaries and deducting all related expenses and provisions. It is also permissible to invest the accumulated funds that result from delay in settlement of outstanding commitments.
7. It is permissible to use the accumulated provisions for maintenance, rehabilitation, and other legitimate purposes.
8. There is no Shariah restriction against investing the funds of different Awqāf in one combined investment fund, as long as the conditions of each Waqf founder and the amounts owed by or due to each Waqf are well preserved.
9. In investing the Waqf's properties, the following conditions should be observed:
    a. Shariah acceptability of the modes and fields of investment.
    b. Diversification of investments to mitigate their risks, obtainment of guarantees and securities, authentication of contracts, and preparation of adequate project feasibility studies.
    c. Selection of low-risk modes of investment and avoidance of high-risks investments as per commercial and investment traditions.
    d. Selected Shariah modes of investment should be suitable to the nature of the Waqf assets and appropriate for achieving the welfare of the Waqf, preserving its principal, and serving the interests of the beneficiaries. Accordingly, if the Waqf's assets are physical assets they should be invested in ways that would not endanger their existence, and if they are liquid funds they can be invested through any of the Shariah-acceptable modes of investment, such as Muḍārabah, Murābaḥah, Istiṣnā', etc.
    e. Regular disclosure of the investment operations, and dissemination of information about them as per standard business practices.

SECOND: WAQF OF CASH

1. Creating cash Waqf is permissible since it satisfies the Shariah objective of Waqf that is retaining the principal and offering its benefits and because units of money have no specific merits that prevent units from standing for and replacing each other.

2. Money can be made principal of Waqf for extending goodly loans or for investment, either directly or through the participation of several Waqf founders in one fund. Money can also be mobilized for Waqf purposes through the issuance of Waqf shares to donors to encourage giving Waqf and to promote collective participation in it.
3. When a money Waqf is invested in purchasing physical properties (as when the Waqf manager uses it for purchasing a real estate or contracting a manufactured asset), the purchased property does not itself become Waqf in replacement of the money. Therefore, the properties purchased in this manner can be resold to continue the investment process, while the original amount of money will always constitute the Waqf.

RECOMMENDATIONS

1. Calling upon the Member states of the Organization of the Islamic Conference and the Muslim communities in non-Muslim countries to preserve the institution of Waqf, promoting it and protect its properties, and revive some of its ancient forms, such as Family Waqf, which has been completely abolished in some Arab and Muslim countries.
2. Calling upon the Arab and Muslim countries, as well as the concerned organizations, institutions and international bodies, to shoulder their responsibilities towards preservation, protection and development of Waqf properties in Palestine in general, and Al-Quds in particular, to enable these properties to achieve their noble objectives.
3. Calling upon the governments of the Muslim countries to do their best for bearing the expenses of Awqāf management as much as possible, for the sake of public interest, and because governments are entrusted with the duty of pursuing the interests of their countries and people.
4. Calling upon the concerned institutions to prepare standards for Shariah, financial and managerial auditing of the Waqf management activities, be it given by individuals, committees, institutions or ministries. Awqāf management should be subject to strict auditing regulations according to Shariah, managerial, financial and accounting norms of best practices.
5. There is a dire need for developing normative standards to be used as benchmarks for monitoring the Waqf's expenses, including marketing, informational, administrative, payroll and bonus, etc. and to serve as a measuring rod for performance appraisal.
6. Encouraging the revival of the Waqf institution in all its forms as it has played a significant role in the growth of the Islamic civilization,

and in boosting the process of scientific, social, economic and human development.

7. Making use of leading experiences of Waqf management, preservation, and promotion in some Arab and Muslim countries.
8. In the investment of Awqāf assets, priority should be given to Muslim countries.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 141 (7/15)

Unrestricted Public Interests and their Contemporary Applications

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425h (6–11 March 2004),

having examined the research papers submitted to the Academy concerning *Unrestricted Public Interests and their Contemporary Applications*,

having listened to the discussions on the subject,

having considered the Muslim consensus that Shariah rulings are based on the realization of public interests and aversion of harms,

resolves

1. The term *Interest* denotes maintaining the Legislator's Objective, which is preserving of religion, self, mind, progeny, and property. Free-set Interest is the interest that is not, by itself or its kind, stated explicitly by the law-Giver as either considered or discarded. It falls under the "Grand Objectives" of Shariah.
2. The Fiqh scholar should make sure that interest fulfils the necessary requirements that it should be:

   - Real; not illusionary.
   - General; not partial.
   - Public; not private.
   - Not-countered by another interest of its same grade or higher.
   - In conformity with the Objectives of Shariah.

   Scholars have set precise standards for distinguishing between the various types of public interests and prioritizing them based on what they apply to. Hence, they divided interests according to their significance to human life into three categories, ranked according to importance as follows:

   - Necessities
   - Needs

- Ameliorations

3. It is well-established in Fiqh that the ruler's actions regarding people must pursue the interest, and therefore he should observe that in discharging of public affairs. Also, people should obey him in that.
4. Free-set interest has wide applications in society's affairs and the economic, social, educational, administrative, and judicial areas and their likes. This very fact manifests the perpetuity of Shariah and its reviving ability to fulfil the needs of human societies, as shown by the studies presented in this session.

Indeed, Allāh is the All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 142 (8/15)

Doctors' Liability

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muḥarram 1425H (6–11 March 2004),

having examined the research papers submitted to the Academy concerning *Doctors' Liability*,

having listened to the discussions on the subject,

resolves

1. Medicine is a science and art that serves humanity. A physician should always recall that Allāh ﷻ watches him while discharging his duties, and he should be keen to do his work honestly in accordance with the technical and scientific norms of the profession.
2. The physician becomes liable for the harm that the patient encounters in the following cases:
   a. If the physician did the harm deliberately.
   b. If he is ignorant of medicine or of the branch in which he took an action.
   c. If he is not officially licensed by the competent official authority.
   d. If he performed an action without the permission of the patient or one who decides on his behalf, as mentioned in Academy resolution no. 67 (5/7).
   e. If he deceived the patient.
   f. If he committed a mistake that his peers do not commit, or a mistake that is unacceptable according to the profession's norms, or he acted negligently or below standards.
   g. If he unnecessarily disclosed the patient's secret (as indicated in Academy resolution no. 79 (10/8)).

h. If he refrained from doing his medical duty in emergency cases (cases of necessities).

3. The physician – or anyone of concern – shall become subject to penal liability in all the preceding cases – if the conditions for charging him are available – except in the case of paragraph (f) above where penal liability holds true only in case of a gross mistake.

4. When the medical treatment is done by a group of physicians, each of them shall be accountable for his own mistakes, as per the rule that "when the case involves a party that directly did the injury and another party who caused it, liability shall be assumed by the former, unless the latter proves to be worthier of assuming it." The team leader would have a joint liability towards the mistakes of his team members if he made a mistake in guiding them or gave below-standard supervision of their work.

5. The medical institution, be it public or private, is liable for injuries that stem from its failure to fulfill its commitments or when it unnecessarily issues instructions that cause injury to the patient.

RECOMMENDATIONS

1. Preparation of a study on potential contemporary applications of Aqilah (collective blood-money liability) and recommendations of Shariah-accepted alternatives.

2. Preparation of a study on sentimental and feelings injury and its compensation in all liability cases in general.

3. Calling on Muslim governments to unify legislation that regulates medical practices such as abortion, cerebral death, anatomization, etc.

4. Requesting universities in the Muslim countries to introduce a special course on "Medical Ethics and Fiqh for Physicians" to be taught to students in the colleges of medicine and nursing.

5. Requesting the governments of the Muslim countries to regulate and supervise practicing alternate and traditional medicine to avoid injuries that such practices may cause to the members of society.

6. Urging the media to maintain tight controls on materials pertaining to the fields of health and medicine.

7. Encouraging Muslim physicians to conduct research and experimentation in the field of science and Fiqh.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on the Palestinian Cause

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The International Islamic Fiqh Academy, while observing what the extorting Zionists are committing now in Occupied Palestine, calls upon the whole World to stop this terrorism of the occupying forces; killing innocent children, women and men on daily basis, executing repetitive collective massacres, destructing houses and displacing their dwellers, seizing lands, destroying crops and dredging fruitful trees.

Not only that, but the Zionist extorters went on to construct a dividing and racist wall that unlawfully chopped out 25% of the Palestinian lands without the slightest regard for the teachings of the revealed religions, or respect to human traditions and international laws.

Moreover, the occupation authority uses gangs and highway robbers to break into banks and steal the Palestinians deposits.

These crimes as a whole have never been witnessed in human history, even in its darkest and most oppressive eras. The Israeli authorities do all this under the veil of self-defence and the fallacy of resisting the Palestinian terrorists. How can Palestinians become terrorists while defending their lives, dignity, and properties against an occupying extorter who never cares about humanity? If this is the case, then the whole liberation movements in the World are nothing but mere terrorists.

The scholars of the International Islamic Fiqh Academy, while expressing their astonishment towards the passive attitude of the World with regard to these daily terrorist actions, call upon international organizations to shoulder their responsibilities in removing this aggression and achieving the principles of freedom, justice, and equality that they always raise.

The Academy also calls upon the Arab countries on the occasion of the Arab Summit to be held in Tunisia at the end of this month to consider the excavations that Israel is undertaking under Al-Aqsa Mosque and its surroundings. The Academy calls upon the governments of all Muslim countries to seriously uphold their responsibilities before Allāh the Almighty and before their peoples and history. Condemnation and denunciation alone are not at all-sufficient. Arab and Muslim countries should do all that they can – and indeed they can do a lot – in defending the blessed land of Palestine and in supporting its re-

sisting people, including providing material support and humanitarian aid in addition to exerting efforts for ending the Israeli occupation and liberating Al-Quds and the sacred places.

The governments and people of the Muslim world are required to shoulder their historical responsibility towards stopping this flagrant infringement and supporting the steadfastness and resistance of the Palestinian people in this critical tragedy.

That is not at all difficult for Allāh to do. «And Allāh hath full power and control on His affairs, but most among mankind know it not.» (Yūsuf, 21).

Indeed, Allāh is the Giver of Success.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Iraq

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The International Islamic Fiqh Academy in its 15th Session observed the grossly sad events taking place in Iraq, and the dangerous conspiracies being agitated for the sake of breaking its unity, along with the consequent afflictions and racist and sectarian plights that generate massive devastation, set the whole region in flames of destructive conflicts, and wide open the doors to enemies of the Ummah who waylay its peace and success.

The Academy, based on its Islamic commitment and duty of advice that its scholars have to discharge to the Ummah, strongly condemns all the plots being hatched against Iraq and declares its full support to the Iraqi people, and encourages them to spare no effort in preventing these afflictions and preserving their unity in the face of the tyrannical occupation. They should work together for Iraq to regain its full sovereignty and maintain the right for every citizen to enjoy justice and brotherhood.

The Academy calls upon all Iraqis; Arabs, Kurds and Turcoman; Sunnis and Shiites; as well as all the Iraqi Fiqh schools, political affiliations, and tribal communities, to join hands together, one line, so that Iraq can survive the risks it is now facing, and come back to play its regional and international role under the banner of the Ummah.

Indeed, Allāh is the Giver of Success.

Resolutions and Recommendations of the 16th Session of the Council of the International Islamic Fiqh Academy

DUBAI
UNITED ARAB EMIRATES

30 Ṣafar – 5 Rabīʿ al-Awwal 1426
9–14 April 2005

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 143 (1/16)

Zakāh on Restricted Accounts, Islamic Insurance Companies, Security Deposits, and End-Of-Service Benefits

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning *Zakat on Restricted Accounts, Islamic Insurance Companies, Security Deposits, and End-Of-Service Benefits*,

having listened to the discussions on the subject,

resolves

first: zakāh on investment accounts

a. Owners of investment accounts are required to pay Zakāh on the balances and profits of their accounts – when such amounts satisfy Zakāh conditions – regardless of whether the accounts are long term or short-term accounts, or whether restrictions on their withdrawals are set by the managing party or by the owners of the accounts.

b. Zakāh is obligatory on the amounts of current accounts, regardless of whether depositing of these amounts is made in anticipation of a future need of the depositor (other than repayment of his debts), or to be used in investment projects.

second: zakāh on accounts retained as securities for transactions

a. The Margin of seriousness (Hamish al Jidiyyah, i.e., amounts paid as security for covering the potential risk of failing to honor a pledge) if not deposited in an investment account; and the initial securities paid for entering bids, are deductible from the Zakāh-liable assets of the depositee. The owners of such securities are required to include them into his Zakāh-liable assets and pay the Zakāh on them. If several years passed before refunding such securities to their owners, Zakāh should be paid

for only one year at the time of refund. If such amounts are deposited in an investment account, Zakāh payments become subject to what has been stated in item (First/(a)) above.

b. Amounts of securities deposited for the execution of tenders, and securities deposited by individuals and institutions for obtaining telephone, electricity and similar services or renting buildings and equipment, are subject to Zakāh for one year when it is received back.

c. The seller should not deduct the earnest money (Urbun) he received from his Zakāh-liable assets. He should pay Zakāh on such a fund because he owns it whether the buyer continues or terminates the contract.

THIRD: LEGAL DEPOSIT

It is the amount of money that concerned authorities require a company to deposit in a particular bank in order to get a license. If such amount is to be retained temporarily the company should pay Zakāh on it as part of its assets, whereas, if the amount is to be retained continuously, the company should pay Zakāh on it for only one year at the end of the retention period.

FOURTH: RESERVES AND PROFITS CARRIED FORWARD (RETAINED OR REINVESTED PROFITS)

The company should pay Zakāh on reserves and retained profits as (being reflected in) part of its assets when the Current Assets Method of Zakāh calculation is applied.

FIFTH: ZAKĀH ON ISLAMIC INSURANCE COMPANIES

a. The company should not pay Zakāh on technical provisions, credit balances of reinsurance companies, payable claims, and claims under the settlement process are not subject to Zakāh; these are deductible from Zakāh-liable assets because they are debts on the company.

b. Reserves, provisions for current risks, additional reserve, life insurance reserve, and the amounts retained from reinsurance should not be deducted from the Zakāh-liable assets of the company because the company owns such balances and therefore has to pay Zakāh on them.

SIXTH: END OF SERVICE BENEFITS

Zakāh on End of Service Benefits for Employees and Workers

a. END OF SERVICE AWARD: is a financial right prescribed by the law or the contract for the worker or employee, subject to certain conditions.

Such a reward is estimated based on employment period, reasons for discontinuance, and salary of the worker or employee, and payable to him or his family at the end of his service. It is not obligatory for the worker or employee to pay Zakāh on such an amount throughout his service duration because during the term of his service, he does not have full ownership of the amount. If a decision is taken to calculate the amount and pay it to the worker or employee, in lump sum or in installments at specific intervals, then the worker or employee becomes the full owner of the amount and should, therefore, include it into his Zakāh-liable assets.

b. PENSION SALARY: is a monthly amount which, by virtue of laws, regulations or contracts, the employee or worker becomes entitled to get from the state or an institution at the end of his service. On the same basis, Zakāh is payable on such amount stated in item 6/A above, regarding end of service reward.

c. RETIREMENT AWARD: is a lump sum paid by the state or an institution to an employee or worker who is covered by the social insurance scheme and does not qualify for pension salary. Zakāh on such amount is payable as per item (Sixth/(a)) above.

d. SAVING AWARD: is a percentage amount deducted from the wage or salary of the worker or employee to be invested along with a specific contribution from the part of the employer, and paid in a lump sum or as per regulations to the employee or worker at the end of his service.

Zakāh on such amount depends on the type of account in which the amounts are deposited. If it is deposited in a special account in the name of the employee or worker so that he can decide the types of investment to which the amount is to be channelled, he should add these funds to his Zakāh-liable assets and pay Zakāh on it, subject to fulfilment of the other conditions of Zakāh.

If, instead, the amount is deposited in an account which the worker or employee has no right to control, the worker or employee should not pay Zakāh on it because he does not yet have full ownership of it. In this case, the employee or worker has to pay Zakāh for only one year at the time of receiving the amount.

Zakāh on End of Service Benefits for Institutions and Companies

For private institutions and companies, the unpaid reserves of end of service award, retirement award, for pension salary and saving award that is kept within

the accounts of the employer, all are subject to Zakāh because such amounts are still under the employers' ownership and must not be deducted from their Zakāh-liable assets.

As regards public institutions, no Zakāh is payable on such amounts which fall under public ownership.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 144 (2/16)

Disputes between Husband and Working Spouse

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning *Disputes between Husband and Working Spouse*,

having listened to the discussions on the subject,

resolves

first: separation of financial identities of spouses

The wife has full aptitude, an independent financial identity, and the absolute right – within the framework of the Shariah – to earn money through work and possesses her own properties. She also has the right to dispose of what she owns, and her husband has no authority over her properties. She needs not any permission from her husband to own or to dispose of what she owns.

second: wife's expenses

The wife is entitled to the right of full reasonably-determined living expenses on her husband. The amount of spending is determined according to the financial capability of the husband, recognized, correct norms and customs and Shariah-accepted social traditions, and the wife does not lose her right to living except in case of her recalcitrance in discharging her conjugal duties.

third: outdoor work of the wife

1. Looking after the family, upbringing the children, and caring for the future generations are among the primary responsibilities of the wife. Nevertheless, if need be, the wife has the right to pursue an outdoor job that suits her capabilities and specialization as per Shariah-acceptable traditions provided with abidance of Shariah rulings and decency and observance of her primary responsibilities.
2. Being engaged in an outdoor job does not deprive the wife of her

Shariah-stipulated living expenses obligated on the husband, unless her engagement in the outdoor job creates a situation of expense-depriving recalcitrance from conjugal duties.

FOURTH: WIFE'S CONTRIBUTION TO FAMILY EXPENSES

1. According to Shariah, it is not obligatory for the wife to contribute to the household expenses as they are initially assigned to the husband, and therefore, she should not be forced to do so.
2. Voluntary contribution of the wife to such expenses is desirable in Shariah because it involves cooperation, mutual support, and affinity between spouses.
3. It is permissible for the couple to amicably agree on what they are going to do with the salary or wage earned by the wife.
4. When the performance of the outdoor job of the wife results in additional expenses relating to it, such additional expenses should be borne by the wife.

FIFTH: STIPULATING THE WIFE'S WORK IN THE MARRIAGE CONTRACT

1. It is permissible in the marriage contract for the wife to stipulate that she has the right to pursue an outdoor job. If the husband accepted such clause, which must be explicit in the contract, he is required to abide by it.
2. It is permissible for the husband to ask the wife to quit a job he already permitted if quitting the job is in the best interest of the family and the children.
3. It is prohibited, according to Shariah, for the husband to take his permission to the wife (or the contractual clause) to have an outdoor job, conditional upon her contribution to living expenses, as they are from the beginning obligated on him, or upon giving him part of her salary or earning.
4. The husband has no right to force the wife to do an outdoor job.

SIXTH: WIFE'S PARTICIPATION IN OWNERSHIP

When the wife contributes from her own sources or earnings to a residential house, a building, or a commercial project, she is entitled to a share in that property commensurate to her actual contribution.

SEVENTH: ABUSE OF THE RIGHT TO WORK

1. Marriage entails mutual rights and duties between the spouses that have been laid down by the Shariah so that the marital relationship becomes based on equity and mutual solidarity, support, and mercy. Violation of such rights is strictly prohibited by the Shariah.
2. It is not permissible for the husband to abuse the right by preventing the wife from outdoor work or asking her to leave it for the mere sake of causing prejudice. Prevention may be acceptable when it becomes clear that the harm it causes supersedes the benefit expected from it.
3. The same is also true for the wife, who should not misuse her right by insisting on keeping work for the mere sake of causing harm to her husband or family, or when it becomes clear that the harm which results from the work outweighs any benefit expected from it.

RECOMMENDATIONS

- Undertaking studies of social, economic, and medical effects of outdoor work of the wife on the family and the wife herself to clarify the various true aspects of the subject. Samples to be used for such studies should be taken from different societies.
- Confirming the need for implanting the concept of mutual complementarity between spouses and emphasizing the keenness of Islam to have the relationship between the two, based on intimacy and mercy.
- Organizing a special seminar to discuss the issue of Muslim women in general, and their role in uplifting the Muslim society in particular. Such a seminar would contribute to the development of civilization under the umbrella of the principles of Shariah, which would lead to adopting the resolutions and recommendations of the Academy by all Muslim governments and institutions and presenting them at international conferences on women and population.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 145 (3/16)

Aqilah and its Contemporary Applications in the Payment of Diya

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning *Aqilah and its Contemporary Applications in the Payment of Diya*,

having listened to the discussions on the subject,

resolves

first: definition of aqilah

The *Aqilah* is the collective party that undertakes to pay the *diya* (blood money compensation), in cases other than premeditated murder, without a right of recourse to the murderer for counter-payment. As initially stipulated by the Shariah, it consists of the relatives under a clan, or the group committed to mutual support and solidarity among its members.

second: what the aqilah does not bear

The *Aqilah* does not bear *diyas* resulting from cases of premeditated murder, amicable arrangements, or confession.

third: contemporary applications

On the non-existence of the clan or the tribe that can bear the diya, and given the fact that its foundation is based on mutual support and solidarity, it is permissible to resort, when necessary, to the following alternative arrangements:

a. Islamic Insurance (cooperative or takaful insurance), in which the rules include bearing *diyas* due on the insured.

b. Unions, syndicates, and associations formed by those in the same profession if their charter includes bearing of *diyas* due on its members.

c. Special funds formed by the employees in public and private institutions to achieve mutual cooperation and solidarity.

- Governments of all Muslim countries shall introduce legislations that ensure payment of *diyas*, because in Islam, the blood of a Muslim should not be spilt in vain (without being reconciled or paid for).
- Calling upon concerned authorities and bodies to work for furthering a spirit of cooperation and solidarity among the members of all groups and communities, through the following:
    a. Incorporation of the principle of mutual assumption of *diyas* in the rules and regulations of the different organizations.
    b. Requesting the Islamic Insurance companies in the various countries of the Muslim world to introduce insurance policies that cover the risks of *diya* claims at easy terms and installments.
    c. Taking initiatives by the Muslim countries to incorporate in Bait al-Mal (Public Treasury) regulations the function of bearing *diyas* in the absence of the Aqilah. In this manner, the Public Treasury would undertake to serve the Islamically-designed social objectives (including payment of *diya*), in addition to its economic functions.
    d. Calling on Muslim minorities in the various parts of the World to form up suitable organizations that could achieve cooperation and solidarity among them. Such organizations may explicitly indicate in their internal rules and regulations mutual commitment towards *diya* claims, as prescribed by the Shariah.
    e. Urging governments, institutions, associations, and social organizations to promote charitable activities such as Zakāh, Waqf, Last Wills and donations to share in bearing the burden of *diyas* that result from unintentional murder.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 146 (4/16)

New Interpretations of the Quran and Islamic Texts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning the *New Interpretations of the Quran and Islamic Texts*,

having listened to the discussions on the subject,

resolves

first: If the so-called new interpretation of the religious texts leads to distortion of the meaning of these texts, even if by leaning towards odd viewpoints that stands counter to the unanimously accepted facts of Shariah, then such interpretation is a detestable heterodoxy which constitutes a great danger to Muslim societies and to Islamic culture and values. It is noted that some of the advocates of this way of thinking seem to have taken it out of their own ignorance about the criteria and standards of interpretation and their crazy fondness to renew regardless of Shariah criteria.

Unfortunately, the signs of exacerbation of this danger are clearly manifested in the rush of some universities to adopt this methodology and publish such misstated ideas through various means, and to encourage graduate students to study these ideas in university theses and To invite their proponents to lecturing and participating in doubtful seminars organized on the subject. Furthermore, some institutions went to the extent of translating their views into foreign languages and publishing their poisonous books.

second: Confronting and challenging such ideas has, therefore, become a collective duty on Muslims who should work hard for combating its danger through the following means:

- Calling upon the governments of the Muslim countries to face this flagrant danger through clarification of the difference between responsible freedom of opinion, which respects the fundamental norms and values, and unrestrained destructive freedom. Necessary actions need to be taken for imposing proper

norms on publishing institutions, cultural centers, and media organizations. Wide scope campaigns of general Islamic awareness are also necessary for enlightening the younger generations and university students to elucidate the standard criteria of Ijtihād (efforts of interpretation) regarding Shariah issues, proper interpretation of Texts and explanation of the *aḥādīth* of the Prophet ﷺ.

Using suitable means (such as discussion seminars) for paving the way to an in-depth study on the subjects and terminologies of Shariah and encouraging scholarly Ijtihād that observes Shariah criteria and the well-known fundamentals of the Arabic language.

- Widening the scope of pro-active discussions with the supporters of this interpretation methodology.
- Encouraging specialists in Islamic studies to provide intensive scientific arguments and responses to their ideas in different areas, especially in education curricula.
- Directing graduate students in Islamic doctrine, *ḥadīth*, and Shariah to select topics in their university dissertations that explain the truth and strongly refute their claims and fallacies.
- Creating a task force under the auspices of the International Islamic Fiqh Academy in Jeddah and establishing a comprehensive library that comprises all the materials published so far on the subject, along with the relevant responses in order to facilitate appropriate research and coordinate studies among various research institutions, within and without the Muslim world.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 147 (5/16)

International Commodities and their Trading Standards

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning *International Commodities and their Trading Standards*,

having listened to the discussions on the subject,

resolves

first: Confirmation of resolution no. 63 (1/7) on *Financial Markets*, which states that: Dealing in international commodities in organized markets can be through either of the following four methods:

first method

The contract involves the right of receiving the sold commodity and the spot price, while the commodity or the documents representing it are owned and possessed by the seller. This contract is Shariah-acceptable, subject to the well-known conditions of sale contracts.

second method

The contract involves the right of receiving the sold commodity and the price on the spot as guaranteed by the market management. This contract is Shariah-acceptable, subject to the well-known conditions on sale contracts.

third method

When the contract involves a well-defined and described commodity to be delivered in the future and the price is payable on delivery, and the contract includes a condition requiring actual/physical delivery and receipt. This contract is not permissible because it involves the postponement of both the commodity sold and the price. It could, however, be amended to satisfy the known conditions for *Salam* and hence becomes permissible.

It is also not permissible to sell a commodity that has been purchased through *Salam* before taking delivery of it.

FOURTH METHOD

When the contract involves the in-the-future delivery of a well-defined and described commodity, and payment of the delivery price, while there is no condition in the contract that enforces physical/actual delivery and receipt, and hence the contract can be terminated by a new reversed contract.

This type of contract, which is the most common in commodity markets, is prohibited in Shariah.

SECOND: In the light of the research and studies submitted, the Council of the Academy discussed several forms of financial transactions practised by Islamic financial institutions and came to realize that such applications take so many forms and have several aspects and details that need to be tackled in detail before reaching a Shariah ruling on international commodities and the criteria of dealing in them. The Academy, therefore, recommends that its Secretariat General should organize a special seminar for the following:

1. Presentation of the actual transactions practiced by the Islamic financial institutions in the international commodity markets.
2. A comprehensive discussion of all the criteria that Islamic financial institutions should observe in transactions in the financial markets.
3. Conducting additional research studies on the different aspects of these transactions, to cover all the issues relating to international commodities.

THIRD: The Academy commends the intention of the Government of Dubai to set up an international commodity market in Dubai and hopes that this project will enable Islamic financial institutions to avoid the Shariah-prohibited practices in the international markets that have been indicated in the research studies presented to the Academy.

The Academy also requests those who are in charge of the project to give much care to the Shariah aspects in preparing the laws and procedures of the proposed market and to be very keen to develop mechanisms that ensure conformity of market practices to the rules and principles of the Shariah.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 148 (6/16)

Business Sponsorship

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning *Business Sponsorship*,

having listened to the discussions on the subject,

resolves

first: definition of business sponsorship

According to Shariah, guarantee refers to the act of adding the liability of the guarantor to that of the guaranteed party with regard to a claim that pertains to a debt, property or a case of court appearance. Guarantee in this sense is different from Business Sponsorship which is intended as an agreement whereby a citizen of a country enables a foreigner to avail a license for practicing a craft, economic activity or establishing a project.

second: key forms of business sponsorship

1. A citizen, who obtains a license for practicing a business activity agrees with a foreigner so that the latter takes up the business activity for his own and with his own financial and human resources with no financial or human contributions or obligations, whatsoever, from the citizen except his responsibility of pursuing the government-required procedures for the business so that the citizen appears as the owner of the business/project.
2. Forming a partnership between the citizen and the foreigner – where laws permit – in which the citizen receives an agreed-on lump sum or periodical payment against providing the license to the joint business activity or project.

THIRD: SHARIAH RULING ON BUSINESS SPONSORSHIP

1. The first form (where the foreigner uses the license) is a new form that neither falls under Guarantee as known in Fiqh, nor resemble the well-known integrity-based personal partnership. It is in fact, a transfer to another person by the citizen of an abstract right owned by him according to law, either free of charge or against a reward through a sale or lease transaction. Such a transaction is not prohibited in Shariah as long as it does not involve *gharar* (uncertainty), deceit, or unlawful practice.
2. The second form (partnership in using the license) takes place when the citizen makes a financial contribution besides providing the license, or he may provide the license alone after having it customarily valued in terms of the expenses incurred, and the efforts exerted in obtaining it, in order to determine the share of its provider. The share of the other party (the foreigner) includes a financial contribution, in addition to his work so that the percentage of profit distribution is determined.

This practice of business Sponsorship is permissible as per the terms agreed upon for profit sharing, whereas loss has to be borne according to the respective financial shares of the two partners.

RECOMMENDATION

Calling upon the Organization of the Islamic Conference, through its economic institutions, to establish the Islamic Common Market, free movement of funds, people and trade among Muslim countries, in order to achieve the goal of the looked-for Islamic unity and provide mutual opportunities for Muslims to pursue similar to other international markets.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 149 (7/16)

Medical Insurance

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning *Medical Insurance*,

having listened to the discussions on the subject,

resolves

one: definition of medical insurance

The Medical Insurance Contract is an agreement according to which a person (or an institution that cares for his health) undertakes to pay a specific amount or a number of installments to a particular party, against the commitment of that party to provide or bear the cost of medical services required by the person during a specific period.

two: methods of medical insurance

Medical insurance may be contracted either through a medical institution or through an insurance company that plays an intermediary role between the insured person and the medical institution.

three: shariah ruling on medical insurance

a. If the medical insurance is arranged directly with a medical institution, it is then permissible subject to the conditions that reduce the degree of *gharar* to a Shariah-tolerable level, especially that medical insurance is needed to the extent that amounts to necessity since it pertains to preservation of self, mind, and progeny which are three of out of fundaments protected by the Shariah. Among such conditions are the following:

   - Detailed specification of the commitments of each party.

- Inspecting the health state of the insured person and the probable health hazards he may encounter.
- The financial claims by the medical institution to the insuring party should be based on the actual services provided by the former, not on presumptive set amounts, as is the case in commercial insurance.

b. The medical insurance is permissible if it is arranged through an Islamic insurance company (cooperative or takaful-based) that observes Shariah criteria stipulated in Academy resolution no. 9 (9/2) of the Academy, on *Insurance and Reinsurance*.

c. If the medical insurance is arranged through a commercial insurance company, it is prohibited, as mentioned in the Academy resolution no. 9 (9/2).

FOUR: SUPERVISION AND CONTROL

It is incumbent upon the competent regulators to supervise and control medical insurance transactions in order to achieve justice and protect insured people against over-charging and exploitation.

RECOMMENDATIONS

1. Calling upon the governments of the Muslim countries, charitable organizations, and Awqāf (Endowments) institutions to provide free of charge or low-cost medical insurance for those who do not afford the cost of medical insurance in the private sector.
2. Medical Insurance Cards should not be used except by their owners to not breach the contracts through a commitment of fraud and cheating.
3. Warning against abusing medical insurance through pretense of sickness or concealing it or presenting false information.
4. Including cooperative insurance (islamic or takaful insurance) in the agenda of forthcoming sessions of the Academy for further consideration in the light of the issues raised in the latest conferences and seminars and the several applications that succeeded the previous resolution of the Academy.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 150 (8/16)

Us and Others

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning *Us and Others*,

having listened to the discussions on the subject,

resolves

1. Taking appropriate measures that can lead to the unity of Muslims, countries, and peoples and to forming a contemporary united Islamic Ummah. This requires taking steps in this direction, including settlement of discords and activation of economic, cultural, scientific, and political cooperation among Muslim countries, in addition to the implementation of the resolutions issued by the Organization of the Islamic Conference in this connection.
2. There is a dire need for coordination between governments and organizations in the Muslim world for developing a clear media message about Islam which will constitute the basis for constructive dialogue with the other. There is also a dire need to prepare a future generation of Muslim media men who understand such a message and can communicate it in different languages to face the intensive media campaigns targeting Islam and Muslims these days.
3. This must be founded on establishing joint projects based on equivalent cooperation for developing common interests rather than on grants and donations. This is necessary to rationalise the cooperation between Muslim countries and other countries in the various economic, social, cultural and political areas.

RECOMMENDATIONS

1. Calling upon Member states, Islamic organizations, universities, and the specialized Islamic centers to create plans for publication of research and studies in different languages on the various issues of dialogue about Islam, the religion of the universe and life, which does not tolerate hatred to the other. Emphasis should also be put on the Islamic values of peace, safety and enhancing cooperation in facing the challenges of poverty alleviation, combating hunger and illness, pursuing economic growth and promoting joint ventures to benefit all humanity. Coordination with the Academy for publication of these research and studies is also called for.

2. Urging concerned institutions, at the governmental and popular levels to acquaint the international community about the values and principles of cooperation, peace, and security that Islam brings to humanity through their effective presence in international organizations such as the United Nations, the United Nations Organization for Education, Science and Culture (UNESCO) and other economic and industrial organizations. Such mission requires two actions:

   a. Include specialists from Islamic universities and institutions in the delegations that represent Muslim countries in these organizations, along with the preparation of generations that have a deeper understanding of Islam and the peaceful principles that underlie its teachings.

   b. Insistence on resolving global issues through international organizations in an equitable manner, and rejection of any attempt for tackling such issues in other circles. Also, pursue cooperation, as established in our Shariah, with various international entities and blocs to preserve justice, peace and co-existence, and the humanitarian justice and natural law celebrated by Western countries.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 151 (9/16)

Care for Muslim Minorities

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426h (9–14 April 2005),

having examined the research papers submitted to the Academy concerning the *Care for Muslim Minorities*,

having listened to the discussions on the subject,

resolves

1. The terms 'Muslims minorities' and 'Muslim migrant communities' must be eliminated because these are legal terms that do not express the real attributes of Islamic presence, reflecting inclusiveness, nobility, stability, and interactive co-existence with others. Appropriate terms may be like "Muslims in the West" or "Muslims Outside the Muslim world."
2. It is imperative to take all possible means for preserving the presence of Muslims outside the Muslim countries and defending their religious and cultural, and civilizational identity.
3. The requisites of citizenship in the West do not contradict the preservation of the Islamic identity and commitment to Islamic values.

recommendations

1. Establishing a scientific research center to cater for the needs and circumstances of Muslims outside the Muslim world and boost the Islamic image among non-Muslims.
2. Constituting a Shariah committee within the Academy to work out solutions for the emerging Fiqh issues confronting Muslims outside the Muslim world.
3. The Academy should organize, in cooperation with the other relevant

institutions inside and outside the Muslim world, specialized training courses for the Imams, preachers, and directors of Islamic centers outside the Muslim world.

4. Calling upon Muslims outside the Muslim world to observe the fundamental principles of Islam, discard away Fiqh differences, and maintain unity in performing their religious rituals.
5. Muslims outside the Muslim world should set, through their behaviour and interaction with others, a distinct cultural example that reflects the genuine values of Islam.
6. Calling upon the Organization of the Islamic Conference to support the departments that advocate and cater for Muslims' interests in non-Member states and activating the resolutions issued by the Organization in this respect.

Indeed, Allāh is All-Knowing.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Al-Quds and Al-Aqsa Mosque

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, all his companions, and whoever follow their footsteps with righteousness until the Day of Judgment.

It is quite evident that the extremist Zionists organizations in Palestine, which have increased to over thirty, have come to feel strong and overrate their ability to achieve their elusive aggressive plans of destroying Al-Aqsa Mosque, and establishing the so-called Solomon's Temple on its ruins. Zionist organizations are now looking for justifications and excuses to launching their aggressive attack against Al-Aqsa Mosque, the first Qibla of Muslim and the third holiest Mosque. They made several attempts to break into the courtyards of this blessed mosque to perform their religious rituals there and seize the chance to achieve their aggressive goals.

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 16th session in Dubai, United Arab Emirates, on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426H (9–14 April 2005),

HAVING HEARD the aggressive statements and oppressive plans issued by the extremists and official leaders of Israel regarding Al-Quds City in general, and Al-Aqsa Mosque in particular,

RESOLVES

1. Al-Quds City and Al-Aqsa Mosque are sacred places for Muslims worldwide due to their direct relation with the Midnight Heavenly Journey of the Prophet Muhammad ﷺ that is specifically reported in the Holy Quran.
2. The Islamic character of this holy city and its blessed Mosque is a fact that has been clearly demonstrated by the texts of the Holy Quran and divine Sunnah. Therefore, the standpoint of Muslims is neither revocable nor subject to bargaining or midway solutions. The Ummah has unanimously resolved that it is not permissible to leave an invading enemy to stay in any part of the Muslims' lands in general and sacred places in particular.
3. Al-Aqsa Mosque belongs to Muslims alone, and the Jews have nothing to do with it. They should be warned of the consequences of exposing their sacredness to danger. Muslims put the entire responsibility of any aggression against Al-Aqsa on the occupying Israeli authority and coun-

tries which support it. The Academy declares that Al-Aqsa can never be subject to negotiations and concessions and that nobody would be able to degrade its loftiness.

4. Equitable peace and stability can never be achieved in the region without ending the Jewish occupation of Al-Quds City and its Holy Mosque and returning Palestine to its owners.

5. The Palestinian people have the right to establish their independent state on all their lands, including Al-Quds as its capital city. Palestinians have, also, the right of defending themselves, fighting their enemy with all lawful means and facilitating the return of their refugees back to their homeland.

Finally, the Academy calls upon the governments and peoples of the Arab and Muslim countries to bear their religious and national historical responsibilities in defending this captive city and its Holy Mosque and in standing by its resisting people and preserving their existence. Support to Palestinians should include enhancing and helping their health, education and other social infrastructure institutions, resisting any attempt to judaize or internationalize Al-Quds City, which cannot be tolerated under any circumstances and working hard for ending the Israeli occupation over the land of the Midnight Heavenly Journey of the Prophet Muhammad ﷺ.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Iraq

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, all his companions, and whoever follow their footsteps with righteousness until the Day of Judgment.

In compliance to the directives of the Prophet Muhammad ﷺ that "He who does not bother himself with the affairs of Muslims is not one of them." The International Islamic Fiqh Academy observed in its session held in Dubai (the United Arab Emirates) on 30 Ṣafar – 5 Rabīʿ al-Awwal 1426H (9–14 April 2005), the awful tragedies to which all Iraqi people are now subjected to. The Iraqi people who had suffered long decades of autocracy, despotism, and dictatorship, are now once again groaning under the pressure of a new round of oppression and tyranny. It became apparent now that all the excuses given for launching the war against Iraq had already collapsed one after another while the declared slogan of rescuing the Iraqi people has never been achieved.

Throughout the two years since the beginning of the war and occupation of Iraq, the Iraqi people have seen nothing but continuous destruction, waste of resources, execution of scientists, and plotting conspiracies to provoke sectarian and ethnic disputes among the individuals of the same nation. This persistence of the Iraqi people to uphold its unity makes the enemy more furious to achieve its mean plots of destroying the strong ties of bond and solidarity that unite the Iraqi people.

We, the Scholars participating in the Dubai Session of The International Islamic Fiqh Academy hereby call upon all our brothers in wounded and occupied Iraq to hold fast by the rope of Allāh ﷻ and stand side by side in the face of the plotted evil plans that are being launched against them. All Iraqis should join hands together to end this occupation, achieving full Iraqi sovereignty and reconstructing their country as one independent, safe and strong Iraq that enjoys security under the umbrella of the moderate and equitable principles of Islam with no room for atrocity evil sectarian disputes.

While condemning misuse of power and corruption on the Earth, and abhorring all forms of aggression, unfairness, and oppression, we call upon all regional organizations, as well as the United Nations Organization, and all those who love peace, order, freedom and justice to, immediately, put an end to the catastrophic situation in Iraq which has already started to endanger the whole area and its surrounding regions.

At the same time, we closely observe the current changes that are taking place

in Iraq and the intention of the Iraqi people to establish their constitutional institutions. We are sure that there is not a single Iraqi citizen who is not keen to see Iraq enjoying its unity, independence and full sovereignty. We pray to Allāh ﷻ to help the Iraqi people in their endeavours for getting rid of the occupation and its aftermaths, determining their own destiny, constitution and all constitutional institutions, rebuilding their collapsing economy, strengthening their relations with neighboring countries, and resuming their significant role in Islamic and international solidarity within the framework of the overall objectives of the Ummah in achieving peace for all the world.

Indeed Allāh is the Giver of Success.

Resolutions and Recommendations of the 17th Session of the Council of the International Islamic Fiqh Academy

AMMAN
HASHEMITE KINGDOM OF JORDAN

28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427
24–28 June 2006

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 152 (1/17)

Islam and the One Ummah: Theological, Jurisprudential, and Educational Schools

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning *Islam and the One Ummah: Theological, Jurisprudential, and Educational Schools*,

having listened to the discussions on the subject,

having reviewed the resolutions of the International Islamic Conference held in 1425h (2005), which called for studying and adopting the principles addressed by the Amman Message, which were subsequently adopted by the Scholars and Intellectuals Forum held in Makkah Al-Mukarramah in preparation for the Third Extraordinary Islamic Summit Conference,

resolves

first: All the research submitted to the Academy on this subject agree on the general fundamental maxims of Islam and see in the variety of theological, jurisprudential, and educational schools' efforts by scholars for making the application of Islam easier. All such efforts and schools are, in essence, directed towards strengthening the unity of the Ummah, enriching its intellectual capabilities, and furthering the everlasting message of Islam. The research on this subject reached the same findings as the studies that formed the core of the Amman Message, as far as the true nature of Islam and its potential role in contemporary societies are concerned. It would be opportune in this connection to express a word of thanks to his Majesty King Abdullah the Second, Ibn Al-Hussein, may Allāh safeguard him, the King of the Jordan Hashemite Kingdom, for adopting and patronizing it and for its dissemination at a broad international scope.

second: Confirmation of the resolutions issued by the International Islamic Conference held in Amman, Hashemite Kingdom of Jordan, on "The Essence of Islam and its Role in Contemporary Society," as they are in conformity with the research and discussions of the subject. The preambles of those resolutions

had explicitly referred to and endorsed the Fiqh opinions and resolutions issued by Fatwa Councils and eminent scholars of the different Islamic schools (Madhāhib), as follows:

1. Any person who follows any of the four Fiqh Schools of the Sunnah and Jamāʿah (the Ḥanafī, Mālikī, Shāfiʿī, and Ḥanbalī) or any of the Jaʿfarī, Zaydī, Ibāḍī, or Ẓāhirī schools is a Muslim. He should not be charged with disbelief, and his blood, dignity and property are protected by Shariah. Moreover, according to a Shariah opinion issued by Sheikh Al-Azhar, it is also prohibited to charge with disbelief followers of Ashʿarī doctrine school, true Ṣūfīs, or the correct Salafīs.

   Similarly, it is prohibited to charge with disbelief any group of Muslims who believe in Allāh ﷻ, His Messenger, the pillars of faith, the pillars of Islam and do not deny anything necessarily known of the religion.

2. Muslim schools have much more in common than differences. The adherents of the eight schools, all agree on the basic principles of Islam. They all believe that Allāh ﷻ is the One God, and that the Holy Quran is the word of Allāh which He ﷻ has sent down and preserved against distortion, and that our Master Muhammad ﷺ is the Prophet of Allāh and His Messenger to all humanity. They all also agree on the five fundaments of Islam; the two testimonies of faith, prayer, Zakāh, fasting the month of Ramaḍān, and pilgrimage (Ḥajj) to the House of Allāh in Makkah, and the fundamentals of faith, namely: belief in Allāh ﷻ, His angels, His Holy Books, His Messengers, the Day of Hereafter and Fate (good or bad). The diversity of opinions among scholars in the different schools relates to details and some principal issues. It is a sign of mercy. In old times, it has been said that "diversity in the opinions of scholars is a far-reaching mercy."

3. The adherence to a school in Islam indicates a commitment to a specific methodology in deriving Fiqh opinions. It is not permissible for anyone who does not have the adequate, appropriate competence to issue Shariah opinions. It is not permissible also to issue legal opinions without adherence to the appropriate methodology of the different schools of fiqh. It is equally not permissible for anyone to claim Ijtihād to himself and make up new views or opinions that are rejected and distract Muslims off the Shariah maxims, settled fundamentals and its well-established schools.

4. The essence of the Amman Message of 27 Ramaḍān 1425H (9 November 2004), which was declared in the Hashemite Mosque, emphasizes strict commitment to the Islamic schools and the methodology they follow.

Recognition of these schools and emphasizing the need for dialogue and agreement between them is the only means to ensure reasonability, moderateness, and forgiveness and mercy towards others.

5. We call upon Muslims to discard disputes, unite their decisions and standpoints, respect each other and enhance solidarity between their peoples and states. We also call on them to strengthen the ties of brotherhood and mutual love for Allāh's sake and leave no room for afflictions and interferences in their affairs. Allāh ﷻ says, «The believers are, but a single brotherhood so make peace and reconciliation between your two (contending) brothers, and fear Allāh that ye may receive mercy.» (al-Ḥujurāt, 10).
6. The participants in the International Islamic Conference meeting in the Hashemite Kingdom of Jordan, in the neighborhood of the Holy Al-Aqsa Mosque and the occupied Palestinian land, emphasize the need for exerting every effort for protecting Al-Aqsa Mosque, the first of the two Qiblahs, and the third Holy Mosque, against the dangers and aggressive attacks that it is now facing. This should be done by ending the Israeli occupation and freeing the sacred places. Similar efforts should also be exerted for preserving the sacred mausoleums (Al-Atabat) in Iraq and the sacred places of Muslims anywhere else.
7. The participants emphasize the need for deepening the concepts of freedom and respect of the other opinion in our Muslim world.

THIRD: Confirmation of Academy resolution no. 98 (1/11), on *Islamic Unity* and its annexed recommendations, and emphasizing the need for activating the mechanisms it proposes to achieve Islamic unity. At the end of this Resolution, the Secretariat of the Academy was requested to form a committee from its members and experts and endorse it from the Organization of the Islamic Conference, to prepare a scientific study and propose specific mechanisms for achieving Islamic unity in the cultural, social, and economic fields.

FOURTH: Preparation and presentation of general rules for the issues agreed upon, and specification of disputable issues for tracing them back to their Shariah origins. In the process of strengthening points of agreement and recognizing points of dispute, the ideas of the various schools should be presented honestly and impartially. In case of comparisons between different opinions, merits should be judged in terms of the underlying evidence and consistency with the objectives of Shariah, without any bias to the researcher's own school or the school that is common in a given society or country.

FIFTH: Introducing educational courses at universities and secondary schools

on the Fiqh of unity and ethics of disputes and constructive debate, and how one should respect other opinions while selecting the chosen one.

SIXTH: Reviving educational systems that adhere to the teachings of the Quran and the Sunnah to attenuate the materialistic trends prevailing in our present times and to protect the youth from being misled by the cropping up patterns of behaviour that disregard the Islamic principles.

SEVENTH: Scholars of the different Islamic schools should conduct comprehensive awareness campaigns about Islamic reasonability and moderateness using various practical means, including joint meetings, specialized seminars, and public conferences, in cooperation with the institutions that cater for rapprochement between Islamic schools. Such efforts would help correct the perceptions about the variety of theological, jurisprudential, and educational schools and show how they are only different approaches for facilitating the implementation of Islamic principles and rules. These efforts would also show that the variation between schools is the kind of complementarities rather than contradictions through understanding each school's particulars, merits, and literature.

EIGHTH: Respecting the different schools and doctrines does not bar constructive criticism that aims to maximise the points of agreement and minimise disagreement points. There should be a vast room for constructive debate between the Islamic schools in the light of the Quran and the Sunnah of the Prophet ﷺ to enhance the process of Muslim unity.

NINTH: Muslims should challenge the cropping ideological views and tendencies which encroach upon the teachings of the Quran and the Sunnah. While it is not acceptable to negate the merits of other views, it is also not acceptable to accommodate any view or claim even when it may be suspicious. Therefore, it is imperative to point out crystal-clear, necessary criteria that maintain any view worthy of the name of Islam.

TENTH: It should be ascertained that theological, jurisprudential, and educational schools bear no responsibility for the malpractices committed in their names, such as the killing of innocent people, abusing their dignity, or damaging their properties.

RECOMMENDATIONS

1. The Secretariat of the Academy shall organize seminars and meetings to discuss the underlying cause of transforming differences into conflicts between the followers of the different Islamic schools to prevent segmentation of the Ummah. Discussions in these seminars and meetings may cover specific statements and points which have been misunderstood, misapplied or widely circulated in the wrong manner, such as:

a. The issue of Walā' and Barā'ah (loyalty versus disavowal).

b. The Hadith of al-Firqah al-Nājiyah (Successful Group) and conclusions derived from it.

c. Criteria of charging somebody with disbelief, dissoluteness, or committing heresy without exaggeration or over accommodation.

d. Conditions of apostasy charge and conditions of its punishment.

e. Expanding the concept of great sins and the consequences of charging a person with committing such sins.

f. Charging others with disbelief for non-application of all the rulings of Shariah regardless of the underlying circumstances.

2. Relevant authorities and bodies in Muslim countries shall take necessary measures to prevent publication and circulation of any materials that promote disunity or charge some Muslims with disbelief or misguidance without unanimously acknowledged Shariah evidence.

3. Relevant authorities and bodies shall continue their efforts to realise that Shariah be the reference for deriving laws and actions, as mentioned in the resolutions and recommendations of previous sessions.

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 153 (2/17)

Iftā: Requirements and Ethics

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427H (24–28 June 2006),

having examined the research papers submitted to the Academy concerning *Iftā: Requirements and Ethics*,

having listened to the discussions on the subject,

resolves

first: definitions of iftā and muftī, and significance of iftā

The term Iftā refers to providing formal Shariah opinion (fatwā) on a specific issue, either on request or for the mere sake of enlightening people on the Shariah ruling regarding an arising subject.

The Muftī is a person who is well versed in Shariah rulings, has sufficient knowledge about the issues and events on which the fatwā is sought and has adequate ability to derive Shariah rulings from their original sources and apply them to issues or events in question.

Therefore, fatwā is a great responsibility because it involves interpretation of the commandments of Allāh ﷻ, the Lord of the worlds, and the Muftī elucidates on behalf of Allāh the Almighty and follows the example of the Prophet ﷺ in clarifying the rulings of Shariah.

second: requirements for the muftī

Iftā should not be assumed or practiced except by those who satisfy the well-established requirements for issuing a fatwa; most important of these requirements are the following:

1. Knowledge of the Quran, the Sunnah, and related subjects.
2. Knowledge about the areas of unanimous agreement and areas of dispute, as well as the various schools and opinions of Fuqahā (Fiqh scholars).
3. Vast knowledge about the Fundamentals of Fiqh (Uṣūl al-Fiqh) and its

principles and rules, objectives of Shariah, and other supporting subjects such as grammar, morphology, rhetoric, linguistics and logic.

4. Knowledge about the situations, customs, traditions of people, circumstances, emerging issues and events while considering all these (where applicable) in issuing the fatwā as long as they are not in conflict with an Islamic original text.
5. Ability to derive Shariah rulings from the original texts.
6. Seeking the advice of those who have the knowledge and expertise in the relevant area (e.g. Medicine, Economics, etc.) to form a clear complete picture about the issue before issuing a fatwa.

THIRD: COLLECTIVE FATWĀ

As most contemporary issues are complex and involve more than one aspect, knowledge of such issues and reaching a proper Shariah ruling about them require collective fatwa, which can be obtained only by resorting to Shariah councils, committees, or Fiqh academies.

FOURTH: COMMITMENT TO AND ENFORCEMENT OF FATWĀ

In principle, fatwā is not legally binding, yet it is religiously binding once the proof is established for its validity. In this regard, Islamic financial institutions should observe the fatwās issued by their Shariah boards within the framework of the resolutions issued by the Fiqh academies.

FIFTH: FROM WHOM FATWĀ CANNOT BE OBTAINED

1. Fatwā should not be obtained from non-specialists who do not satisfy the requirements referred to earlier in this resolution.
2. In most cases, the fatwās published in the various media devices do not suit persons other than the fatwā seeker unless the other person is precisely in the same position and circumstances as the fatwā seeker.
3. Deviant fatwas that contradict the specifically clear texts of the Quran and the Sunnah or oppose the fatwas that have been unanimously agreed upon should be discarded.

SIXTH: ETHICS OF IFTĀ

The mufti should be devoted to Allāh ﷻ in his fatwā; sedate and calm; knowledgeable of surrounding circumstances; virtuous and pious; committed to the rulings of his fatwā whether actions or abstentions; far away from suspicion; unhurried in dealing with analogous and complicated issues; prone to consulting others; self-educating; trustworthy with regard to the privacy of others; a

propagandist for worshipping Allāh ﷻ; and honest in what he does not know or what needs more review and assurance.

RECOMMENDATIONS

1. Maintaining continuous communication and coordination between Iftā Councils and Boards in the Muslim world, for exchange of information on emerging issues and new events.
2. Fatwā should become an independent subject that should be studied in Shariah colleges, institutes, and institutions that graduate judges, Imams and preachers/speakers.
3. Seminars should be organized from time to time for disseminating information about the importance of fatwā, so that fatwā can continuously be sought for emerging issues.
4. Making use of the Academy resolution no. 104 (7/11) on *Methods of Benefiting from Fatwā*, especially the following recommendations:
    a. Warning against fatwās which lack Shariah basis and appropriate proofs. Such fatwās arising from illusionary Shariah-discarded interests, personal desires and inclinations, or customs, traditions and arguments that contradict the principles, rules and objectives of Shariah.
    b. Calling upon individual scholars, boards, Councils and committees that issue Fatwās to take the resolutions and recommendations of the Fiqh Academies into consideration to establish consistency, coordination and unification of fatwas in the Muslim world.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 154 (3/17)

Position of Islam towards Fanaticism, Extremism, and Terrorism

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning the *Position of Islam towards Fanaticism, Extremism, and Terrorism*,

having listened to the discussions on the subject,

having recalled the Academy resolution no. 128 (2/14) on *Human Rights and International Violence*, that defines Terrorism as "physical and/or psychological aggression, scaring or threatening which a state, a group or an individual with no right inflict on an innocent person that endangers his life, faith, dignity, mind or property, whatever form this may take and in all kinds of abuse or corruption on the earth."

having reviewed the statements of official and popular Arab and Islamic conferences on fighting terrorism which emphasize the need to deal with the underlying causes of terrorism and undermining the means used by terrorists while continuously upholding and maintaining the right of occupied nations in resorting to armed resistance, as well as the Amman Message issued on 26 Ramadan 1425h (9 November 2004),

resolves

1. Prohibition of all acts, forms and practices of terrorism, and considering them as criminal acts that Shariah denotes as the crime of Hiraba, regardless of where such acts are perpetrated or the party who does them. He is considered a terrorist, any individual, group, or state that commits any of such acts directly or by causing, financing, or supporting. Terrorism can also be by a state or states against other states.
2. Clear distinction must be made between terrorism and lawful resistance against occupation by Shariah-acceptable means. This is a lawful right recognized in Shariah, common sense and international conventions as it aims at removing oppression and retrieving looted rights.

3. Fighting terrorism should start with remedying its underlying causes, most important of which are fanaticism, extremism, bigotry, ignorance of the rules of Shariah, violation of human rights, lack of political and intellectual freedoms, deprivation, and economic, social and political inequality.
4. Reconfirmation of the Academy resolution no. 128 (2/14) that *jihād* for the sake of defending the Islamic faith, and protecting homelands, or liberating them from foreign occupation is definitely not terrorism at all as long as it abides by the rules of the Shariah.

RECOMMENDATIONS

1. Enhancing the role of Shariah scholars, Fuqahā, Islamic preachers, and general and specialized academic institutions in furthering awareness about the need for fighting terrorism and curing its underlying causes.
2. Calling upon the media agencies to observe accuracy in presenting and disseminating their news reports, especially on issues relating to terrorism. They should not link terrorism to Islam. Terrorism occurred and still occurs by people of other religions and cultures.
3. Calling upon scientific and educational institutions to exhibit Islam in its brilliant picture, which cherishes the values of tolerance, love, pro-active interaction with others and cooperation on mutual benefits and goodness.
4. Calling upon the Secretariat of the Academy to continue giving much care to this subject through the organization of seminars, lectures and workshops to explain the scope of Shariah rulings regarding condemnation, prohibition and fighting terrorism. Immediate efforts should also be exerted for developing a comprehensive framework that covers the various aspects of the issue.
5. Calling upon the United Nations to intensify its efforts in combating terrorism and enhancing international cooperation in fighting it. It should also work for developing unified international standards for judging the different forms of terrorism.
6. Calling upon the states and governments of the whole world to assign high priority to peaceful coexistence; refrain from occupying other countries or denying other nations the right of self-determination; and pursue international relations on the basis of parity, peace and justice.
7. Calling on Western countries to review their educational curricula and remove the distortions and misrepresentations of the Islamic religion and prevent whatever activities of different media that demeans Islam and

damage its image. This ascertains peaceful coexistence and dialogue and prevents the culture of hostility and hatred.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 155 (4/17)

Reconciliation between Adherence to Fundamental Principles of Islam and the Requirements of Citizenship outside Muslim Countries

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning the *Reconciliation between Adherence to Fundamental Principles of Islam and the Requirements of Citizenship outside Muslim Countries*,

having listened to the discussions on the subject,

resolves

first: Citizenship refers to the actual residence in a country and obtaining its nationality, whereas Islamic eternal axioms refer to the ideological, practical and ethical rules stipulated in the crystal-clear Shariah texts or gained full unanimity of the Ummah, including preservation of the five fundamentals: religion, life, intellect, progeny and property.

second: Nothing in Shariah prevents the participation of Muslims who are outside the Muslim countries in the social, political and economic activities in these countries, as long as such activities do not conflict with the above statement, especially when the citizenship of Muslims in these countries requires them to do so provided that this participation does not threaten their Islamic identity and personality.

third: It is permissible for Muslims in the West, in case of disputes, to sue one another before secular courts when it is the only possible means for redeeming their rights or avoidance of injustice.

However, in lawsuits related to "personal and family matters," Muslims should be committed to the rulings of Shariah through Islamic arbitration arrangements or resort to the binding fatwa.

fourth: In Fatwā issuance, there must be no exceptions for Muslims in non-Muslim countries except in case of necessity, dire general need that creates

intolerable difficulty or severe inconvenience. In the case of exemption, relevant Shariah conditions of necessity and need should be strictly observed, and exemption should be confined to the actual degree of need or necessity.

RECOMMENDATIONS

1. The Academy emphasizes the necessity of continuous interaction between Muslims in non-Muslim countries and Muslim countries and societies.
2. The Academy appeals to Muslim countries to support Muslims outside Muslim countries to strengthen their capabilities and Islamic existence by helping them establish schools, colleges and institutes for teaching Islamic religion and Arabic language and training Islamic preachers and Imams. Such support is quite essential for preserving the Islamic identity of Muslims outside the Muslim countries.
3. Establishing an information center to develop and cover demographic and historical data on Muslims outside the Member states of the Organization of Islamic Conference. Such a center may also cover data on social and political circumstances of Muslims outside the Muslim world and the activities of their Islamic organizations within a framework of a comprehensive survey of all aspects of life of these Muslims.
4. Assigning much importance to sophisticated training of Islamic preachers who can deal with Muslims' realities and social environment outside the Muslim countries. Such preachers should be well-equipped with knowledge of language and familiarity with the social habits, traditions, political, intellectual, economic, and social circumstances of the societies where these Muslims live.
5. Calling upon Islamic centers concerned with the affairs of Muslims outside the Muslim countries to cooperate with the Fiqh academies and councils in their respective areas, which comprise members who live in the same environment and are acquainted with the same issues in order to intensify efforts to obtain and protect their religious rights and device appropriate Shariah solutions that suit their circumstances.
6. Inviting Fiqh academies and councils outside the Muslim countries to cooperate and coordinate with the International Fiqh Academy as it is a reference Institution of the Ummah in matters of Fiqh and Islamic knowledge.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 156 (5/17)

Continuation to Ṣukūk al-Musharaka (Joint Musharaka): Components of their Assets

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning the *Continuation to Ṣukūk al-Musharaka (Joint Musharaka): Components of their Assets*,

having listened to the discussions on the subject,

having recalled the Academy resolution no. 30 (5/4) on *Muqāradah Bonds*, which comprise the general principles pertaining to all Ṣukūk – with due attention for their distinctive differences – and resolution no. 137 (3/15) on *Ṣukūk al-Ijārah*, as well as resolution no. 60 (11/6) which prohibits Debt Securities as stated in the first paragraph (3) item (3),

having reviewed the fatwās issued by numerous seminars and meetings, including the 20th Al-Barakah Symposium, the First Forum of the Al-Rajhi Company, the workshop organized by the Accounting and Auditing Organization for Islamic Financial Institutions (aaoifi) and the two Shariah Standards issued by the Shariah Council of aaoifi, regarding "Securities" and "Investment Ṣukūk,"

having considered that the regulations referred to in the above resolution have not been issued by the Academy regarding Muqāradah Bonds when the Ṣukūk assets are a mix of physical assets, usufructs, money, and debts, especially that assets of most Islamic financial institutions consist of less physical assets and usufructs than debts and money,

resolves

Postponement of the resolution on this subject for further study and recommending the organization of a seminar to draft the regulations promised in the resolution no. 30 (5/4).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 157 (6/17)

Mutual Promises and Collusion in Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning *Mutual Promises and Collusion in Contracts*,

having recalled the Academy resolution nos. 40–41 (2/5–3/5),

having listened to the discussions on the subject,

resolves

first: In principle, mutual promises between the two parties are binding from the religious perspective, but they are not so on legal grounds.

second: Mutual promises as a trick for evasion of restrictions on Ribā is prohibited in Shariah. It is like collusion to practice ʻĪnah or the prohibition of combining sale and a loan.

third: In cases where it is not possible to conclude a sale contract because the commodity is not in seller's possession, while there is a general need for obligating the two partiers – by virtue of law or international commercial traditions – to conclude the deal at a definite future date (as in the case of opening documentary credits, LC), mutual promises can be made binding either through government regulations or by mutual consent of the two parties in the contract.

fourth: When mutual promises become binding, as indicated in the third paragraph above, they do not become a sale contract suspended on a future date. Hence, such mutual promises neither transfer ownership of the object to the buyer nor create a debt of the price on him. The sale transaction does not take place between the two parties until the future date agreed by then offer and acceptance.

fifth: If any of the two parties fails to honor his promise in the case referred to in the third paragraph above, he can be forced by law to conclude the contract or bear the actual damage that falls on the other party due to breach of commitment (not to include any opportunity cost).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 158 (7/17)

Sale of Debts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning the *Sale of Debts*,

having listened to the discussions on the subject,

having recalled the Academy resolution no. 101 (4/11) concerning the Sale of Debts and Muqāradah Bonds, which stipulates that "It is not permissible to sell, to a third party, any immature debt for an early-paid amount of money, whether in the same currency of the debt or any other currency, etc,"

having also recalled the Academy resolution no. 139 (5/15) concerning *Credit Cards*, which stipulates that "Islamic financial institutions should avoid any suspicion of interest or an excuse that may lead to it, such as Debt-for-Debt Swaps,"

resolves

first: Debt-for-Debt Swap, which Shariah prohibits, includes any arrangement involving or indirectly leading to "increasing the amount of debt against extending the maturity." One form of such arrangement is a debt swap, in which the original debt is paid, partially or entirely, through a new transaction between the two parties that creates a new(larger) debt regardless of whether the debtor is solvent or not. For example, the debtor purchases a commodity from his creditor for a deferred price and sells it for an instant price used to settle the original debt or part of it.

second: Shariah-acceptable Forms for the Sale of Debts:

1. Selling the debt by the debtor to a third party in one of the following forms:

    a. Selling the debt (at face value) for an amount in a different currency valued at the current market rate on the day of the transaction.

b. Selling the debt for a specific commodity.

c. Selling the debt for a usufruct of a specific asset.

2. Selling debts as part of a mix in which physical goods/assets and usufructs is a majority and constitute the main object of the sale transaction.

RECOMMENDATION

Preparation of rigorous studies to finalize the remaining issues on this subject and its contemporary applications.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 159 (8/17)

Status of Women and their Social Role: An Islamic Perspective

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning the *Status of Women and their Social Role: An Islamic Perspective*,

having listened to the discussions on the subject,

having recalled the Academy resolution no. 114 (8/12) concerning the *Islamic Declaration on Role of Woman in the Development of Muslim Society* which emphasized complementary roles of man and woman in forming a balanced Muslim society, and the importance of the family as the cornerstone in the structure of the Islamic society, and rejected any other presumptive form of family. The resolution stated that motherhood is the natural most important life-long function of woman and man and woman are equal in human dignity and woman the rights and obligations that suit her nature, capabilities and structure, and it also despised whatever diminution, disrespect or humiliation of woman's dignity and personality and strongly rejected what is inflicted by some governments on the Muslim woman of depriving her the right to practice her religious commitments,

resolves

first: The international conferences convened on the subject of political, economic, social, civil, and cultural rights of women (Conferences on Population and Development) are founded on the concept of separating the different aspects of life from religion and go further to even consider some of the Islamic principles and rules as a form of discrimination against woman.

second: Caution should be taken against using the slogan of equality between man and woman as an excuse for matters and practices that violate the values and teachings of Islam.

third: Muslim woman should be protected against all practices, habits, cus-

toms and traditions which expose her to oppression or any aggression against her right to preserve her faith, dignity, honor, property, or any other right granted to her by the international principles of human rights, as well as the principles of Shariah.

FOURTH: The international conferences on development and population and the agreements arising from them concerned the materialistic aspects neglected the spiritual objectives. They ignored the natural and essential function of women as the female head of the family entrusted with the great responsibility of bringing up the children appropriately; instead, they invite women to dissolution. This does not imply an oversight (on the part of the Academy) of the positive aspects they also include.

FIFTH: These Conferences have also ignored and marginalized the role of the family in the social setup and legitimized perverted relationships in all their different forms.

SIXTH: In view of the rapidly changing international environment, the Academy believes that Muslims have to follow up such changes and subject them to the rules of Shariah. The activities of the conferences that discuss woman-related issues should also be closely monitored. Muslim countries and organizations should develop a unified and Shariah-based position so that resolutions of these conferences do not include violations of the Islamic principles and Shariah rulings.

RECOMMENDATIONS

1. Active participation in international conferences on women's issues and presentation of the Islamic alternative of social setup.
2. The necessity for large-scale familiarization about the position of Islam towards women issues, especially her rights and duties; and dissemination of such knowledge in the world's diverse living languages.
3. The Secretariat of the Academy should organize workshops and seminars to study the following:
    a. International agreements and conventions on development, population and women's affairs, in order to work out the unified Islamic position towards their contents.
    b. The issue of woman's political participation and its extents and criteria, in the light of the rules and Axioms and rulings of Shariah.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 160 (9/17)

International Relations and Conventions of Islamic States

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning *International Relations and Conventions of Islamic States*,

having listened to the discussions on the subject,

resolves

first: The relationship between the Muslim countries and the rest of the world is based on peace, rejection of war, mutual respect, and cooperation for achieving the common interest of humankind within the framework of the rules and principles of the Shariah.

second: An Islamic state does not feel enmity against any other state for the mere sake of having a different religion. The Islamic state feels hostility only against those who initiate aggression against it or provoke degradation towards its sacred symbols and places. In Islam, war is the last means to be resorted to for self-defence and resistance to aggression.

third: There is an acute necessity for cooperation and complementarity between Muslim countries in all areas, including the inception of a common Islamic market, the establishment of free trade zones and signing of joint agreements in the various areas of international common interest.

fourth: There is no Shariah restriction against joining international accords which achieve Muslims' interests in the various fields, as long as such accords do not contradict with the rules and principles of Islam or entail hegemony of any external power over the parties of the accord or other countries in the world.

recommendations

1. The Academy calls upon universities and research centers in the different parts of the Arab and Muslim worlds to assign much importance to the studies which explicate the Islamic principles of international relations

and the rights of non-Muslims in Islamic societies.

2. The Academy also calls upon Muslim countries to include suitable experts of Islamic culture within their delegations to intellectual and cultural international conferences to present the standpoint of Islam regarding the discussed issues.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 161 (10/17)

Shariah Criteria for Biomedical Research on Human Beings

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427H (24–28 June 2006),

having examined the research papers submitted to the Academy concerning *Shariah Criteria for Biomedical Research on Human Beings*,

having reviewed the document issued by the Islamic Organization for Medical Sciences, at its seminar entitled *International Ethical Guidelines for Biomedical Research on Human Beings: An Islamic Perspective*, held in Cairo on 29 Shawwāl – 2 Dhū al-Qi'dah 1425H (11–14 December 2004),

having listened to the discussions on the subject,

resolves

first: accreditation of the general principles in the document

The Academy confirms the general principles and bases upon which the criteria regulating the ethics of biomedical research are founded as follows:

1. Honoring and respecting the dignity of the human being is a fundamental principle well-rooted in Shariah, because Allāh ﷻ said, «We have honored the children of Adam; provided them with transport on land and sea; given them for substance things good and pure; and conferred on them special favors above a great part of Our creation,» (Al-Isrā, 70)

   It is therefore quite essential to grant full respect to the "mentally competent" person who volunteers to undergo biomedical tests for research purposes and give him the chance to make his decision independently and at his own will and satisfaction with no trace of being forced, misled, deceived or exploited, because of Shariah maxim that "The right of a human being should not be disposed of by any other without his permission."

   Shariah has also established guarantee, respect and protection for the person who does not have (or has incomplete) aptitude/competence even

in the face of his guardian. The general Fiqh maxims stipulate that "The person who has no aptitude for acting, his say is discarded too." The Shariah has designated a guardian to take care of his matters and manage his affairs and made it incumbent upon the guardian to discharge this responsibility purely in the best way for achieving the incompetent person's interests and prevented the guardian from taking any action that may harm him.

2. Achievement of interest is another basic fundament of the Shariah indicated in the maxim of "Fetching interests of people and warding evil off them." In case of inevitable evil or harm, doing the lowest possible level is resorted to avoiding a higher-level evil or harm.

3. Achievement of justice, which refers to the ethical commitment to treating every person (male or female) honestly, correctly and fairly, is also an established fundament in the Shariah, being a practical manifestation of the principle of establishing justice and fairness that is deep-rooted in Islam and made the core of righteousness, success and prosperity in life.

4. Doing of generous good (al-Iḥsān) has been ordained in the most comprehensive verse in the Quran that incites people to achieve all interests and prevents them from committing any evil or harm when Allāh ﷻ said, «Allāh commands justice, doing Iḥsān, etc.» (Al-Naḥl, 90).

SECOND: CRITERIA FOR BIOMEDICAL RESEARCH ON HUMAN BEINGS

The Academy confirms its endorsement of the criteria of biomedical research on human beings as stated in the document referred to in the preamble of this resolution and acknowledges that these criteria regulate biomedical research in conformity with the maxims and rules of the Shariah. Furthermore, the Academy calls upon the Islamic Organization for Medical Sciences to organize an enlarged seminar that comprises physicians and Fuqahā to deepen the knowledge about these criteria.

RECOMMENDATIONS

1. The Academy appeals to the concerned authorities in Muslim countries to provide support to research and researchers through the allocation of sufficient budgets, enhancing research facilities and meeting the academic and personal needs of researchers to motivate them to devote all their time for discharging their duties towards their countries.

2. The Academy calls upon the Muslim countries to benefit from scholars of Ummah who are outside the Muslim countries, for they are a great

asset to the Ummah by opening up channels of communication with them and encouraging them to cooperate with their Muslim peers in the process of building up solid bases for scientific research in the Muslim countries.

3. The Academy calls upon the Islamic Organization for Medical Sciences of Kuwait and the ministries of health in the Muslim countries to organize training courses for workers in medical and health Fiqh and professional ethics with special emphasis on ethics of scientific research criteria stated in this resolution.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 162 (11/17)

Diabetes and Fasting of Ramadan

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427h (24–28 June 2006),

having examined the research papers submitted to the Academy concerning *Diabetes and Fasting of Ramadan*,

having listened to the discussions on the subject,

resolves

Postponement of the resolution on the subject for conducting further research and study and recommending the Islamic Organization for Medical Sciences in Kuwait to set a committee of physicians and Fuqaha to study diabetes and its relationship with Ramadan fasting.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Palestine, Al-Aqsa Mosque, Iraq and Somalia

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 17th session in Amman, Hashemite Kingdom of Jordan, on 28 Jumādā al-Ūlā – 2 Jumādā al-Ākhirah 1427H (24–28 June 2006), in its capacity as a representative of the Muslim countries and peoples, and due to its concern with the affairs of Muslims, issues this statement on Palestine, Al-Aqsa Mosque, Iraq and Somalia.

PALESTINE AND AL-AQSA MOSQUE

The International Islamic Fiqh Academy closely observes the painful realities that the Palestinians are suffering under the pitiless occupation and the tight Israeli siege, which has become now more violent, as a punishment for the Palestinians' practice of their natural right of their natural right electing their government and legislative council. The Academy calls upon the Muslim countries and the countries of the whole world to shoulder their moral and humanitarian obligations to lift the various kinds of oppression and the sufferance of the Palestinian people.

The International Islamic Fiqh Academy, while watching these serious events, calls on the whole world to stop the terrorist crimes of the occupation authorities; acts of killing innocent children, women and men, executing collective massacres, destruction of houses and displacement of their dwellers, seizure of lands and damaging of crops and cutting down fruitful trees. Not only that, but the occupation authorities is constructing, on the ruins of the destroyed Palestinian homes, a racist wall to chop off and swallow 25% of the Palestinian land, in violation of the teachings of the revealed religions, traditions of humanity, international laws and the verdicts of the International Court of Justice.

The Academy points out that such despised siege and crimes had never been witnessed even in the darkest and most oppressive eras of human history. Regretfully, all these crimes are committed by the Israeli authorities under the pretext of self-defence and by twisting the facts to claim that the Palestinians' resistance to the oppressive occupation is an act of terrorism and aggression.

The International Islamic Fiqh Academy, given the aggressive statements and evil plans of the extremists and officials of Israel regarding Al-Quds City in gen-

eral and Al-Aqsa Mosque in particular, reaffirms once again in this Session its previous resolutions regarding this issue, especially the following:

1. Al-Quds City and Al- Aqsa Mosque are sacred places for Muslims all over the World due to their relationship with the Midnight Holy Journey of the Prophet Muhammad ﷺ to the skies, as stated in the Holy Quran, and also because Al-Aqsa Mosque was the first *Qibla* of Muslims.
2. The Blessed Al-Aqsa Mosque belongs to Muslims alone, and the Jews have nothing to do with it. There should be a warning against potentially dangerous consequences of desecrating it. The entire responsibility of any aggression against Al-Aqsa Mosque is on the shoulders of the Jewish occupation authorities and those countries that support it. Al-Aqsa Mosque can never be subject to negotiations and concessions, and that nobody would be able to negotiate or give concessions on it as its loftiness is above all that.
3. Equitable peace and stabilization can never be achieved in the region, except by putting an end to the Jewish occupation of Al-Quds City and its Holy Mosque and returning the land of Palestine to its lawful people.
4. The Palestinian people have the right to establish their independent state on all their lands with Al-Quds as its capital city. Palestinians also have the right to defend themselves, fight their enemy with all available lawful means, and return their refugees to their homeland.
5. The Academy would like to commend the great efforts exerted by the Hashemite Kingdom of Jordan for providing custodianship to Al-Aqsa Mosque and preserving the Arab and Islamic identity of Al-Quds City, through the Jordanian Ministry of Awqāf, Islamic Affairs, and Holy Sites. The Academy also commends the efforts of Bait Mal Al-Quds Agency of the OIC Al-Quds Commission and appreciates the support extended by other Arab and Muslim countries and organizations.

Once again, the Academy calls upon the governments and peoples of the Arab and Muslim countries to bear their religious, national, and historical responsibilities to extend hand to the Palestinian people, defend the occupied Al-Quds City and its Holy Mosque, stand by its resisting people and fortify their existence and support their institutions in the fields of health, education, social and humanitarian services, etc. in order to forestall any attempt to judaize or internationalize Al-Quds City as both are not acceptable under any circumstances.

IRAQ

Today Iraq is facing severe crises which endanger its entity, existence, unity and sovereignty. In addition to the hardships and sufferings caused by the occupation, the gangs of violence and terrorism have gone so far in killing innocent people, especially women, elderly, and children, blasting mosques, worship places and markets, and spreading ruin and destruction on the land.

Besides this catastrophic situation, sectarianism aggravates the sufferance by killing people on identity, spreading terror among the Iraqi people, and converting Baghdad, the land of peace, ancient civilizations and the greatness of Al Rashid and Al Mamun, into an area of massive ruins, vice, damage, and beheading. Every morning the river of Dijlah is found full of tens of floating corpses, cut-off heads and torn-off limbs. Haphazard blasting is now a most common unpleasant scene in places of mass gatherings such as mosques, Shia sites, market areas, bus stations, and government offices and institutions. Added to all of this, the horrible practices inside prisons and the merciless bombarding of residential areas.

Despite all these great sorrows, the Academy can still see a glimpse of hope in the last elections, which have led to the formation of formal institutions of Iraq; for instance, the parliament, the government, and the presidency.

Accordingly, the Academy calls for ending the occupation; condemns violence and terrorism and provocation of sectarian disputes and religious conflicts; and urge the Shiite and Sunni leaders to do their best to stop these dangerous bloody sequential events that produce no winner. It is a catastrophic disaster that destroys everything. Defusing religious tension and extinguishing sectarian flames are pre-requisites for the success of any political solution, stability, and progress.

On this occasion, the Academy also invites all Iraqis to pay much care for political participation and contribute thoughtfully to political activities by joining the various governmental bodies, especially the defence and interior ministries. Such broad participation would help achieve a balance between the various components and strips of the Iraqi people and enhance the success of the government plan for dissolving the factional militias and achieving national reconciliation through tolerance and justice for all. Only then, Iraq will be able to regain its full sovereignty, maintain its national unity, get rid of the occupation, which will then become unjustifiable, and come back to play its vital role within the ranks of the Arab and Islamic Ummah.

The Academy appeals to all Islamic and friendly countries to extend emergency relief to the afflicted Iraqi areas and assist Iraq to pass this severe crisis and regain its positive role in the international family. The Academy commends the reconciliation efforts being made by some countries to put an end to the Iraqi

sufferings, especially the efforts exerted by the Hashemite Kingdom of Jordan through contacting the different religious leaders in Iraq to reach a comprehensive religious solution that can form a basis for a political settlement.

SOMALIA

Regarding the current situation in Somalia, the Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference calls upon all our rational brothers there, including the president, the government, the leaders of the Islamic Courts and all Somali people, to opt for effective serious reconciliation, refrain from violence and fighting and place the supreme welfare of Somalia above any personal interests by seizing this available opportunity for peace and compromise; and unifying their efforts for regaining peace and stability; and heading forward to rebuild their war-wrecked country.

The Academy also supports the great efforts exerted by the Arab League and the Organization of the Islamic Conference under the righteous guidance of their respective Secretary Generals and the Somalia Affairs Follow-up Committee. The Academy looks forward to the continuation and furtherance of such efforts to include economic, political and security support to Somalia to embark upon national unity and re-assume its role as an active member of the international community and Arab-Islamic Organizations.

In the meantime, the Academy calls upon the Ummah, governments and peoples, to support Somalia and provide assistance in all fields, especially post-war emergency relief and assistance to drought-stricken people. "Each Muslim is the brother of the other Muslim, he never aggrieves him, betrays him, or hand him over to the enemy," and "Allāh bestows His help upon His slave as long as his slave helps his brethren."

Indeed, Allāh is the Giver of Success.

Resolutions and Recommendations of the 18th Session of the Council of the International Islamic Fiqh Academy

PUTRAJAYA
MALAYSIA

24–29 Jumādā al-Ākhirah 1428
9–14 July 2007

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 163 (1/18)

Milestones to Revive the Islamic Civilizational Approach

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Milestones to Revive the Islamic Civilizational Approach*,

having listened to the discussions on the subject,

having recalled the leading precedent of Islam in establishing the rightly guided state when the Prophet Muhammad ﷺ issued the Charter of Al-Madinah Al-Munawwarah, which laid down relationships in the first Muslim society, and the International Human Rights Declaration, which he announced in his Farewell Sermon,

in light of the Quran and the Sunnah which form up the Islamic constitution, such as the following verses: «Allāh commands justice, the doing of extra good (Iḥsān), and giving to kith and kin, and He forbids shameful deeds and non-rational actions and unjust rebellion,» (Al-Nahl, 90) and «O ye who believe obey Allāh and obey the Apostle and those charged with authority among you.» (Al-Nisā, 59)

resolves

first: Following an Islamic civilizational approach offers Muslims a chance to recover their historical role and disseminate their message for rescuing humanity from the despised grip of the pervading darkened materialism.

second: The best way for dealing with the state of backwardness which the Ummah suffers today is the sincere return to this righteous religion. The catastrophic events that Muslims face are a direct consequence of their deviation away from the teachings of Islam and imitation of other secular approaches.

third: An Islamic civilizational approach based on a cohesive plan can free Muslim countries and societies from the evils of hegemony, dependency and backwardness.

fourth: Proper understanding of Islam, firm commitment to its teachings

and application of its rulings in an integrated and balanced manner are fundamental prerequisites for the success of the project of Islamic renaissance.

FIFTH: Considering that Shūra is a fundamental pillar of the Islamic state, it is necessary to have a strict adherence to the Axiom of Shūra, theoretically and practically, as dictated by Allāh ﷻ when He said, «and consult them in the affairs,» (Āl 'Imrān, 159) and «who (conduct) their affairs by consultation.» (Al-Shūra, 38).

SIXTH: The Council acknowledges the permissibility of separation between authorities: executive, legislative and judiciary powers which have emerged and gained general acceptance in our present times. This is learnt from the Prophet Muhammad's ﷺ actual practice with regard to the different functions he assumed: message conveyance, government leadership, and judiciary.

SEVENTH: The right of citizenship shall be guaranteed for all, including non-Muslims, according to the Shariah rules in matching rights with obligations.

EIGHTH: Participation of women in public activities without violating the relevant Shariah rules as Allāh ﷻ said, «The believers men and women are protectors, one of another: they enjoin what is just, and forbid what is evil.» (Al-Tawbah, 71)

NINTH: Muslims should take the initiative to get rid of any negative attitudes in the Muslim society in order to overcome the challenges they face such as:

a. Sectarian fanaticism which bars the way to Shariah-accepted renovation.
b. Ideological and behavioral extremism which creates problems in the society and gives rise to extremist movements.
c. Atheism and secularism that deny the relationships between religion and life.
d. Monism of knowledge (partial knowledge) which leaves no room for visualizing the issue from all dimensions.
e. Negligence of the value of time and how it could lead to failure and backwardness of nations.

RECOMMENDATIONS

1. Strengthening faith and altruism as a first step in the educational efforts aiming to build up the Muslim character, which can resume the role of reviving the Islamic culture and its positive contribution to human civilization.
2. Emphasizing the fact that the Islamic cultural approach is based on strengthening the ethical values of Islam in society.
3. Commending the steps taken by Malaysia for adopting its project of the

Islamic cultural approach and calling on it to organize an international Islamic conference to illuminate the cultural facts of Islam and the brilliant contents of its everlasting message. The results of this proposed conference should be put before the eyes of intellectuals and leaders of Muslim countries.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 164 (2/18)

Human Resource Development in the Muslim World

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Human Resource Development in the Muslim World*,

having listened to the discussions on the subject,

resolves

first: The term "Human Resources" refers to the capabilities and expertise of the human being as he is the pillar of development, the undertaker of its functions and the in-charge of its responsibilities. Allāh ﷻ entrusted the human being with the responsibility of being His vicegerent in the earth, when He ﷻ said, «It is He who hath produced you from the earth and put you in charge of construction therein,» (Hūd, 61) and He ﷻ also said, «Behold, thy Lord said to the angels: I would create a vicegerent on the earth.» (Al-Baqarah, 30)

second: The Islamic concept of human resource development stems from the simple premise that constructing the earth and undertaking the vicegerent function on it, are unattainable without preparing capable human beings who can dispose of these responsibilities with efficiency and control. Thus, it becomes necessary to build up the physical, mental, psychological, and spiritual capabilities of the human being to raise and unleash all his potentials.

third: Developing human skills and competencies for achieving the objectives of comprehensive development as perceived by Islam cannot be achieved unless through education, learning and training. Therefore, the Academy reconfirms its resolution no. 138 (4/15) on Educational Curricula, which recommended several issues including the following:

- Designing the educational subjects and courses within the framework of the Islamic worldview and perspective, with due emphasis on exhibiting the various aspects of the Islamic vision (faith, Shariah, and way of life) in the course contents.

- Updating and developing the education and learning curricula in the various Muslim countries to reflect originality with modernity. This should be done by the concerned countries themselves, without interference from any external party.
- Purification of the teaching subjects in all disciplines from all intruding concepts which do not conform to Islamic principles.
- Providing free and compulsory education at the basic level in all Muslim countries to eradicate illiteracy and equip the younger generations with Islamic principles and modern knowledge.
- Abolishing the present dual system of education and adopting a consolidated system that attends to the needs of Islamic orientation and the needs in the modern spheres of knowledge. Such a shift would also empower the learners and enable them to stand present and future challenges.
- Requesting the Secretariat of the Academy to organize – in coordination with the Islamic Organization for Education, Science and Culture (ISESCO) and other concerned parties – a special seminar for the objective of improving and raising the quality of education and learning curricula in Muslim countries and benefitting from the previous efforts in this field, so that a comprehensive strategy for developing educational curricula in the Muslim world. This strategy can then be presented to the Organization of the Islamic Conference for submission to the Ministers of Education of the Muslim countries.

FOURTH: The concept of useful knowledge is not restricted to religious studies alone. It rather includes worldly knowledge that is useful to the Ummah and mankind. Useful knowledge is a collective duty (*farḍ kifāyah*) of Muslims as long as it benefits the Ummah.

FIFTH: Education curricula designed for human development should include inculcating viewpoints and cultural values derived from the faith and well-established norms of the Ummah; which enhance the Muslim personality keenness always to do the good and create a spirit of hope. On top of such values and viewpoints are the sense of responsibility, taking the initiative, consultation, teamwork spirit, the value of time, self-confidence, constructive dialogue, respect of other opinions, purposive criticism, respect of specialization, appreciation of knowledge, encouragement of Ijtihād and unleashing innovative potentials, responsible freedom, justice, honesty, modernity, futurist insight, and appreciation of work values.

SIXTH: Educational institutions should give much importance to educational planning and linking of education curricula to the needs of Muslim society

along future-looking perspectives to ensure balanced compatibility between human development and the achievement of Islamic-paradigm-based development objectives.

SEVENTH: There is a dire need for preparing qualified leadership on the basis of the two pillars of public leadership, which are honestly and competency, effectively able to shoulder the task of managing and promoting the educational and training institutions in the various disciplines desired by the Ummah. Competence and honesty are the most important prerequisites for achievement, as indicated in the holy verses «Truly the best of men for thee to employ is one who is strong and trusty,» (Al-Qaṣaṣ, 26) and «Set me over the storehouses of the land, I am indeed a good guard and one that knows.» (Yūsuf, 55). It is also reported that the Prophet ﷺ said to Abū Dhar رضي الله عنه, "You are weak, and this (public job) is a trust which could generate shame and regret on the Day of Judgment, except who takes it upon its right (qualifications) and fulfills its obligations fairly and honestly." (Reported by Imam Muslim in his *Ṣaḥīḥ*).

EIGHTH: Promotion of scientific research and encouragement of spending on it due to its significant role in human development and fulfillment of the diverse needs of the Ummah.

NINTH: Due to the prevailing women's illiteracy in several parts of the Muslim world, the Academy emphasizes the need for women education, enlightenment, and rehabilitation to carry her significant function in the development of the Islamic society. In this regard, the Academy reaffirms its resolution no. 114 (8/12) concerning the *Islamic Declaration on Role of Women in Development of Muslim Society*, and all the resolutions related to this subject.

TENTH: The best way to boost human development and enhance the effectiveness of the educational system as a component of comprehensive development is to complement it with other fundamental reforms, including the following:

a. Full implementation of Shariah in the various fields of life. In this respect, the Academy confirms its resolution no. 48 (10/5) on the *Enforcement of Shariah Rules*.

b. Promoting responsible freedom, justice, and comprehensive peace; and discarding despotism in addition to adherence to the principles of human rights as derived from the grand objectives and primary axioms of the Shariah, as indicated in the Islamic Charter of Human Rights, which the Academy has adopted.

ELEVENTH: Encouragement and appreciation of the efforts exerted by Muslim countries such as Malaysia and several other Muslim countries to achieve notable success in human resources development.

RECOMMENDATIONS

1. Preparation of specialized studies and organization of seminars on the phenomenon of brain migration from the Muslim countries to others in order to identify its underlying causes and suggest measures for correcting it and attenuating its effects.
2. The need for coordination, cooperation, integration, and exchange of experiences between Muslim countries in the fields of education, culture, and training; as has been dictated by Allāh ﷻ by saying, «…help ye one another in righteousness and piety, but help ye not one another in sin and rancor, fear Allāh, for Allāh is strict in punishment.» (Al-Mā'idah, 3) This reaffirms the Academy resolution no. 98 (1/11) about *Islamic Unity*.
3. Encouragement of establishing specialized institutes and academic centers to cater for human development and look after the gifted and innovators.
4. Organizing a specialized seminar on technology transfer, its implantation and development within the Muslim countries, and the promotion of electronic education.
5. Benefiting from the experiences of some Islamic and other countries in the field of fighting illiteracy and enhancing vocational and technical training.
6. Creating channels of communication and cooperation between the Muslim world and Muslim scientists who are in countries outside the Muslim world.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 165 (3/18)

Enhancing the Role of Zakāh in Poverty Alleviation and the Management of its Collection and Distribution based on Fiqh Interpretations (Ijtihād)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Enhancing the Role of Zakāh in Poverty Alleviation and the Management of its Collection and Distribution based on Fiqh Interpretations (Ijtihād)*,

having listened to the discussions on the subject,

resolves

first: Assets, not explicitly mentioned in the original Islamic texts, are subject to Ijtihad in regard to being Zakāh-liable or not provided such Ijtihād fulfils the Shariah conditions and criteria.

second: The Zakāh payer is not required to cover all the eight categories of Zakāh recipients when he distributes the due Zakāh. If, instead, a competent authority is to perform distribution, it should cater for all the eight categories of recipients, provided that funds are available, need exists, and the eight categories of recipients are accessible.

third: In principle, Zakāh should be distributed as soon as it is due or collected. Nevertheless, it is permissible to delay its distribution when it is necessary for public interest, or to reach a poor relative, or when Zakāh is distributed periodically to respond to the repetitive needs of the incapable of earning poor.

fourth: The poor and needy (al-Fuqarā wa al-Masākīn) should be given an amount that satisfies their needs and their dependents if possible and brings them up to an adequate level of living as perceived by the Zakāh authority.

If the poor or needy can earn income through a certain handicraft or profession, he may be given the amount he needs to, for instance, purchase his work tools, run a small commercial business or acquire a small family farm, and thus becomes able to have a continuous flow of income to cover his needs. Based

on this fact, Zakāh funds can be invested in small projects such as textile units, small sewing projects, and small workshops to be directly owned by the poor and needy.

Zakāh funds can also be used for establishing income-producing and services projects as stated in resolution no. 15 (3/3) of the Academy.

FIFTH: Other Categories of Zakāh Recipients include:

a. Al-'Āmilīn 'alayhā (Zakāh Workers)

   1. Zakāh workers in the contemporary application include the institutions/administrations and their affiliate bodies entrusted with the collection and distribution of Zakāh subject to Shariah conditions.
   2. The Zakāh institution should enjoy financial and administrative autonomy from all other government bodies and be subjected to supervision and control to ensure transparency and adherence to administrative and financial good governance guidelines.
   3. The institutions entrusted with Zakāh collection and distributions are considered as trustees and, therefore, they should not guarantee Zakāh funds against loss except in case of infringement or negligence. The Zakāh payer also becomes free from any duty towards the Zakāh amount once he pays it to the authorized Zakāh institution.

b. Al-Mu'allafatu Qulūbuhum (Reconciliation of Heats)

   1. The Zakāh share for Al-Mu'allafatu Qulūbuhum or "those whose hearts it is necessary to conciliate" is still valid and will remain so for good. It is not annulled or removed and can be used whenever needed to serve the cause of public interest.
   2. Zakāh can be spent for reconciling the hearts of those who have reverted to Islam recently to strengthen their belief or compensate them for any loss they might have incurred; it may also be spent on unbelievers who are hoped to revert to Islam or to dissuade them from causing any harm to Muslims.
   3. It is permissible to provide support out of Zakāh funds to afflicted non-Muslims in areas of disasters, earthquakes, floods, and famines, in order to reconcile their hearts.

c. Fī al-Riqāb (Those in Bondage)

1. The Zakāh share of 'those who are in bondage' includes ransoms for freeing Muslim war prisoners.
2. It is permissible to pay, out of Zakāh funds, for releasing kidnapped Muslims or kidnapped family members.

d. Al-Ghārimīn (The Indebted)

The Zakāh share for indebted persons includes those who incurred debts for their own needs and affairs as well as those who incurred debts for spending on dispute solving within Shariah criteria, *diyah* on behalf of those who accidentally commit homicide and have no family help available to them, or payment of the debts of a deceased who has left no bequest from which his debts can be settled provided that *Bayt al-Māl* (public treasury) did not take charge of paying his debts.

e. Fī Sabīli Allāh (For the Sake of Allāh)

This Zakāh share includes the payment to fighters in the cause of Allāh ﷻ, those who defend their homeland, and the various other lawful war needs.

f. Ibn al-Sabīl (The Wayfarer)

1. A wayfarer refers to a person who is on non-prohibited travel and has nothing on hand to spend for return home, even if he is rich at his homeland.
2. Assistance from Zakāh funds through establishing a specialized fund to financially assist displaced persons, within or without their countries, as a result of wars, floods, famines, earthquakes and like disasters.
3. Assistance to poor students who are outside their countries and have no scholarships for studying as per customary practices.
4. Helpless migrants who have no formal residence permits may be given from Zakāh funds until they return to their home countries.
5. Basic-needs support to full-time students and travellers who have nothing in hand to spend on their living.

RECOMMENDATIONS

1. Due to the dire need of the Ummah for organizing Zakāh collection and distribution in a modern institutional framework, subject to the rules of the Shariah, the Council of the Academy calls upon Zakāh institutions

in the Muslim countries to coordinate and establish joint projects for assisting the poor and the needy.

2. Encouraging individuals to pay their Zakāh to the state-licensed Zakāh institutions to ensure the delivery of Zakāh to its recipients and activate its religious, social, economic, and developmental role.
3. Paying attention to the informational aspects of Zakāh by disseminating Zakāh information through visual and audible media to enlighten society about the status and significance of Zakāh and its constructive role in socio-economic reform.
4. Issuing Shariah and accounting standards for Zakāh bases.
5. Preparation of Zakāh accounting models and samples to be used as guidelines for calculating the Zakāh base for each type of Zakāh-liable assets to assist in the practical application of Zakāh in the light of the Shariah standards.
6. Making use of information technology, communication networks and space channels in illuminating Muslims about the contemporary issues of Zakāh and its role in achieving socio-economic development for the Ummah at large.
7. Encouraging the Muslim countries to reduce the tax burden of Zakāh payers by deducting the Zakāh amounts from their payable tax to motivate wealthy Muslims to pay Zakāh.
8. Teaching Zakāh Fiqh and Zakāh accounting at the university and higher institutes' level to promote knowledge about Zakāh as the third pillar of Islam.

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 166 (4/18)

Phenomenon of Islamophobia: Challenges and Confrontations

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning the *Phenomenon of Islamophobia: Challenges and Confrontations*,

having listened to the discussions on the subject,

having recalled the adverse effects of the phenomenon of Islamophobia which has led to aversion from Islam and resulted in complex pressures upon Muslims in various parts of the world, which can be traced back to the accumulated heritage of enmity, hatred, destructive media campaigns and failure of Muslims to present Islam at the international level,

having considered the harmful effects of this phenomenon,

resolves

first: The need to confront this phenomenon with a comprehensive strategy to be adopted by all the Muslim countries, international Islamic organizations, and the Islamic organizations that represent Muslims outside the Muslim world. Such a strategy should comprise well-designed mechanisms and arrangements and cover the informational, political, economic and social aspects. It should also comprise a clear media message on the Islamic religion and its underlying glorious facts, principles, and values to be disseminated through popular media and internationally influential websites.

second: The need for consultation and coordination between the Muslim countries and the International Islamic organizations to make necessary decisions and take the required actions in response to the doubts-raising campaigns and offensive acts addressed against the Ummah and its symbols.

third: Calling upon the international community to support the Ummah in facing this aggressive attack against Islam and Muslims; work for furthering the culture of love and solidarity between nations; discourage hatred and aggression, and enhance cooperation for achieving the benefit of all humanity.

FOURTH: Calling upon Muslim communities outside the Muslim world to act as messengers of peace and order and carriers of the pure message of Islam to the different countries and people of the world. They should avoid any practices that could harm the image of Islam while showing their strict commitment to its values and principles.

The Academy also appeals to the Muslim countries to provide all necessary assistance to Muslim communities outside the Muslim world and enhance their knowledge about their religion and keep them aware of the developments in the Muslim world. Special organizations and institutions should be created to cater for strengthening their relationships with the rest of the Ummah.

FIFTH: Identification of the writings and publications relating to this phenomenon, and encouraging Muslim scholars who are well versed in the languages of these writings and publications to initiate dialogues and discussions with the proponents of this phenomenon and clarify the right picture of Islam.

SIXTH: Providing advanced education and training in foreign languages to the Islamic preachers who visit non-Muslim countries in order to enhance their efforts in presenting the conceptual and practical aspects of Islam. Existing institutions of preachers' training must be encouraged to do this job, or new institutions may be established for this purpose.

SEVENTH: Building the relationship with the others based on mutual respect, communicating the pure message of Islam and emphasizing, in the educational curricula, the need for mutual understanding with the other.

RECOMMENDATIONS

1. Activation of clause no. (4) Paragraph (6) of the Statute of the Academy about "establishment of centers for Islamic studies in some of the central areas outside the Muslim world; cooperation with the existing research centers to promote the Academy's objectives and monitoring the materials published about Islam and responding to any attempt of raising suspicions against it." The proposed centers for Islamic studies should prepare rigorous studies about the West as well as a suitable strategy for dealing with the various Western countries and with all centers of power that influence Western governments and societies.
2. The need for coordination with the focal point established by the Organization of the Islamic Conference for monitoring the issues of Islam in the Western media. More efforts should also be exerted, in coordination with the Academy, to correct the distorted picture of Islam currently presented through the educational systems in the West and respond to the suspicions raised against Islam.

3. Organizing academic and intellectual seminars to be attended by Muslim and non-Muslim scholars to promote open dialogues, exchange of views, and enhance channels of mutual understanding and interaction.

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 167 (5/18)

Maqāṣid and their Role in Deriving Shariah Rulings

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Maqāṣid (Shariah Objectives) and their Role in deriving Shariah Rulings*,

having listened to the discussions on the subject,

resolves

first: The Objectives of Shariah refer to the abstracts, general wisdom, and final ends that Shariah-Giver seeks to achieve through stipulation of rulings that realize people's interests in this world and the Hereafter.

second: Due consideration to the objectives of Shariah in Ijtihād serves several purposes, including the following:

1. Comprehensive view of the texts and rulings of Shariah.
2. Fulfilment of the objectives of Shariah is a weighing factor in comparisons between different Fiqh viewpoints.
3. Identification of the end results of the acts of individuals and subjecting them to the rulings of Shariah.

third: Adopting the objectives of Shariah at their different levels as the primary and most appropriate framework for human rights.

fourth: Importance of recalling the objectives of Shariah in the derivation of Shariah rulings.

fifth: Proper application of the objectives of Shariah does not counteract the implications of the Shariah texts and consensus-based rulings.

sixth: The need for studying the various dimensions of the objectives of Shariah in the social, economic, educational, and political areas.

seventh: Recalling the objectives of Shariah is quite essential for proper understanding of the Islamic Discourse.

eighth: Importance of applying the Objectives of Shariah for deriving ap-

propriate Shariah rulings for emerging issues and new kinds of contemporary financial transactions. This would help achieve excellence in Islamic financing modes and products, which should have their own distinctions from conventional modes and products.

RECOMMENDATIONS

1. Calling upon the Secretariat of the academy to commission further research to elaborate on the meaning of the objectives of Shariah and present the Fiqh literature contributed on the subject.
2. Calling upon academic institutions and centers to include the objectives of Shariah as a subject in their educational curricula.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 168 (6/18)

Definition of the Age of Puberty and its Implications on Obligations

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning the *Definition of the Age of Puberty and its Implications on Obligations*,

having listened to the discussions on the subject,

having recalled that sound mind is a prerequisite for responsible actions and charges and that a child is not addressed with Shariah discourse until he reaches a stage of mental capability and full awareness and rational perception,

having considered that there are specific bodily signs which indicate reaching such stage and that, in the absence of such indicative signs, resorting to setting a given age is Shariah-compliant; while in matters of penal punishment, the Shariah requires additional precautionary measures of "avoiding a verdict of penalty if there exists a least doubt,"

resolves

first: The age of seven is the "age of distinction" that comes before the age of puberty before which transactions of a child are void. However, after the "age of distinction," the financial transactions of the child are: Transactions of absolute benefit to the child, these are considered valid, transactions that range between benefit and harm, these are subject to approval by the child's guardian, and transactions that are absolutely harmful, these are null and void.

second: Because the age of puberty is closely connected to the growth of the body to a particular stage wherein full awareness is reached, physical bodily signs are the natural indicators of puberty, or by completing the age of fifteen with regard to worshipping obligations, whereas for financial and penal matters the government has the right to set the age of puberty in view of public interest and the surrounding circumstances.

third: A child below puberty age should not be subjected to any penalties for major crimes that are mentioned in the Quran (Ḥudūd and Qisās). Alternatively,

he or she may be penalized based on Ta'zīr (disciplinary punishment), which is left to be decided by law (of the state) in a way that takes into consideration the age stage of the child.

FOURTH: The child below puberty age is not relieved from the financial liability when he causes damage or payment of *diyah* as stipulated by Shariah when he commits accidental homicide.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 169 (7/18)

Rights and Obligations of the Muslim Woman

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning the *Rights and Obligations of the Muslim Woman*,

having listened to the discussions on the subject,

having recalled that Islam has placed woman in the perfect position by considering her a fundament of family formation, granting her the right of work, innovate and social giving and participation; assigning her utmost graceful care in all its teachings and directives, including her full complete rights and the great respect which she deserves as a mother, sister, daughter, or wife,

having acknowledged that Islam maintains equality between men and women in Divine distinction, honor, respect, dignity, ordinances and religious rituals; ordaining the right and forbidding the wrong and good deed, the right to education and knowledge, liability and repair, and financial rights,

having considered that Islam set for all appropriate Shariah criteria, including the principle that Islamic texts always address both men and women except in the cases when only one of them is specifically addressed,

resolves

first: Women have the right to own whatever she likes of real estate and personal properties based on Shariah general rules and conditions of ownership.

second: Work is permissible for women within Shariah criteria. She is encouraged to take jobs in which she has natural privileges as this offers her high potential for outstanding performance and excellence, such as education, gynaecology and paediatrics medicine, and social work.

third: Muslim women have the right to contribute to social, cultural, and educational activities that do not contradict the rules of Shariah according to relevant Shariah conditions.

FOURTH: The Academy reconfirms its previous resolutions no. 114 (8/12) and no. 159 (8/17), concerning Women.

RECOMMENDATIONS

1. Establishment of an International Islamic Organization for Woman Affairs to be entrusted, among other things, with follow-up of woman issues and monitoring and participating in the conferences organized on this subject.
2. Cooperation with the international organizations of family, woman and child protection of risks and threatening trends.
3. Calling upon all Member states to express their reservations on the clauses of the international conventions that include Shariah violations.
4. Conducting further research and studies on women's political, judicial, and executive public rights.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 170 (8/18)

Timeshare Contracts

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Timeshare Contracts*,

having listened to the discussions on the subject,

resolves

first: definition of timeshare

Timesharing refers to joint common ownership or lease of a specific property by several people who take turns occupying the premises across time of space, with the right, in some cases, to specify given times/spaces to each owner.

second: types of timeshares

Timeshares include the following two types:

1. Full ownership (of the asset and the usufruct) by purchasing, through a sale contract, a common share of the property to utilize it in succession with the other owners during specific periods.
2. Incomplete ownership (of usufruct only) by hiring, through a lease contract, a common share of the usufruct of the property to utilize it, in succession with the other owners, during a specific period.

third: shariah ruling on the principle of timeshare ownership

a. It is permissible in Shariah to purchase or rent a common share in a specific property and to agree with the other owners, directly or through a managing agent, to use the purchased or rented property in successive terms to be collectively agreed upon. The purchased or rented share can also be traded through sale, gift, inheritance, mortgaging, or any other Shariah-permissible transaction.

b. Application of the principle of timesharing should satisfy the Shariah conditions for sale and lease contracts.

c. In case of leasing, the lessor should bear the costs of the essential maintenance without which the property cannot be utilized, whereas costs of operating and periodic maintenance may be contractually assigned to the lessee. If the lessor performed operating and periodic maintenance, the lessee may be charged only the costs that are normally incurred for similar work or the amount they mutually agreed upon.

In case of sale, maintenance costs have to be borne by the owners subject to their respective shares in the property.

d. It is permissible for the owners to exchange their shares among themselves, whether directly or through a specialized company.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 171 (9/18)

Easement Rights and their Contemporary Applications in Common Property

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Easement Rights and their Contemporary Applications in Common Property*,

having listened to the discussions on the subject,

resolves

first: definition of easement rights

Easement rights include any right or benefit that a property is entitled to in another property.

second: types of easement rights

Easement rights are diverse and continuously changing; however, in old times, the Fuqahā had tackled some of them, including the following:

1. Watering Right: It refers to the right of having a turn to use water for irrigation or animal drinking or to channel water from one property to the other.
2. Draining Right: This refers to the right of draining excess or wastewater from one property to the other or across it to a public ditch.
3. Passage Right: It refers to the right to access one property by passing through another neighboring property.
4. Right of Topping: It refers to the right of the different parts of a multi-story building, which belong to different owners, to rise above and rest on top of each other.

THIRD: EMERGENCE OF EASEMENT RIGHTS DEPENDS ON THE FOLLOWING FACTORS

1. Permission of the owner in case of private property, against compensation or free of charge;
2. Necessity;
3. Reclamation of Wasteful (non-owned/non-used) Land;
4. Neighborhood and Joint Property;
5. Any other Shariah-acceptable factors that could emerge at any time, such as extending electricity cables or water and drainage pipelines.

FOURTH: SHARIAH RULINGS

1. The general Shariah maxim applicable to easement rights is that: in principle, utilities are permissible while harms are prohibited.

   As regards privately owned/acquired water and water sources, easement right of getting water does not apply except in case of necessity and subject to fair market price.

2. Easement right of access to drinking, channelling, or draining water is established for real estate, farms and the like in accordance with usual traditions and customs.
   This includes water extensions for factories, workshops, and drainage systems, provided that using such rights does not harm others.
3. Right of Topping is also guaranteed with or without compensation as per the governing laws and regulations.

FIFTH: CONTEMPORARY FORMS OF EASEMENT RIGHTS

Well-established contemporary norms and traditions consider the extension of service devices such as communications, electricity, water, gas, sanitary and central air conditioning pipes as easement rights.

SIXTH: SHARIAH RULINGS ON CONTEMPORARY FORMS OF EASEMENT RIGHTS

Private parking lots for buildings, market areas, and retail stores are considered part of the property where parking is permitted.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 172 (10/18)

Consent for Urgent Surgeries

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning the cases in which obtaining consent becomes invalid for urgent surgical interventions,

having listened to the in-depth discussions on the subject,

resolves

first: In emergency cases, medical intervention is permissible without obtaining consent from the patient or his caretaker in the following cases:

1. When the admitted patient is completely unconscious or in a situation where it is complicated to obtain permission before undertaking the surgery.
2. When the patient is admitted in a dangerous, life-threatening situation, surgical intervention must be performed immediately without waiting for permission.
3. When the patient has no accompanying relative, who has the right to grant permission and there is no time to contact his relatives.

second: Medical intervention in the previous cases should satisfy the following conditions:

1. The treatment should be acknowledged and authorized by the relevant medical authorities.
2. The treatment should be done by a specialized physician within a group of three physicians to undertake diagnosis, prescribe appropriate treatment and sign a joint report on the case.
3. The benefits expected from the treatment should outweigh the harm that could result from it, along with keenness to minimize the risks as much

as possible.

4. When the patient recovers, the physician should explain to him all the case details.
5. Treatment should be free of charge, yet if it has to be paid for, an independent party should determine the payable amount.

THIRD: Postponement of issuing a resolution on the following cases to a following session of the Academy.

1. When the patient refuses to undergo an urgent operation such as inflammatory appendix operations.
2. A fetus whose neck is encircled by the umbilical cord and no permission is given for undertaking a cesarean section to save his life.
3. A sick child who is in need of medical intervention such as appendix surgery, kidney dialysis, or blood transfer, and his guardian refuses treatment.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 173 (11/18)

Plastic Surgeries and their Shariah Rulings

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428H (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Plastic Surgeries and their Shariah Rulings*,

having listened to the in-depth discussions on the subject,

resolves

first: definition of plastic surgery

It is a surgery that aims to improve or modify the form of an apparent part of the human body or restore its impaired function if it was distorted.

second: general criteria and conditions for plastic surgeries

1. The surgery should achieve a Shariah-acceptable benefit such as restoration of an impaired function, repair of a defect, or restitution of a bodily part to original form of creation
2. The surgery should not lead to harm that exceeds the benefit expected from it. This should be decided by competent and trustworthy specialists.
3. The surgery should be operated by a specialized physician; otherwise, liability will ensue as indicated by the Academy resolution no. 142 (8/15).
4. The surgery should be permitted by the patient (surgery seeker).
5. The physician should undertake to explicitly enlighten the patient about the risks and possible complications which could result from the operation.
6. There should be no other way of treatment that is less harmful to the body than surgery.
7. The surgery should not lead to violation of the directives of Shariah, such as the ḥadīth of the Prophet ﷺ narrated by Ibn Mas'ūd رضي الله عنه: "May Allāh

curse tattoo makers and tattoo takers, removers of hair from the face and receivers of removal, and/or teeth cleaving for mere beauty; changers of Allāh creation." (Reported by al-Bukhārī) And the ḥadīth reported from Ibn ʻAbbās ﵄ that the Prophet ﷺ said, "Cursed are those who attach artificial hair and those who receive it, removers of hair from the face and receivers of removal and tattoo makers and tattoo takers; without a reason of curing sickness." (Reported by Abū Dāwūd) Also, the Prophet ﷺ prohibited women from imitating men and men imitating women, in addition to texts which prohibit imitating other nations or persons that are known for their dissoluteness and debauchery.

8. Other Shariah rulings on such treatments should also be well observed, especially avoidance of solitude of man and woman and uncovering private parts of the body to others without necessity.

THIRD: SHARIAH RULINGS

1. It is permissible according to Shariah to conduct and undertake needful and necessary plastic surgeries that are intended to achieve one of the following purposes:

   a. Restoration of the original form of parts of the body because Allāh ﷻ said, «We have indeed created human being in the best of moulds.» (Al-Tīn, 4)

   b. Restoration of the normal functions of the body.

   c. Rectification of congenital defects of the body such as a split lip, a crooked nose, a birthmark, an additional finger or tooth, or sticking teeth or fingers, when such defects cause severe physical or psychological sufferings.

   d. Rectification of contingent (acquired) defects, as when burns, accidents and sicknesses necessitate surgeries like skin transplant or grafting, breast re-formation after removal, or hair transplant, especially for women.

   e. Dealing with a state of unusual ugliness that causes physical or psychological hardship (Academy resolution no. 26 [1/4]).

2. It is not permissible to conduct or undertake ameliorative plastic surgeries that do not come under medical treatment and are intended simply to alter the person's normal natural appearance in pursuit of mere desires and imitation of others. Examples here include changing the shape of face, nose, lips, eyes, or cheeks to appear in a particular look or deceive

legal authorities.

3. It is permissible to reduce weight by using accredited scientific means, including surgery (fat suction) if the weight has become a morbid case and there is a no less harmful way for reducing it with the condition of safely from risks.
4. It is not permissible to remove skin wrinkles by surgery or injection unless it has become a morbid problem, providing that it can be administered safely.
5. It is permissible to mend a lady's hymen that was torn by an accident, rape or coercion while it is not permissible to mend it if it has been torn up through commitment of adultery/fornication, so disrupt excuses for vices. Mending of a torn hymen may preferably be conducted by female surgeons.
6. Plastic surgery specialists should adhere to the rules of Shariah in their profession and provide helpful advice to their patients because advice is a core aspect of religion; "Religion is Advice."

RECOMMENDATIONS

1. Public hospitals, private clinics and physicians should always fear Allāh ﷻ and refrain from conducting the prohibited types of plastic surgery.
2. Physicians and surgeons should seek Fiqh knowledge and rulings about practicing the medical profession, especially in plastic surgery. They should avoid being driven into doing such surgeries by the material gain only without assuring their Shariah-permissibility. They should not resort to misleading fallacious marketing propaganda.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 174 (12/18)

Continuing Discussion on the Invalidators of Fasting

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 18th session in Putrajaya, Malaysia, on 24–29 Jumādā al-Ākhirah 1428h (9–14 July 2007),

having examined the research papers submitted to the Academy concerning *Continuing Discussion on the Invalidators of Fasting*,

having listened to the in-depth discussions on the subject,

further to the Academy resolution no. 93 (1/10) concerning the *Invalidators of Fasting in Medical Treatments*,

resolves

Postponement of adopting a resolution on this subject to a forthcoming session to allow time for further study and research.

Indeed, Allāh is All-Knowing.

Resolutions and Recommendations of the 19th Session of the Council of the International Islamic Fiqh Academy

SHARJAH
UNITED ARAB EMIRATES

1–5 Jumādā al-Ūlā 1430
26–30 April 2009

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 175 (1/19)

Freedom of Religion in Shariah: Dimensions and Criteria

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning the *Freedom of Religion in Shariah: Dimensions and Criteria*,

having considered the importance of discussing the issue of religious freedom by the Council of the Academy,

having observed the pressing need inside and outside the Muslim world to know the standpoint of the Academy on this issue since it is a leading reference in Islamic jurisprudence,

having listened to the discussions on the subject,

resolves

first: Religious freedom is a core principle of Shariah and a concept that stems from human nature and is tightly linked with responsibility in Islam. Subject to specific Shariah criteria. Religious freedom in Islam aims at maintaining human dignity.

second: Religious freedom is well-guaranteed in the Islamic society and has to be safeguarded against the dangers of incoming thoughts and all forms of religious and nonreligious invasions which aim to dissolve the Islamic identity of the Ummah.

third: Muslims are committed to abiding by the Quranic principle, «Let there be no compulsion in Religion.» (Al-Baqarah, 256) Throughout history, Muslims showed tolerance and acceptance of people of other faiths who lived with them under the umbrella of the Islamic state. Non-Muslims should also respect the Islamic faith and stop acts of daring against the Prophet ﷺ and the sacred places and symbols of Islam.

fourth: Denominational and jurisprudential diversity is a natural phenomenon, and cooperation among Muslims, irrespective of their sects, is a Shariah duty that has been explicitly emphasized in the Quran and Sunnah. Islam as

a faith calls for monotheism, unity and cooperation in areas of consensus and tolerance and to excuse each other in areas of differences.

FIFTH: An end has to be put to the provocation of chaos around Islamic postulates and fundamentals and raising suspicions within Muslim society about the well-known aspects of the Islamic faith. Such malpractices that are usually done under the veil of religious freedom should be strictly inhibited to safeguard society and its religious and intellectual security and to leave no room for non-Muslims to use such erroneous ideas against Islam.

SIXTH: Provision of Shariah opinion about disbelieve and apostasy should be exclusively left to recognized Fiqh scholars, whereas the judiciary takes in consideration what Fiqh scholars have indicated regarding the request of repentance and elimination of obscurity during the adequate grace periods, in order to achieve Shariah recognized concerns.

SEVENTH: Public show of apostasy constitutes a real danger for the unity of Muslim society and the Islamic faith and encourages non-Muslims or hypocrites to use it in raising suspicions against Islam. Therefore, the accuser of apostasy deserves punishment which can only be enforced by no other than the judiciary in order to ward off his danger to society and its security. This ruling does not contradict the religious freedom that Islam has guaranteed for those who respect religious feelings, social values and public order.

RECOMMENDATION

Appealing to Muslim governments to provide basic needs to their Muslim societies, including responsible freedom, food, shelter, medical care, education, job opportunities, and all other needs to immunize new generations against material temptations and all other needs means of promoting anti-Islamic ideas.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 176 (2/19)

Freedom of Speech: Criteria and Rulings

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning the *Freedom of Speech: Criteria and Rulings*,

having listened to the discussions on the subject,

resolves

first: Freedom of speech refers to the state in which the person enjoys his complete will to declare what he deems appropriate and beneficial for him and the society, whether in private or public affairs.

second: Freedom of speech is a protected right in Islam within the framework of Shariah criteria.

third: Most important among Shariah criteria for practicing freedom of speech are the following:

a. Avoidance of offending others by doing or disseminating any act of derogation, contempt or ridicule that could negatively affects their lives, honor, reputation, image or moral status.

b. Commitment to objectivity, honesty and forsaking of self-fancy.

c. Preservation and commitment to the public interests and values of the society.

d. Using permissible means of expression. Mischievous means that have indecency or violation of values should not be used to express opinions even when opinions are reasonable. Permissible ends can never justify use of prohibited means.

e. The goal behind expressing the opinion should be to achieve the pleasure of Allāh the Almighty and serve the private and public interests of Muslims.

f. The final results and implications of expressing an opinion should always be taken into consideration in fulfillment of the rule of achieving the appropriate balance between benefits and harms and deciding on which of them can sometimes outweigh the other.

g. The opinion expressed should depend on trustworthy sources, avoid promotion of rumours and abide by the directives of Allāh the Almighty Who said, «O ye who believe! If a wicked person comes to you with any news, ascertain the truth, lest ye harm people unwittingly, and afterwards become full of repentance for what you have done.» (Al-Ḥujurāt, 6)

h. Freedom of speech should not lead to any aggression against religion as far as its rites, rules, sacred places, and symbols are concerned.

i. Freedom of speech should not lead to a breach of public order or provocation of divisions among Muslims.

RECOMMENDATIONS

a. Ensuring sufficient guarantees to protect responsible freedom of speech that observes Shariah directives and norms. This can be done through the enactment of necessary laws and legislations and the existence of a just judiciary.

b. Resort to all available means to prevent using freedom of speech as a tool for degradation of Islamic principles and values or provocation of unrest among Muslims.

c. Working for enforcement of standards and norms involved in international conventions regarding the prohibition of aggression against religions and their sacred symbols, and avoiding using double standards when dealing – at the international community level – with Islamic issues in contrast to other global issues.

d. Muslim countries should work for the issuance of international legislation that protects religious faiths and sanctums in general against attacks of those who sometimes use freedom of speech and other similar slogans as a pretext for confronting religions with encroachment mockery and defamation.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 177 (3/19)

Role of Shariah Supervision in Controlling Islamic Banking Activities: Significance, Conditions and Modus Operandi

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning the *Role of Shariah Supervision in Controlling Islamic Banking Activities: Significance, Conditions and Modus Operandi*,

having listened to the discussions on the subject,

resolves

first: shariah supervision

Shariah supervision refers to the process of issuing Shariah opinions (fatāwā) and rulings pertaining to the activity of the institution; monitoring their implementation, and ensuring their proper application.

second: three main components of shariah supervision

1. Shariah Supervisory Board

   It is a group of no less than three scholars who are specialized in Islamic jurisprudence (jurisprudence of financial transactions in particular) and are scholarly competent and well aware of the practice realities. This group assumes the tasks of issuing *fatwā*; reviewing the actual practice of the financial institution to ensure its compliance in all its transactions and operations with the rules and principles of Shariah, and submitting a report to the general assembly. The decisions of the Shariah supervisory board are binding to the institution.

   a. A Shariah supervisory board should be independent, and therefore the following has to be observed:

      i. Appointment and termination of members of Shariah

supervisor board as well as the specification of the amounts of honoraria payable to them is the responsibility of the general assembly of the institution. Final endorsement of decisions in this regard should be sought from the central Shariah supervisory body or any other competent authority.

ii. A member of the Shariah supervisory board should not be an executive director or hold any other staff position in the institution. He should also have no other type of work relationship with the institution other than membership of the Shariah supervisory board.

iii. A member of the Shariah supervisory board should not be a shareholder in the concerned institution.

b. Criteria of Ijtihād (interpretative judgement) and Shariah Opinion (Fatwā) by the Shariah Board:

i. Abidance by Academy resolutions, with due consideration to resolutions of other bodies that assume the duty of collective Ijtihād (interpretative judgement), as far as resolutions of such bodies do not contradict those of the Academy.

ii. Avoidance of anomalous viewpoints, running after permits and prohibited fabrications (of different opinions), as indicated in Academy resolution no. 70 (1/8).

iii. Observance of objectives of Shariah and final consequences of acts when formulating Shariah rulings.

iv. Observance of the Academy resolution no. 153 (2/17) concerning *Ifta*.

2. Internal Shariah Audit Department

This is the department that applies necessary procedures to ensure proper implementation of decisions of Shariah board in all transactions performed by the institution. Such procedures include the following:

a. Review of manuals and procedures to ensure operations performance according to Shariah rulings issued by Shariah supervisory board.

b. Training staff of the institution to the extent that enables them to do their jobs properly from a Shariah and professional perspectives.

c. Constitution of a team for internal Shariah audit. The team should have sufficient academic and practical competence, enjoy autonomy,

and report directly to a high-level authority within the institution's organisational structure, such as the audit committee or board of directors. Appointment and termination of team members should be coordinated with the institution's Shariah supervisory board.

3. Central Shariah Audit
   a. Supervising activities of the supervisory authority to which it reports.
   b. Ensuring the effectiveness of Shariah supervision at the level of institutions. This task involves auditing the work of Shariah supervisory boards and internal Shariah audit departments and setting regulations and standards that govern Shariah audit activities in the institutions, including appointment of members, their termination, competence, number, and mandate their functions.

RECOMMENDATIONS

a. Supervisory authorities in each country should assume the duty of issuing regulations and rules to organize Shariah audit activities and undertake necessary procedures to ensure the independence of the Shariah supervision function.
b. Islamic rating agencies should refrain from rating products that are prohibited by the Academy resolutions.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 178 (4/19)

Islamic Ṣukūk (Tawriq): Contemporary Applications and Trading

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning *Islamic Ṣukūk (Tawriq): Contemporary Applications and Trading*,

having listened to the discussions on the subject,

resolves

first: definition of tawriq and taskik

Conventional tawriq or securitization means the transformation of debts into securities (bonds) that are equal in value and tradable. These securities constitute an interest-bearing debt, which the issuer owes to the security bearer. Shariah strictly prohibits the issuance and trading of this type of securities.

As for taskik (Islamic securitization), it means the issuance of financial documents or certificates that are equal in value and constitute common shares in the ownership of assets (assets, usufructs or rights; or a mixture of assets, benefits, money and debts), either actually existing or to be obtained or constructed by using the issuance proceeds. This type of securities is issued by virtue of a Shariah-compliant contract and remains under its rulings.

second: characteristics of Ṣukūk

1. Ṣukūk constitute common shares of real ownership.
2. Ṣukūk are issued according to a Shariah-compliant contract, which they abide by its rulings.
3. Absence of guarantee by manager (whether a muḍārib, an agent or a managing partner).
4. Ṣukūk are entitled to a share of profit as per the ratio agreed upon and bear a share of the loss commensurate with the portion of ownership

they represent. Nonetheless, Ṣukūk holders are not allowed to get a predetermined ratio of the nominal value of the suk (singular of Ṣukūk) or a given amount of profit.

5. Ṣukūk bear entire investment risks.
6. Ṣukūk also bear all burdens and consequences ensuing from ownership of the assets they represent, including investment expenses, decline in value, maintenance costs or insurance contributions.

THIRD: SHARIAH RULINGS ON ṢUKŪK

1. It is not permissible that ṣukūk manager pledges to lend ṣukūk holders or make donations to them when actual profit falls below expected profit. When the final result of the investment is apparent, ṣukūk manager may pay ṣukūk holders the difference between expected and actual profits or lend it to them. If, however, this act becomes usual and customary it is considered as a pledge.
2. Ṣukūk manager is a trustee and therefore should not guarantee the value of the ṣukūk except in case of transgression or negligence or when he violates the Muḍārabah, partnership, or investment agency conditions.
3. Ṣukūk should not be redeemed at a nominal value. They should be redeemed at market value or the value agreed upon at the time of redemption.
4. Regarding the tradability of ṣukūk, criteria stated in the Academy resolution no. 30 (4/5), should be observed, including the following:
    a. If ṣukūk assets are still in the form of money, Shariah rulings on exchange should be applied.
    b. If assets have been converted into debts, as is the case in *Murābaḥah*, ṣukūk become tradable, subject to Shariah rulings on debts. Trading of ṣukūk, in this case, is prohibited except for its same kind in the form of hawala (debt transfer).
    c. When *Qirad* (Muḍārabah) capital is an asset mix comprising money, debts, assets and benefits, *qirad* ṣukūk become tradable at consensual price, provided that the major part of *qirad* capital is in the form of assets and benefits. If the major part of *qirad* capital is in form of money and debts, trading of ṣukūk shout be subject to Shariah rulings indicated in an explanatory note that shall be prepared and presented to Academy's forthcoming session.

In all cases, ṣukūk trading should be registered in the records of the issuing party.

FOURTH: Permissibility of ṣukūk trading should not be used as a pretext for securitization and trading of debts as, for instance, when a fund activity is transformed to trading in debts that originate from goods while keeping part of the goods as a fund component in order to justify trading.

FIFTH: CONTEMPORARY APPLICATIONS OF ṢUKŪK

Given that Shariah is capable to cater for all emerging issues at any time, and since Islamic ṣukūk constitute the outcome of an innovative effort to find a Shariah-compliant instrument of financing that could serve the purpose of significant economic projects, ṣukūk have proved to be suitable for a diversity of forms of utilization. Monetary policy, mobilization of funds or investment of excess liquidity of Islamic banks, renovation and development of Awqāf properties and financing of government projects are among the areas where ṣukūk are considered effective instruments. Ṣukūk can also be useful in temporary privatization schemes. However, the return on all these types of ṣukūk should be stemming from income-generating assets.

RECOMMENDATIONS

1. Islamic banks should commit themselves to search for solutions that respond to economic needs and, at the same time, abide by Shariah rulings.
2. Given that the legal framework of securitization is one of the basic prerequisites that have much bearing on issuance success, legislative bodies in OIC Member states should provide the appropriate legal framework and suitable legal environment that govern the securitization process. This can be done through introducing legislations that support the diverse aspects of the securitization processes, and achieve economic efficiency and Shariah credibility.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 179 (5/19)

Essence and Types of Tawaruq (Fiqh Compliant vs Bank Structured)

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning the *Essence and Types of Tawaruq (Fiqh Compliant vs Bank Structured)*,

having listened to the discussions on the subject,

having reviewed the resolutions of the Islamic Fiqh Council of the Muslim World League, Makkah al-Mukarramah, regarding this subject,

resolves

first: types and shariah rulings of tawaruq

1. In Fiqh terminology, Tawaruq refers to the act of a person (the *mustawriq*) buying a commodity on credit and sells it to someone other than the original seller, at a cash price (in most cases) lower than the purchase price, in order to obtain cash. This form of *tawaruq* is permitted by Shariah, provided that it satisfies Shariah-acceptable conditions of sale.
2. Structured *tawaruq* in contemporary terminology means the case of a person who buys a good on credit from local or international markets. Then the seller (the financer) arranges selling of the good, either directly or through an agent or in collusion with the buyer (the *mustawriq*), at a cash price, which is (in most cases) lower than the purchase price.
3. Inverse *tawaruq* takes the same form of structured *tawaruq* except that the *mustawriq* is the institution, and the financer is the client.

second: Structured and inverse *tawaruq* are prohibited because they involve explicit, implicit or customary collusion between financer and finance seeker (*mustawriq*) to make a trick for obtaining a present cash for a larger amount in future debt which is *ribā* (usury).

a. Islamic banks and financial institutions should use Shariah-permissible modes of investment and financing in all their operations and avoid prohibited and unreliable modes in order to comply with Shariah standards, fulfill the noble Shariah objectives and exhibit merits of Islamic economics to the world, which suffers successive economic fluctuations and crises.

b. Encouragement of *qard hasan* (benevolent free loan) so that those who need cash would not be forced to resort to prohibited *tawaruq*. Islamic institutions should consider the establishment of special funds for *qard hasan*.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 180 (6/19)

Domestic Violence

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning *Domestic Violence*,

having listened to the discussions on the subject,

having recalled that Islam has clearly indicated the necessity to found family life on noble values of compassion and grace, legislated rules that ensure stability and peace of mind, and emphasized that deviation from this path will lead to family violence,

resolves

first: concept of domestic violence

Domestic violence means any hurtful and harsh words or deeds that one of the family members addresses to the other, causing bodily or moral injury to that member or the family as a whole. Hence, family violence is a prohibited behavior because it does not conform to Shariah objectives, including the preservation of the self and intellect because it contradicts the divine path that calls for basing family relationships on kindness and benevolence.

second: Acts that are not considered as violence or involve gender discrimination according to Shariah include the following:

a. Abidance by Shariah rulings that regulate sexual relationship between married couples and forbid all forms of coupling, which do not comply with Shariah.

b. Non-provision of pregnancy prevention medicines to unmarried couples.

c. Prevention of abortion unless for exceptional medical cases that qualify for Shariah permission.

d. Criminalization of homosexuality.

e. Right of husband to prevent his wife from travelling alone except with his permission and subject to Shariah criteria.

f. Right of each of the married couple to have sexual satisfaction with his/her spouse for purpose of sticking to chastity and continence, even when the spouse does not have a desire for it.

g. The fact that the fundamental responsibility of a woman is towards her maternity and household duties, while a man is basically responsible for family sustenance.

h. Proxy of guardian in concluding marriage on behalf of virgin girl.

i. Inheritance and wills determined by Shariah in cases of inheritance and last wills.

j. Divorce within its specified Shariah norms.

k. Justice-based polygamy.

THIRD: ISLAMIC APPROACH FOR SOLVING MARITAL DISPUTES

In dealing with marital disputes, especially those relating to the recalcitrance of wife and her persistent disobedience to her husband, the following rules should be observed:

1. Avoidance of cursing, calling names, and degradation.

2. When the husband is dealing directly with his wife, he should abide by the well-known disciplinary approach adopted by Shariah, starting from preaching, then desertion (suspension of marital relationship) and finally non-violent beating, which should be closer to brandishing than to real beating. Resorting to painful beating can never be the best solution because the Prophet ﷺ said, "The best of you never beat." We should seek guidance in the approach of our Prophet ﷺ, who had never beaten a woman.

3. Resorting to the two arbitrators' solution when a dispute becomes grave.

4. Resorting to divorce arrangements according to Shariah rules defining divorce's three stages or types, including remediable,[26] final[27] and absolute final,[28] in addition to times of divorce infliction. However, it should be recalled that divorce, though permitted, is the most disliked act to Allāh the Almighty.

[26] *ruj'ī*, liable to be revoked within a given period

[27] *bainuna sughra*, final but open to remarriage with a new marriage contract.

[28] *bainuna kubra*, final with no possibility of remarriage.

1. At the Family level

   a. Concentration on faith-based education as a way to social formation.

   b. Emphasizing fundamental Shariah aspects pertaining to building up of family on cooperation, kindness, mercy, tranquility, benevolence, piety, and good company between husband and wife.

   c. Adoption of dialogue as an approach for solving internal family issues.

2. At the Level of Institutions and Formal Bodies

   a. Organizing seminars and workshops to enlighten families about the dangers of family violence and laying down the Shariah origins for a dialogue-based approach.

   b. Calling upon educational institutions to teach subjects dealing with family violence in all its types and forms.

   c. Coordination among concerned government departments and bodies to adopt a unified and harmonious policy for preserving fundamentals of the Ummah in the face of westernization influences relating in the realm of family affairs.

   d. Directing media to shoulder its responsibility towards the mission of rightly guided social upbringing.

3. At the Level of Muslim Countries

   a. All international conventions regarding women and children and drafts laws pertaining to this subject should be presented before signature and issuance to concerned Shariah and law experts to check them against Shariah requirements and reject those that contradict the rules and objectives of Shariah. At the same time, governments of Muslim countries are requested to review all conventions that have already been signed to identify those clauses that contradict Shariah rulings and reject them, without prejudice to their positive aspects, which turn out to be in compliance with Shariah.

   b. Rejection of any aspect of international charters and conventions that calls for abolishing natural differences between roles of man and woman in the society. This includes calling for absolute equality between males and females in inheritance, denial of Shariah's divorce system, call for eliminating curatorship of man in the family, or

showing a negative attitude towards any other fundamentals of Shariah.

c. Rejection of any and all clause of international conventions which permit practices involving the violation of Shariah rules and human nature such as legalization of gay marriage, sexual relations outside marriage, male and female intermingle in a Shariah-prohibited form and other clauses which collide with provisions of Shariah.

d. Calling upon legislative bodies to enact laws that criminalize all forms of violence among family members, as the Shariah prohibits all that.

e. Restricting power of application of Shariah rulings to concerned judicial authority.

f. Emphasizing the need for admitting specialty of Islamic culture and Islamic rulings and respecting reservations that governments of Muslim countries show about some clauses of family-related international charters and conventions, which contradict the principles and rules of Shariah.

g. Formation of a committee to prepare a code of rights and duties of family members, in order to be used for drafting a family law that complies with Shariah.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 181 (7/19)

Waqf of Shares, Ṣukūk, Moral Rights, and Benefits

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning the *Waqf of Shares, Ṣukūk, Moral Rights and Benefits*,

having listened to the discussions on the subject,

resolves

first: Waqf is one of the Fiqh areas that are widely open for ijtihād (interpretative judgement). It is reasonable disposal that has close relevance to Shariah objectives and is meant to achieve particular the welfares of donors and beneficiaries.

second: waqf in the form of shares, Ṣukūk, moral rights, benefits and investment fund units

1. Shariah texts on Waqf are absolute and therefore can encompass the diverse types of Waqf, including perpetual versus temporary; specific versus common; assets and benefits versus money; and real estate versus the moveable property. Being a donation, Waqf is permitted in a wide scope of forms and people are encouraged to perform it.
2. Waqf of company shares, that are permissible to own, is permissible. Also permissible is Waqf of ṣukūk, abstract/intellectual rights, usufructs, and investment units, since all these are Shari'ah-recognizable properties.
3. Waqf in the form of shares, ṣukūk, rights, benefits and the like is subject to several rulings, of which most important are the following:
    a. In principle, when shares are donated as Waqf they should be retained while their return is used in for a charitable purpose. They cannot be used for trading purposes in the financial market because the Waqf superintendent is unauthorized to dispose of them except for a most likely attainable interest or as per a stipulated donor condition. That is to say, the shares become subject to the known rulings on *istibdāl*

(substitution).

b. If a company is liquidated or ṣukūk are redeemed, shares or ṣukūk value can be used for the purchase of other assets such as real estates, company shares or *ṣukūk*, based on donor's conditions or availing of most important interest of the Waqf.

c. If a Waqf is temporary according to the donor's will, it should be liquidated accordingly.

d. When a cash Waqf is invested in purchasing shares, ṣukūk or other assets, purchased shares or ṣukūk are not themselves considered Waqf instead of the original cash, unless donor has so stipulated. It is permissible to sell such shares or ṣukūk for making a better investment for the Waqf. In this case, the principal cash amount is the perpetual Waqf asset.

e. Waqf of usufructs, services or cash is permissible. Examples are services of hospitals, universities and educational institutions, telephone, electricity, and usufructs of houses, bridges and roads.

f. Temporary dedication of property as Waqf does not affect the ability of the donor to dispose of that property, provided that the right of the Waqf in the benefit is well preserved.

g. Waqf of moral rights expires on expiry of the period set by law for such rights.

h. Temporary Waqf means that Waqf will survive for a specific period after which it will no longer exist. Timing of Waqf per donor's condition is permissible in all types of Waqf properties.

i. It is permissible for a person who acquires suspicious or ill-gotten properties whose owners are not known, to seek acquittances by declaring such properties as Waqf for public charitable purpose, other than those relating to warship, such as building of mosques or printing of the Quran. Consideration should be given to impermissibility of owning shares of conventional banks and insurance companies.

j. It is permissible for a person who has properties whose returns are prohibited, to establish a Waqf out of the capital of such properties the returns shall then be considered *irsad* (dedication for charity). This is because the use of such returns and capitals is for helping the poor and needy and other general benevolent purposes (when it is not possible to give them back to their owners). The Waqf nazir

should, as soon as possible, replace such properties with Shariah-compliant properties, even if that is counter to donor's condition. Adherence to donor's condition is binding only when such condition does not contradict with the rulings of Shariah.

k. Temporary dedication of property as Waqf means that Waqf will survive for a specific period after which it will no longer exist.

l. Timing of Waqf as per donor's condition is permissible in all types of Waqf properties.

m. It is permissible for a person who acquires suspicious or ill-gotten funds and fails to know the whereabouts of their original owners to seek acquittance by using such funds for establishing a Waqf for public charitable purposes, other than those relating to worships, such as the building of mosques or printing of the Quran. Consideration should be given to the impermissibility of ownership of shares of conventional banks and insurance companies.

n. It is permissible for a person who acquires funds that have a forbidden return to establish a Waqf out of his capital in these funds, while the return can be donated in the form of *irsad* (dedication), which is a donation form that falls under the same rulings on charitable Waqf. The most suitable outlet for returns of this type, when it is not possible to repay them to their owners, is their spending on charitable purposes in favor of the poor and needy. As soon as possible, the Waqf superintendent should replace such funds with a Shariah-compliant property, even if that is counter to the donor's condition. Adherence to donor's condition is binding only when such condition does not contradict with the rulings of Shariah.

RECOMMENDATIONS

1. Calling upon governments and legislative bodies in Muslim countries to revisit their Waqf laws and regulations in a way that conforms to the Academy resolutions.
2. Calling upon ministries of education and universities in Muslim countries to develop special curricula and courses to facilitate objective learning in the area of Waqf.
3. In its forthcoming sessions, the Academy is to look into a comprehensive study on Waqf management covering bases, organization, criteria, and standards of appointment and continuity of the Waqf administration. This subject should be given much care, as it constitutes a fundamen-

tal prerequisite for the revival, advancement, and success of the Waqf institution.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 182 (8/19)

Application of B.O.T (Build-Operate-Transfer) Financing Method in the Development of Awqāf Properties and Public Utilities

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning the *Application of B.O.T. (Build-Operate-Transfer) Financing Method in the Development of Awqāf Properties and Public Utilities*,

having listened to the discussions on the subject,

resolves

1. The B.O.T. (Build-Operate-Transfer) contract refers to an agreement between the landowner or his representative and a financer (Project Company). Based on the agreement, an enterprise is established and managed by the financier who will be entitled to its full returns (or as per arrangement agreed upon), for a specific period during which he redeems his capital investment and achieves a reasonable return. At the end of that period, ownership of the enterprise, in its desired operational form, is transferred to landowner.
2. The B.O.T. is a new contract which although some of its forms are similar to some forms of contracting and investment instruments known in Islamic jurisprudence, does not conform to any of them.
3. It is permissible to use B.O.T. contract in the construction of *Awqāf* properties and public utilities.

recommendation

Fiqh research has to be intensified on all forms of B.O.T. contracts in order to review their different stipulations and formulate in wording that can easily be referred to in negotiation and litigation.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 183 (9/19)

Diabetes and Fasting

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430h (26–30 April 2009),

as part of the cooperation agreement signed between the Islamic Organization for Medical Sciences (ioms) and the International Islamic Fiqh Academy (iifa),

following the Academy's request to ioms to prepare a study on Diabetes and the Fasting of Ramaḍān,

based also on the results of the two seminars organized by ioms on 2 Rabī' al-Ākhir 1429h (3 November 2007) and 8 April 2008,

having examined the research papers submitted to the Academy concerning the continuous studies on *Diabetes and Fasting*,

having listened to the discussions on the subject,

having reviewed the medical and Fiqh aspects related to the effect of fasting on diabetic patients,

resolves

first: brief definition of diabetes

Diabetes is a pathological disorder in the sugar ratio in the blood, especially when this ratio surpasses the normal range. Diabetes originates from lack of the insulin hormone secreted by special cells (type B) in the pancreas; insulin insufficiency; or insufficient response of the body's cells to insulin in some cases.

second: types of diabetes

Under the title diabetes, there are different types of the disease that carry sharp differences concerning causes and methods of treatment. As per the denotations and classifications adopted by the International Medical Organization specializing in diabetes, types of diabetes include the following:

1. Diabetes Mellitus Type I, which necessitates depending on several doses of insulin daily.

2. Diabetes Type II, which does not require depending on insulin.
3. Gestational Diabetes.
4. Other types including:
    a. Diabetes caused by some of the pancreas diseases.
    b. Diabetes resulting from harmonic disorders, especially in the adrenal and pituitary glands and the pancreas cells.
    c. Diabetes caused by some medicines.

THIRD: MEDICAL CLASSIFICATION OF DIABETIC PATIENTS

First Category

Patients with a very high probability to encounter severe complications for fasting, as medically confirmed. The sickness state of a patient of this category falls under one or more of the following cases:

- Patients who face severe hypoglycemia during the three months preceding the month of Ramaḍān.
- Patients who face repetitive ups and downs in the ratio of blood sugar.
- Patients who encounter the problem of (loss of sensation of hypoglycemia), a state which strikes some diabetic patients, especially those who are classifiable under type I who face repetitive hypoglycemias for long periods.
- Patients who are known for facing difficulty in controlling diabetes for long periods.
- Cases of "Acidosis Diabetic Ketoacidosis" complication or (Diabetic Coma) complication.
- Patients of diabetes type I.
- Patients who suffer from other severe diseases that accompany diabetes.
- Diabetic patients who have to do works that require hard physical effort.
- Diabetic patients who undergo dialysis.
- Diabetes during pregnancy.

Second Category

This category includes patients who have relatively high probability of encountering complications on fasting according to to the most-likely opinion of phy-

sicians. The sickness status of these patients falls under one or more of the following cases:

- Those who suffer high ratio of blood sugar as when the range is 180–300 mg/dcl (10–16.5mm) and the ratio of cumulative hemoglobin (glycated hemoglobin) exceeds 10%.
- Those who suffer renal insufficiency.
- Those who suffer large artery diseases (such as cardiovascular diseases).
- Those who live alone and receive medication through injection of insulin or by sugar control medicines, which reduce sugar through stimulation of the insulin producing cells in the pancreas.
- Those who suffer other diseases making them vulnerable to additional risks.
- Old patients who suffer other diseases.
- Patients who receive medical treatments that affect the brain.

Shariah Rulings regarding Patients in Categories I and II

Cases of these two categories are based on certainty or "supremacy of suspicion" that fasting will cause grave harm to them, as per the judgement of specialized and trustworthy physicians. Therefore, a patient who faces any of the cases cited above for identification of patients in these two categories should not fast. It is not permissible for him to fast in order to avoid inflicting harm upon himself. Allāh the Almighty said, «And make not your own hands contribute to your destruction,» (Al-Baqarah, 195) and He ﷻ also said, «Nor kill (or destroy) yourselves for verily Allāh hath been to you Most Merciful.» (Al-Nisā', 29) The treating physicians should explain to patients of these two categories how fasting is risky for them and enlighten them about the high probability that they may face complications which could – most likely – be serious to their health or lives. Physicians should also do all suitable medical procedures, which could enable the patient to fast without facing harm,

Rulings that relate to non-fasting in Ramadan for sickness excuse shall apply to patients in categories I and II in compliance with the directives of Allāh the Almighty Who said, «But if any of you is ill, or on a journey, the prescribed number (should be made up) from days later and for those who can do it (With hardship), is a ransom, the feeding of one that is indigent.» (Al-Baqarah, 184)

If a patient of these two categories fasts in spite of the harm, he is committing a sin while his fasting is valid.

Third Category

These are patients who have the medium probability of encountering complications from fasting. This category includes diabetic patients whose cases are stable and well controlled through suitable medicines that reduce sugar by stimulating the insulin producing cells in the pancreas.

Fourth Category

Patients who have low probability to encounter complications from fasting. This category includes diabetic patients whose cases are stable and well-controlled through diet only or by using medicines that reduce sugar by increasing the efficacy of the insulin in the body without stimulating the insulin-producing cells in the pancreas.

Shariah Rulings Regarding Patients in Categories III and IV

Fast-breaking during the month of Ramaḍān is not allowed for patients in these two categories since medical findings do not indicate harmful complications that could affect their health or lives. Contrarily, some of these patients could even benefit from fasting.

Physicians have to stick to these rulings and decide suitable treatment for each case separately.

RECOMMENDATIONS

1. Physicians are required to have a suitable degree of knowledge about Shariah rulings relating to this subject. This necessitates the preparation of such material by relevant bodies and disseminating it among those who need it.
2. Fiqh scholars and Islamic preachers are requested to advise *fatwā* seekers to consult physicians who know medical and religious dimensions of fasting and who fear Allāh the Almighty in providing advice on a case by case basis.
3. Due to the severity and seriousness of dangers that could originate from complications of diabetes in case fasting, and which could badly affect the health and lives of diabetic patients, guidance and information should be provided through all possible means, including sermons at mosques and through mass media, in order to enlighten patients about the rulings above; raising awareness about the disease and how it can be dealt with is essential to mitigate its effects and make it easy to accept Shariah rulings and medical advice pertaining to it.

4. IOMS, in cooperation with the Academy, should assume the task of preparing an information booklet on this subject in Arabic and other languages and work for its dissemination among physicians and Fiqh scholars, and make it available online for patients to benefit thereof.

5. Calling upon ministries of health in Muslim countries to launch national programs in areas of prevention, medical treatment, medication and awareness about diabetes and their Shariah rulings.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 184 (10/19)

Consent for Emergency Surgeries

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having considered the Academy resolution no. 67 (5/7) issued in its 7th Session, held in Jeddah, Kingdom of Saudi Arabia, on 7–12 Dhū al-Qi'dah 1412H (9–14 May 1992), regarding rulings of medication and its resolution no. 172 (10/18) issued in its 18th Session, held in Putrajaya, Malaysia, on 24–29 Jumādā al-Akhira 1428H (9–14 July 2007), regarding performing necessary medical procedures in case of urgent medical aid (Emergency Medicine), and in continuation of the postponed issue of urgent disease cases,

having examined the research papers submitted to the Academy concerning *Consent for Emergency Surgeries*,

having listened to the discussions on the subject,

resolves

1. Urgent cases refer to sickness cases that require prompt medical treatment or surgical intervention due to the severe state of the patient and in order to save his life or avoid damage of an organ of his body. Such cases include, for instance:

    a. Cases that require performance of cesarean section to save the mother or baby's life or both. They also include the case when the umbilical cord surrounds the baby's neck or the case of a mother facing uterine rupture during delivery.

    b. Cases that require an urgent surgery such as an inflamed appendix.

    c. Cases that require a specific medical treatment such as kidney lavage and blood transfusion.

2. If the patient is in full capability and consciousness and has the ability to assimilate and make the decision without being forced, and physi-

cians decide that his case is urgent and his need for medical treatment or surgical intervention has become a necessity, it becomes the duty of the patient to give permission for his treatment; otherwise, he will be committing a sin, according to Shariah.

It is permissible for a physician to perform necessary medical intervention to save patient's life based on Shariah rulings on "necessity."

3. If the patient is not in his full capacity and consciousness and his guardian refuses to give permission for his treatment while medical treatment is urgent, refusal of guardian should be ignored and right of permission shifts to public guardianship represented by its competent body.
4. When the cesarean section is necessary to saving the life of the baby or the mother or for both, and parents or any of them refuses to give permission for the operation, such refusal should be ignored, and the right of permission shifts to public guardianship represented by the state body authorized to do the surgery.
5. Medical intervention in urgent cases is subject to the following conditions:
    a. Physicians should explain to the patient or his guardian the importance of medical treatment, the severity of the sickness case and the consequent dangers of his refusal. When the patient and his guardian insists on refusal, the physician should document this state of affairs.
    b. Physicians should make every possible effort to convince the patient and his family that patient should withdraw his refusal and give permission to avoid deterioration of his situation.
    c. A team of no less than three consultant physicians other than the treating physician should make sure of diagnosis and proposed treatment, prepare minutes signed by the team members, and inform the hospital administration about the case.
    d. Treatment should be free, or an independent body may be entrusted with estimating its cost.

RECOMMENDATIONS

- Governments of Muslim countries should prepare and enact legislations that organize practicing of medical work in all rescuing and urgency cases, in the light of the Academy resolutions on medical issues.

- Promoting health awareness among patients to avoid such situations and preserve patients' lives.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 185 (11/19)

Environmental Conservation in Islam

The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, holding its 19th session in Sharjah, United Arab Emirates, on 1–5 Jumādā al-Ūlā 1430H (26–30 April 2009),

having examined the research papers submitted to the Academy concerning *Environmental Conservation in Islam*,

having listened to the discussions on the subject,

resolves

1. It is prohibited to dump any harmful waste in any place in the world, and countries that produce such waste are obliged to get rid of it within their boundaries in a way that does not harm the environment. Muslim countries should refuse to be the place where such waste is dumped.
2. Given the Shariah rules that treat elimination of harm as a necessity, it is prohibited to commit any act or disposal that could cause harm or abuse to the environment. This includes all acts and disposals that could disturb the environmental balance, result in the misuse of natural resources or disregard the welfare of future generations.
3. Obligation of dismantle of mass-destruction weapons at the level of all countries and prevention of any activity that contributes to widening the hole in the ozone layer or results in environmental pollution. This is based on fundamental and absolute principles of Shariah regarding harm prevention.

recommendations

1. Encouragement of Waqf for preservation of all environmental elements including land, water and space.
2. Formation of a committee for environmental studies from an Islamic perspective within the Academy, specializing in monitoring all studies, conventions and issues pertaining to the environment.

3. Muslim countries should cooperate with the international community in all initiatives that address the conservation of the environment and prevent its pollution and take part in all conventions and agreements signed for this purpose, provided that such initiatives and agreements do not contradict the rules of Shariah or result in harms to Muslim countries.
4. Calling upon Muslim countries to operationalize the Organizations for Environment, established by the OIC and its affiliate bodies, and work for close cooperation with the Arab Cooperation Council for the Environment, and the Gulf Cooperation Council, which show interest in the subject.
5. Encouraging establishment of eco-friendly industries and supporting them through every possible means.
6. Urging OIC Members to continue the issuance of rules and regulations relating to the preservation of the environment and prevention of its pollution, enact punishments under criminal law against causing damage to the environment, and tighten control over all acts and disposals that could cause ham to any element of the environment, including water air and soil.
7. Calling upon institutions in charge of religious affairs in Muslim countries to provide Imams and Islamic preachers with environment information and disseminate research and studies on environment and means of its preservation.
8. Using different available means for the dissemination of environmental culture in order to raise awareness about cleanliness and protection of the environment against all harmful practices. This can be performed through several means, including:
    a. Continuous broadcasting about environmental hazards through media.
    b. Appropriate social upbringing at home level and through educational curricula at all levels.
    c. Giving due care to Fiqh of the environment as part of Fiqh studies in Shariah schools and Islamic Studies faculties.

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on the Situation in Palestine (particularly the attacks on Al-Aqsa Mosque), Iraq, Somalia, and Sudan

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The International Islamic Fiqh Academy of the Organization of the Islamic Conference held its 19th session in Sharjah, United Arab Emirates, from 1–5 Jumādā al-Ūlā 1430, corresponding to 26–30 April 2009. As a legal and jurisprudential reference for the Ummah, and given its responsibilities and duties towards its challenges and dangers, particularly with regard to Palestine, Iraq, Somalia and Sudan, the Academy endorses the following:

FIRST: PALESTINE AND AL-AQSA MOSQUE

The International Islamic Fiqh Academy condemns all the sufferings of the Palestinian people engaged in a fierce conflict with the brutal and arrogant Zionist enemy that does not respect the most basic human rights, especially at the recent aggression against the Gaza Strip.

Acts of displacement, starvation, loss of security, siege and killing did not distinguish between the elderly, children, women, and disabled people, with cuts to necessary supplies that meet the minimum human needs for food and medicine.

In the face of these heinous crimes, the Council calls upon countries of the world and countries of the Muslim world in particular to fulfill their legal, fraternal and humanitarian duty to alleviate the suffering of the Palestinian people and provide them with the basis for their survival and needs.

The International Islamic Fiqh Academy also appeals to all factions of the Palestinian people and the components of its civil society to unite their ranks and position towards the situation in Palestine to avoid repeating mistakes, preserve rights and put an end to colonization by all possible means. The Academy also urges the international community to act decisively and effectively to prevent the colonization from continuing its brutal practices and terrorist activities.

The Academy also expresses its deep concern and caution against the judaization of the city of Jerusalem in an attempt to erase its Arab and Islamic identity and to demolish Al-Aqsa Mosque and harass the original inhabitants of Jerusalem, including Muslims and Christians.

The Academy emphasizes that the city of Jerusalem and Al-Aqsa Mosque are sacred to all Muslims around the world because Al-Aqsa Mosque is the first qi-

bla (prayer direction) of Muslims, the station of the Prophet's ﷺ night journey and ascent to the heavenly skies.

The Academy also emphasizes that Al-Aqsa Mosque belongs to Muslims alone and that Jews have nothing to do with it. Attention must be paid to the dangers of violating the sanctity of this Mosque. The Academy holds the colonization authorities and the countries that support it responsible for any attack against Al-Aqsa and the city of Jerusalem.

The Academy calls upon all leaders and peoples of the Arab and Muslim world to support the oppressed Palestinian people and to assume their religious, national and historical responsibilities in defending the city of Jerusalem and its blessed Mosque, and to stand with its people who are in a state of resistance, and to prevent the judaization or internationalization of the city, which is unacceptable in all circumstances.

SECOND: REPUBLIC OF IRAQ

The International Islamic Fiqh Academy calls upon all the Iraqi people to participate in a serious and sincere action aimed at preserving the unity, independence and sovereignty of Iraq and its territory and to achieve a positive balance between all components of the Iraqi people and its factions.

The Academy also urges the Iraqi people to achieve national reconciliation based on tolerance and respect for the rights of all, to end the presence of foreign forces, and restore Iraq's strategic role in the Arab and Muslim world.

THIRD: SOMALIA

With regard to what is happening in Somalia, the Academy appeals to the Somali people, the President, the government, calling for sincere reconciliation and an end to the fighting and divisions, and placing the supreme interest of the Somali people above their private interests and invites them not to miss this opportunity for reconciliation under the shadow of a legitimate government.

Furthermore, the Academy urges them to reject calls that are tearing apart unity and dispersing the sincere efforts that Somalia needs at this crucial stage in its history. It also calls on Somalis to unite and regain peace and stability and to restore what has been ruined by the war.

In this regard, the Academy strongly denounces the actions of pirates on the Somali coast and other acts of maritime piracy, which constitute a threat to the safety of navigation and the Red Sea. The Academy affirms that such acts of piracy are considered a crime in Islamic jurisprudence.

FOURTH: REPUBLIC OF SUDAN

The Academy denounces the accusations of the International Criminal Court against the President of the Republic of Sudan, General Omar al-Bashir, as he seeks to restore security and stability in Sudan. At the same time, the world turns a blind eye to crimes against humanity committed in Gaza, the West Bank and other parts of the world. This reflects the double standard and selectivity of the International Criminal Court. The Academy calls for an end to this double standard policy.

The Academy stresses the need to address the Darfur issue based on Sudan's unity and full sovereignty of its territory.

The Academy expresses its support for the blessed efforts of the Organization of the Islamic Conference, with the support of H.E. Prof. Ekmeleddin Ihsanoglu, Secretary-General of the OIC, in combating these and other economic, political and security issues.

The Academy also expresses its supports for the efforts of all Muslim countries in these areas, hoping to multiply and expand these efforts.

We ask Allāh to protect our Ummah from all evil and guide it to its right direction, for Allāh is the Guardian of Success.

Resolutions and Recommendations of the 20th Session of the Council of the International Islamic Fiqh Academy

ORAN
PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA

26 Shawwāl – 2 Dhū al-Qi'dah 1433
13–18 September 2012

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 186 (1/20)

Shariah Rulings on Insolvency and Bankruptcy

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy concerning *Shariah Rulings on Insolvency and Bankruptcy and the Contemporary Systems*,

having listened to the discussions on the subject,

resolves

first: definition of insolvency and insolvent debtor

1. Taking into account clause (seventh) of the Academy resolution no. 64 (2/7) on *Criterion of Judgement about State of Insolvency that Necessitates Respite*, insolvency is a contingent description denoting the state in which a person becomes unable to do his obligatory spending or repay his due debts. An insolvent person is a person who is thus described.
2. Bankruptcy as a precise concept refers to the insufficiency of the debtor's funds to repay his mature debts. A bankrupt is a person who is in such a position.

second: key differences between scholars on insolvency and bankruptcy

1. Insolvency could be preceded by a state of richness or not, contrary to bankruptcy which can never occur except after richness.
2. On issuance of bankruptcy verdict, the bankrupt is legally put under 'Restraining Order,' whereas the insolvent who proves his insolvency by Shari'ah-satisfactory ways, becomes entitled to respite until time when he is in a position to repay as Allāh the Almighty says, «If the debtor is in a difficulty, grant him time till it is easy for him to repay.» (Al-Baqarah, 280).

3. The insolvent is not sentenced to imprisonment when he proves his insolvency, while the bankrupt can be imprisoned by way of ta'zīr (discretionary punishment), in case of deception, cheating, negligence or default.
4. Insolvency can relate to either a debt or legal right such as sustenance expenses, contrary to bankruptcy, which always relates to debt.

THIRD: RULINGS ON BANKRUPTCY IN ISLAMIC JURISPRUDENCE

1. The bankrupt has to be deprived of the right to dispose of his property in any way that could cause harm to his creditors. Imposition and cessation of such prevention should be by virtue of a judicial verdict.
2. It is permissible to prevent a bankrupt from travelling, if his travelling would lead to clear harm to his creditors' rights.
3. On declaration of bankruptcy, dates of maturity of outstanding debts, which the bankrupt owes to other parties, cease to be valid.
4. Judiciary should sell bankrupt's assets in the way it deems most beneficent to the creditors and debtor and divide sale proceeds. If it appears that the bankrupt has new assets, creditors have the right to claim repayment of the unsettled portion of their debt out of the funds obtained from the sale of these new assets.
5. When a creditor finds, after the declaration of bankruptcy, the same asset he lent to the bankrupt among the latter's assets, the creditor has the right to get his asset back provided the asset is still in its original condition and its value has not been repaid to the creditor.

FOURTH: IMPOSITION OF A FINE ON THE PROCRASTINATING SOLVENT DEBTOR

The Academy reiterates what has been stated in its previous resolution no. 51 (2/6), items (Third & Fourth) on "Installment Sale," regarding the prohibition of imposing a fine or stipulating compensation on procrastinating solvent debtor, while he could be burdened with legal expenses.

FIFTH: OTHER RELATED ISSUES

The Academy sees a postponement of the discussion on the following issues regarding "Insolvency and Bankruptcy" to a later session:

1. Fiqh issues relating to the protection of Islamic financial institutions, including "Insurance of Debts" and "Commitment to Donate."
2. Rulings on disposals of the bankrupt and the insolvent during period of suspicion.

3. Rulings on the bankruptcy of Companies and Financial Institutions in the context of Contemporary Systems.
4. Issues relating to (civil) insolvency, because it is being observed that the term insolvency in man-made laws may sometimes comprise bankruptcy and insolvency in the Islamic Fiqh perspective.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 187 (2/20)

Cooperative Insurance: Shariah Rulings and Criteria

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy in this and previous sessions concerning *Cooperative Insurance: Shariah Rulings and Criteria*,

having reviewed the recommendations of the conference on Cooperative Insurance: Dimensions, Prospects and Shariah Status, organized by Academy in Amman, Hashemite Kingdom of Jordan, in collaboration with the University of Jordan, Islamic Educational, Scientific, and Cultural Organization (ISESCO) and Islamic Research and Training Institute of the Islamic Development Bank Group, on 26–28 Rabī' al-Akhir 1431 (11–13 April 2010),

having listened to the discussions on the subject,

resolves

first: The Academy emphasizes its resolution no. 9 (9/2) concerning *Insurance and Reinsurance*, that the fixed-premium commercial insurance contract used by commercial insurance companies is a *muawada* (compensation) contract which contains a high degree of gharar (uncertainty) to an extent that makes it invalid; it is, therefore, prohibited according to Shariah. The alternative that conforms to the fundamentals of Islamic transactions is the cooperative insurance contract, which is based on donation and cooperation.

second: Due to some problems that emerged in the practices of Islamic insurance companies, in addition to the legal, regulatory and supervisory issues these countries seem to be facing, an integrated conception on cooperative insurance need to be developed.

recommendations

first: Assigning to the Secretariat of the Academy, in collaboration with concerned research centers, the task of convening a committee of Fiqh schol-

ars and experts to formulate an integrated project comprising Shariah rulings and standards that constitute the bases of cooperative insurance, including its Shariah-acceptable forms, in order to facilitate sufficient resilience of application. Among such rulings and standards are the following:

1. Concept and essence of cooperative insurance in Islamic perspective.
2. Comparison between cooperative insurance and commercial insurance with regard to:
    a. Comparison between Shariah-acceptable cooperative insurance and international principles of cooperation.
    b. Comparison between Shariah-acceptable cooperative insurance and principles of commercial insurance.
3. Identification and description of relationships between the parties of cooperative insurance, with particular emphasis on description of relationships among participants in the insurance fund, and relationship between the insurance base and the party entrusted with management.
4. Shariah rulings and criteria for assessment of remuneration of manager and insurance base.
5. Shariah rulings on insurance surplus and insurance deficit when they exist.
6. Shariah criteria on participation in and withdrawal from the cooperative insurance base.
7. Shariah rulings on liquidation of the cooperative insurance base.
8. Shariah rulings and criteria on reinsurance.
9. Principle of profit and loss sharing.
10. Principle of "Substitution" and what relates to it.
11. Principle of bearing and issues relating to it.

SECOND: The draft project which the committee will prepare should be submitted to the forthcoming session of the Academy for drafting a resolution in the light of previous paragraph.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 188 (3/20)

Pursuit of Research on Islamic Ṣukūk

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy concerning the *Pursuit of Research on Islamic Ṣukūk*,

having listened to the discussions on the subject,

having reviewed the recommendations of the symposium on "Islamic Ṣukūk: Review and Assessment" organized by Academy in Jeddah, Kingdom of Saudi Arabia, at the premises of the Islamic Economics Research Institute of King Abdulaziz University, in collaboration with the latter, and with the Islamic Research and Training Institute of the Islamic Development Bank Group, on 10-11 Jumada al-Akhira 1431 (24-25 May 2010),

having considered the Academy resolution no. 178 (4/19) entitled, *Islamic Ṣukūk (Tawriq): Contemporary Applications and Trading*, issued in its 19th session, and other resolutions,

having also listened to discussions on the subject,

resolves

first: general criteria

1. Islamic *ṣukūk* must achieve Shariah objectives regarding enhancing development, supporting actual activities and achieving justice between the two dealing parties.
2. The *ṣukūk* contracts must achieve their true implications regarding Shariah and legal establishment of ownership and hence the consequent ability of disposal and bearing of liability. Contracts should also be free from tricks and fictitiousness and should bear assurances of leading to Shariah-acceptable outcomes.
3. Ṣukūk documents must contain necessary mechanisms for controlling

their application, ensuring their freeness from tricks and fictitiousness and rectifying any probable defect in them. A periodical review should also be made to ensure the appropriate use of the *ṣukūk* proceeds for their specific purpose and execute all contracts' requirements as desired by Shariah.

4. Islamic *ṣukūk* should reflect all key differences between them and interest-based securities concerning structuring, design and composition. Such characteristics should also be recognized in designing mechanisms of marketing and pricing of *ṣukūk*.

SECOND: PLEDGES

1. The *muḍārib*, partner or agent should not pledge to do any of the following:

    a. Purchase of the *ṣukūk* or their assets at nominal or any other predetermined value, as such arrangement will lead to the guarantee of the capital or receipt of an amount of cash at present against repayment of a larger amount in the future. Cases of infringement and negligence are to be treated exceptionally because they necessitate a guarantee of *ṣukūk* holders' equity.

    b. Lending *ṣukūk* holders when actual return from *ṣukūk* is less than expected since such deal is classifiable either as combining loan and sale in one transaction or dealing in an interest-bearing loan. Nonetheless, it is permissible to allocate a reserve amount out of profits in order to make up for such probable return fluctuation.

2. It is permissible in Shariah to resort to hedging to mitigate capital risks in case of *ṣukūk* and the like, provided that hedging is arranged through cooperative or takaful insurance that complies with the rules of Shariah.

THIRD: LEASE OF AN ASSET TO ITS SELLER

It is not permissible to sell an asset for cash on condition that the seller takes the same asset on lease under a pledge of ownership transfer, against a total amount (rent + price) that exceeds the cash price of the asset, regardless of whether such condition is explicit or implicit. A transaction of this type falls under the prohibited *Inah* sale, and hence, *ṣukūk* issuance on this form are not permissible.

FOURTH: LEASE OF A SPECIFIED ASSET TO BE DELIVERED IN THE FUTURE

1. It is permissible to lease specifically defined assets that are yet to be delivered, provided that the lease is arranged in conformity with relevant Shariah rules, and, hence, such lease can be used as a basis for *ṣukūk* issuance.
2. This mode, however, faces some problems in two respects:
   a. Shariah ruling on the postponement of rent amount beyond adjournment of *majlis al-'aqd* (attendance of the parties).
   b. Shariah ruling on the trading of *ṣukūk* that are based on a lease of specified assets to be delivered in the future.

The Academy recommends that the Secretarial of the Academy forms up a team of scholars and experts to study this mode in the light of the preceding points and present a detailed study to the forthcoming session.

FIFTH: TRADING OF SECURITIES (ṢUKŪK, SHARES, INVESTMENT FUNDS UNITS, ETC.)

1. When the underlying assets of the security are purely money or debts, the trading of security should be subject to rulings on exchange.
2. If the underlying assets of the security are purely tangible assets, benefits or rights, trading of the security can be as per price agreed upon.
3. If the underlying assets of the security are a mixture of money, debts, tangible assets, benefits and rights, there will be two cases:
   a. The first case is when debts and money are attributable (follow) to what they should be attributed to (tangible assets, benefits, administrative apparatus and economic activity), and the securities embodies ownership of what is followed (tangible assets, benefits, administrative apparatus and economic activity). In this case, it is permissible to trade the security irrespective of the ratio of debts and money in overall assets.
   b. The second case is when such attribution (subordination) is nonexistent, and the security does not embody ownership of the followed components. Trading, in this case, is subject to rules of "predominance (majority)."
4. If the company or the project represented by the security is yet to start actual operation or is under liquidation, security trading should be sub-

ject to the rulings based on predominance (majority) of (assets + benefits) versus (money + debts).

5. It has become apparent from the research papers submitted to the Academy that appendance could take place through ownership of the workshop, business or activity. It has also become apparent that the concept of predominance (majority) is of wide scope.

Therefore, due to the need for determining criteria relating to the concept of appendance as well as those relating to the concept of predominance (majority) and presenting the cases pertaining to each of the two concepts, the Academy recommends that the Secretariat of the Academy may convene a team of scholars and experts to study these two concepts in the light of the preceding points and submit a detailed study on them to the forthcoming session.

SIXTH: EFFECT OF THE ACADEMY RESOLUTIONS ON PAST CONTRACTS

a. The Academy resolutions are applicable from the date of issuance without affecting contracts that precede them, including *ṣukūk* issued based on a Shariah-recognizable *ijtihād* (interpretative judgement).

b. It is incumbent upon Muslims to follow the purified Shariah guidance in all their affairs and deeds as much as they can because Allāh the Almighty said, «So fear Allāh as much as you can,» (Al-Taghābun, 16) and He also said, «On no soul doth Allāh place a burden greater than it bears.» (Al-Baqarah, 286) Having done this, Muslims will obtain forgiveness from Allāh the Almighty for what they cannot accomplish. Nevertheless, they should continuously work for overcoming any inability and surpassing the stage of necessity-based rulings, to make full use of the pearls of wisdom of Shariah and enjoyment of the righteous life of Islamic society under the divine teachings of Allāh the Almighty.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 189 (4/20)

Pursuit of Research on Maintenance Contracts

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy concerning the *Pursuit of Research on Maintenance Contracts*,

having listened to the discussions on the subject,

having recalled the Academy resolution no. 103 (6/11) on *Maintenance Contracts*,

resolves

first: Reemphasizing the above Academy resolution no. 103 (6/11) that "a maintenance contract is a contract according to which one party undertakes to perform regular or casual checking and mending of any rectifiable defect that a machine or any other object needs during a specific period against a specific pay." The commitment of the maintenance provider may include work only or both work and materials.

second: Forms of maintenance contracts, which the Academy resolved the postponement of issuing a resolution on them as per its previous resolution, remain pending discussion in a forthcoming session after completion of more specific research and studies on them.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 190 (5/20)

Role of Fiqh Councils in Guiding Islamic Financial Institutions: Mechanisms and Modes

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy concerning the *Role of Fiqh Councils in Guiding Islamic Financial Institutions: Mechanisms and Modes*,

having listened to the discussions on the subject,

reiterates that Fiqh Councils, Academies, Islamic financial institutions and banks constitute one of the most outstanding achievements of the present era,

appreciates the outstanding role of Shariah Supervisory Boards and Islamic banks and financial institutions in reviving contemporary Islamic financial system and building confidence in it,

emphasizes:

1. Necessity of cooperation between Shariah supervisory boards of Islamic financial institutions and Fiqh academies for coordination and exchange of views.
2. Necessity of cooperation among Shariah supervisory boards in Islamic financial institutions.
3. The Academy should render practical studies to consolidate the role of Islamic financial institutions in the application of Shariah and find suitable solutions for problems and crises encountered.
4. The Academy should prepare a comprehensive code to provide guidance for Islamic financial transactions.
5. The Academy reiterates item (1) paragraph (6) stated in its resolution no. 188 (3/20) that "Academy resolutions are valid from date of issuance without affecting contracts that precede them including ṣukūk issued based on Shariah-recognizable ijtihad (interpretative judgement)."

RECOMMENDS

1. Continuation of dialogue with central banks and supervisory bodies in Muslim countries to enable Islamic financial institutions to perform their role in the economic life and national development within the boundaries of Shariah and in the way that suits the specialties of Islamic financial activities.
2. Communication of Academy resolutions to all Islamic banks and financial institutions, educational institutions, and local and international centers of research and studies. The Academy resolutions should also be circulated among media and made accessible through social media.
3. Calling on Islamic financial institutions to adopt the resolutions of Fiqh Academies and Councils.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 191 (6/20)

Prisoners' Rights in Islamic Jurisprudence

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy concerning *Prisoners' Rights in Islamic Jurisprudence*,

having listened to the discussions on the subject,

resolves

1. The Council of the Academy, in collaboration with experts from OIC Member states, should prepare a draft document on "Prisoners' Rights."
2. Prisons in every member country should be under the supervision of an independent body that looks after prisoners' rights. Close monitoring of prisons is also required with punishment for any violation of these rights.
3. Muslim countries should construct prisons according to standards that observe human rights and dignity. Designs of prisons must satisfy all specifications required for prisoners' safety and fulfillment of prisoners' rights.
4. Individuals should not be subjected to restriction of freedom except by a legal verdict issued based on judicial guarantees that ensure achievement of justice and avoidance of oppression and tyranny.
5. Providing for economic empowerment of prisoners through rehabilitation and training to enable them to perform valuable handicrafts during and after their imprisonment periods. A prisoner should also receive fair pay for his work during imprisonment.
6. Providing guarantee of the prisoner's right of social meeting with family members and friends known for their sound behaviour. Meetings between a prisoner and his/her spouse should also be allowed under complete privacy.

7. Guarantee of all the rights that Shariah issued for prisoners, such as satisfaction of his need for decent food and clothing and other decent living facilities.
8. Prisoners should be enabled to perform their religious rites freely. They should be educated, especially in the field of religion, and given a chance for direct contact with preachers and counsellors inside the jail.
9. Limitation of punishments that restrict or eliminate freedom as much as possible. This could be done through invoking bodily and imprisonment-substitute punishments to ward off negative consequences of freedom restriction.
10. Minimization of provisional detention and all other forms of arresting to which governments sometimes resort without judicial adjudication, and enactment of adequate legislation to ensure the protection of the rights of those who are to be arrested. Additionally, a maximum limit for provisional detention should be fixed.
11. Enactment of rules in all Muslim countries for compensation of prisoners who are absolved from the charge. Such rules should also include compensation of prisoners who become victims of aggression and infliction of disciplinary action against aggressors.
12. Organization of orientation sessions for prisoners and those who are in charge of prisons to enlighten them about their respective rights and duties as well as the punishment that would be inflicted upon the negligent or violating party.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 192 (7/20)

Capital Punishment from an Islamic Perspective

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433h (13–18 September 2012),

having examined the research papers submitted to the Academy concerning *Capital Punishment from the Islamic Perspective*,

having listened to the discussions on the subject,

having recalled that Islam, with its ethical values based on the preservation of human rights as a core element, has played an influential historical role in keeping the application of the death sentence at a bare minimum level, at a time when other nations extensively adopted it. Such a fact is clearly manifested in terms of its legal maxims, which call for "immunity of human blood", "warding off penalties with suspicions", and "desirability of prudence in deciding blood penalties",

resolves

1. Capital sentence constitutes an element of the punitive system necessary for protecting supreme interests of human societies, and is considered quite suited with the crime a felon commits according to Shari'ah maxims. Therefore, the suspicions raised against this punishment and calls for its absolute abolishment have no legal or intellectual justification.
2. Capital punishment is the act of depriving the criminal of the right of living by a fair judicial sentence.
3. A verdict of capital Punishment should not be decided unless it is verified through Shariah-acknowledgeable procedures that the criminal has committed a crime which makes him liable to it.
4. Capital Punishment can only be inflicted on the basis of an explicit legislative text derived from Shariah.
5. Sufficient guarantees must be provided to prevent severity in the execu-

tion of capital punishment or deciding it by mistake.

6. All possible safeguards should be adopted to mitigate crimes that entail capital punishment and, hence, leave no excuse for the criminal who becomes liable to it.

7. The suitable means through which capital punishment is to be executed is left to each Muslim country to decide within the boundaries of Shariah's general rules and objectives.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 193 (8/20)

Genetic Engineering and the Human Genome from an Islamic Perspective

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy concerning *Genetic Engineering and the Human Genome from an Islamic Perspective*,

having reviewed the recommendations of the 11th Medical Fiqh Seminar organized in collaboration between the Academy and the Islamic Organization for Medical Sciences of Kuwait on *Genetic Engineering and Genetic Treatment from an Islamic Perspective* in 1419H (1998),

having listened to the discussions on the subject,

resolves

first: Postponement of finalization of this subject to a later session of the Academy.

second: The Council of the Academy is to organize a specialized seminar to discuss the subject in detail and submit its recommendations to one of the forthcoming sessions of the Council.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 194 (9/20)

Legal Evidence by Presumptions and Signs (Latest Updates)

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having examined the research papers submitted to the Academy concerning *Legal Evidence by Presumptions and Signs (Latest Updates)*,

having listened to the discussions on the subject,

resolves

first: definition of a presumption

A presumption is an apparent matter that can be used for knowing an unknown matter.

second: types of presumptions

A presumption is a broad concept that comprises several types based on different considerations. With the advancement of sciences through time, many new presumptions have been brought into use, including fingerprints in different types, photography, audio recording, electronic signature, electronic mails, and the likes.

third: using presumption

In principle, judicial judgement should not be founded except on Shariah-acceptable proof such as confession, testimony and oath. In the absence of proof of this kind, peremptory presumptions, whether textual or judicial, can be used. Therefore:

1. It is permissible to depend on new peremptory presumptions in proofing financial rights and other different offences, except hudud and qisas (punishments prescribed by Quran and Sunnah).
2. It is permissible to depend on presumptions in proofing contracts unless

the contract in question includes what nullifies the presumption.

3. Non-peremptory presumptions may also be considered for proofing rights and the like, when there are other evidence that allay the judiciary's worries.

FOURTH: GENETIC IMPRINT (DNA)

Scientifically, the genetic imprint (DNA) is a means that can hardly fail in the verification of biological fatherhood and identification of personality, especially in the field of forensic medicine. It sometimes goes up to the same level of substantial presumptions that recognise the majority of Fiqh scholars in matters other than ḥudūd and qisās. In our present times, genetic imprint constitutes a vast development in the area of Fiqh known as qiyāfah (physiognomy), as the majority of scholars from the different Fiqh schools adopt it for verification of disputable descent. However, to be used as a piece of evidence, genetic imprints should be obtained from more than one laboratory.

Therefore genetic imprint can be adopted in the area of parentage verification, in those cases where the application of qiyāfah (physiognomy) is preferable, including the following:

1. Cases of dispute about those who are of unknown parentage, as per the different forms mentioned by Fiqh scholars.
2. Cases of suspicion about newborns in hospitals and baby care centers and the like, as well as in vitro fertilization babies.
3. Cases of loss and mixing of children because of catastrophes and crises and inability to find their families, or when there are corpses of unknown people after war or any other accident.

FIFTH: Genetic imprint cannot be used to negate parentage or be considered superior to the *li'ān* (mutual curse to deny or confirm adultry).

Indeed, Allāh is All-Knowing.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on the Production of a Film in the United States, abusing the Ultimate Character of the Prophet Muhammad ﷺ

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

NOTICED with great concern how the mal attitude of those who hate Islam has led them to the extent of producing a film in the United States of America to offend the supreme status of the great Prophet Muhammad ﷺ.

This act, which contradicts all the divine laws, international conventions and human values, constitutes a severe insult that reached the most sacred symbol of the Islamic nation, the Prophet Muhammad ﷺ, the messenger of mercy sent by Allāh the Almighty to humanity at large. Such behaviour would undoubtedly stir up feelings of disapprobation and denounce not only among Muslims, but also on the part of anyone who has an alive conscience. Needless to say, acts of this type do not at all serve the cause of peace and coexistence because extremism would lead to nothing but similar counteraction and undesirable consequences.

The Academy while condemning this disgraceful act and unacceptable behaviour as well as all other acts of those who have bad intentions, indicates the following:

FIRST: Freedom is not an absolute value. It should always remain closely linked to responsibility so that the freedom of any individual or group would not go to the extent where it runs counter to that of others or hurt their moral or material rights, let alone going as far as to insult the sacred symbols and faith of a whole nation. The rationalization of freedom has repeatedly been emphasized by the United Nation's General Assembly (UNGA). In the plenary session of the 59th Meeting of UNGA convened on 11 November 2004, a resolution was issued to encourage inter-religious dialogue. Among the main issues that were clearly reflected in that resolution is the need to combat religions' defamation. The resolution also indicated that mutual advice and inter-religious dialogue constitute two fundamental dimensions of inter-civilizational tolerance and a culture of peace.

Furthermore, in the sixty-first session of the UN Human Rights Committee

(UNHRC), reference was made to sufferings of Muslim minorities and sects in non-Muslim countries; the negative image of Islam propagated in the media; and the practices of adopting and enforcing rules that discriminate against Muslims and target them. UNHRC resolved the adoption of resolutions relating to combating defamation of religions and called upon countries to take strict actions to ban publication of ideas and materials that provoke racism and hatred of others; show hostility to any religion or its followers; or instigate discrimination, enmity or violence.

Among the most important points, which the resolution brought into focus is that deliberate attempts to distort the image of religion are one of the main causes of social discord and violation of human rights, as it negatively affects peaceful coexistence and mutual respect followers of different faiths.

SECOND: The Council of the Academy strongly reject selectivity in dealing with issues of Islam and Muslims and call upon leaders of the countries where these offensive works against Islam happen to take strict action to prevent their publication, rather than resorting to denunciation which has no actual effect of rectification and disciplining.

THIRD: The Council of the Academy calls upon leaders of Muslim countries to have firm positions against such practices and alerts leaders of concerned countries how such unacceptable acts could negatively affect the interests of their countries and the future of relationships between peoples and civilizations.

FOURTH: The Council of the Academy appeals to organizations of civil society in the west and all noble and conscientious people around the world to condemn this anomalous behaviour and assemble behind civilizational values that preserve faiths and respect religious symbols. It also appeals to the UN to issue mandatory resolutions criminalizing any act of provoking hatred against Islam or defaming its sanctuaries and symbols.

FIFTH: the Academy calls upon all Muslim organizations to refute these contentious attitudes. Nonetheless, demonstration of support to our great Prophet ﷺ should always stick to peaceful means and abidance by principles of Shariah, without aggressions against people or their properties, or attacks against diplomatic missions; we should honor commitments and conventions in compliance with Islamic values.

SIXTH: The Council urges Muslims to commit themselves to follow the path of their Prophet ﷺ and demonstrate such commitment in practice, in order to show his real message of carrying divine mercy to the world, and thus rectify the wrong image which the enemies and opponents of Islam try in vain to disseminate everywhere.

Muslims have no doubt that Allāh the Almighty Who is the All-Capable preserves His religion and that Islam will always remain victorious, despite the

tendentious attacks that are launched against it. Allāh the Almighty said: «For sufficient are We unto thee against those who scoff» (Al-Ḥijr, 95), and He also said, «For he who hateth thee, he will be cut off (from future hope)» (Al-Kawthar, 3).

And let our final prayer be that all praise is to Allāh, the Lord of all the worlds, and peace and blessings are to our Master Muhammad and His family and all His companions.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Al-Quds City and Al-Aqsa Mosque

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

OBSERVING the unceasing attempts of the Israeli occupation authorities to judaize Al-Quds City and demolish Al-Aqsa Mosque through the contiguous seizure of vast areas of its surrounding lands for the construction of huge buildings to separate Selwan district to the south and the Old Town to the west,

CONSCIOUS that the Israeli occupation authorities have recently incepted illusionary graveyards in several locations opposite to the southern side of the mosque, in addition to performing contiguous excavation works all-around and beneath the front main building, with the hidden aim of causing complete destruction of the mosque.

WATCHING these events with the utmost concern, strongly condemns these criminal acts along with the uninterrupted breaking into the mosque's courtyards, whether by officials of occupation's government or Jewish extremist groups, to impose new realities and share the mosque with Muslims.

DENOUNCING all these acts, the Council reaffirms in its 20th Session, held in Oran, People's Democratic Republic of Algeria, that:

Al-Aqsa Mosque, with all its facilities, courtyards and terraces, belongs to Muslims alone and nobody else has the right to dispose of any part of it. The Council also charges the Israeli occupation authorities with full responsibility for violation of the sanctity of Al-Aqsa Mosque and call upon Muslims all over the world, including governments and people, to shoulder their responsibility towards Al-Quds City and its Holy Mosque.

And peace and blessings are to our Master Muhammad and His family and all His companions.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Current Events in the Syrian Arab Republic

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

HAVING WATCHED the events that have been taking place in Syria for more than 18 months and the struggle of Syrian people for freedom, dignity and lifting of injustice, which started with peaceful demonstrations against a regime that continues to confront them with murder, aggressions, and damage of property,

STRONGLY condemns these brutal acts and ANNOUNCES the following:

FIRST: Its support to Syrian people in claiming freedom, dignity and honor.

SECOND: Emphasizes that the Syrian state should always remain united and denounces every call for discrimination, sectarianism, or division.

THIRD: Condemns all forms of brutal aggression, killing or torture against peaceful demonstrators, as well as demolishing of towns and villages and extermination of wealth and progeny.

FOURTH: Demands the Syrian regime to stop all acts of aggression, murder and shedding of blood immediately and put an end to all manifestations of armed subdue.

FIFTH: Calls for release of detainees as soon as possible.

SIXTH: Demands the Syrian regime to permit all relief organizations to cure the sick, treat casualties and deliver food and medicine aid to the needy.

SEVENTH: Urges the international community in whole to move for supporting Syrian people and preserving their welfare.

EIGHTH: Appeals to governments and people worldwide to expedite the provision of humanitarian relief, protection and support to Syrians who suffer the pains of seeking refuge, homelessness and injury.

And let our final prayer be that all praise is to Allāh, the Lord of all the worlds, and peace and blessings are to our Master Muhammad and His family and all His companions.

Resolutions and Recommendations of the 21st Session of the Council of the International Islamic Fiqh Academy

RIYADH
KINGDOM OF SAUDI ARABIA

15–19 Muḥarram 1435
19–22 November 2013

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 195 (1/21)

Hedging in Financial Transactions

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (19–22 November 2013),

having examined the research papers submitted to the Academy concerning *Hedging in Financial Transactions*,

having listened to the discussions on the subject,

resolves

Postponement of issuing a resolution on this subject to allow time for preparation more research and studies covering hedging in Islamic financial institutions and the Shariah-acceptable alternatives of conventional hedging.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 196 (2/21)

Pursuit of Research on Islamic Ṣukūk

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (19–22 November 2013),

having examined the research papers submitted to the Academy concerning the *Pursuit of Research on Islamic Ṣukūk*, particularly on the following issues:

- Shariah ruling on postponement of rent in a specific but non-existing Ijārah asset (lease) transactions.
- Shariah ruling on trading specific Ijārah bonds before identification of subject matter of the contract.
- "Attribution (Subordination)" and "Predominance (Majority)" Criteria and Cases.

having listened to the in-depth discussions on the subject,

resolves

first: shariah ruling on postponement of rent in a specific but non-existing ijārah asset

1. In leasing usufructs, which the lessee is to obtain in the future, rent can be paid instantly, in installments or deferred.
2. In leasing usufructs, which the lessee is to obtain in the future, rent does not become due until the lessee is given full access to such benefits. If the lessee is not enabled to obtain the benefits during the period agreed upon, rent does not become due.
3. In the hiring of services (which involve work), Ujrah (service price) can be paid in advance, in installments, or deferred.
4. These rulings on the postponement of rent should by no means be used for practicing Shariah-banned acts like "sale of debt for another debt", "earning of profit without provision of guarantee", and "sale of unowned assets."

SECOND: SHARIAH RULING ON TRADING OF SPECIFIC IJĀRAH BONDS BEFORE IDENTIFICATION OF CONTRACT SUBJECT MATTER

1. The Academy reaffirms its resolution no. 188 (3/20).
2. It is not permissible to trade bonds of future Ijārah assets before identifying the asset from which benefit is to be obtained.
3. It is not permissible to trade ṣukūk of services that are yet to be delivered unless the party from whom the services will be obtained is identified. Ṣukūk, in this case, are untradeable except with full abidance by Shariah norms on disposing of debts. When the party from who services are to be obtained is identified, ṣukūk becomes tradable.
4. It is not permissible to trade ṣukūk, that represent assets to be manufactured by an Istiṣnā contract and are leased before the actual commencement of manufacturing.

THIRD: SOME CASES OF ṢUKŪK ISSUANCE

1. The Academy reaffirms its resolution no. 188 (3/20).
2. If ṣukūk represent assets of a project or a specific economic activity and comprise tangible assets, money, debts and benefits, they become subject to item [3 – (a)] of Clause (Fifth) of resolution no. 188 (3/20), as follows:
    a. It is not permissible to issue ṣukūk or units in investment funds or portfolios comprising physical assets, usufructs, debts and money whereby the debts and money are independent from the physical assets, usufructs and principal administrative body or economic activity.
    b. If ownership of the ṣukūk or units holders comprises the administrative apparatus and the economic activity that generates money and debts, and if such ownership is under an independent Shariah and legal entity, then it becomes permissible to issue and trade ṣukūk or units based on the principle of subordination.
    c. Economic activity referred to in the preceding item is the business that generate debts and money in a Shariah-compliant way.
3. The Academy reiterates item (1) clause (6) of its resolution no. 188 (3/20) that "the Academy resolutions become effective from date of their issuance without affecting contracts that precede them including ṣukūk issued based on Shariah-recognizable ijtihād (interpretative judgement)."
4. Regarding the two principles of *taba'iya* (attribution/subordination) and

ghalabah (predominance/majority), the Academy is of the view that issuing resolutions on them should be postponed to a later session and recommends mobilization of more research on the two subjects.

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 197 (3/21)

Criminal Liability of Vehicle Drivers for Excessive Speed or Carelessness

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (19–22 November 2013),

having examined the research papers submitted to the Academy concerning the *Criminal Liability of Vehicle Drivers for Excessive Speed or Carelessness*,

having listened to the in-depth discussions on the subject,

having recalled the importance of paying the necessary attention to this subject, given the significant increase in vehicle accidents and their harmful effects on individuals and societies,

resolves

first: Reaffirming the Academy resolution no. 71 (2/8) issued in Academy's 8th Session held in Bandar Seri Begawan, Brunei Darussalam, on 1–7 Muḥarram 1414H (21–27 June 1993) on "Traffic Accidents."

second: Traffic rules are enacted to preserve public interest and therefore must be observed.

third: It is prohibited for vehicle drivers to drive in a way that could lead to harm for himself or others and should guarantee any harm he causes to others. Dangerous acts of vehicle drivers include, for instance:

a. Crossing of signal court during red light.

b. Excessive speed.

c. Using the vehicle as a means of showoff (tafhīṭ/drifting) and unlawful car chases.

d. Neglecting vehicle maintenance or driving carelessly, to the extent that could lead to harm.

When a vehicle driver behaves in a manner that causes bodily or any other less serious harm to others, the vehicle driver is chargeable with ensuing liabil-

ity while his felon may be considered purposeful, semi-purposeful or by fault subject to the specific case in question. The competent authority has the right to decide the ta'zīr (discretionary punishment) to which he is liable.

RECOMMENDATION

Relevant authorities and bodies in OIC Member states shall disseminate awareness about the importance of abiding by traffic rules and the evil consequences to which individuals and societies become vulnerable to the violation of such rules.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 198 (4/21)

Transmutation, Dilution, and Additives in Food and Medication

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (19–22 November 2013),

having reviewed the recommendations of the Medical Fiqh Symposium on the Islamic view towards some Health Issues, organized in Casablanca on 8–11 Ṣafar 1418H (14–17 June 1997) by the Islamic Organization for Medical Sciences (IOMS) of Kuwait, in collaboration with the Academy, and with the participation of Al Hasan II Foundation for Scientific & Medical Research on Ramadan, the Islamic Organization for Education Science & Culture (ISESCO), and the Regional Office of the World Health Organization (WHO),

having listened to the in-depth discussions on the subject, especially on Transmutation (Istihālah), Dilution (Istihlak) and Additives in Food and Medication,

resolves

first: Observation of Shariah rules is incumbent upon every Muslim, especially in areas of food and medicine, in order for a Muslim to make sure that his food, drink and medicine are immaculate. Among the uncountable manifestations of the mercy of Allāh the Almighty is the ease and facilitation He made His servants enjoy when following His directives by offering them many permits in case of necessity or need. This is clearly indicated in several Fiqh maxims such as "Necessities Permit the Forbidden", "Need, whether public or private, can be treated as a necessity", and "Benefits are permissible in principle unless a proof about their prohibition is established." Likewise, things are immaculate in principle unless a proof about their defilement is established, and prohibition of eating or drinking something does not mean that it is impure in Shariah.

second: Substances that are prohibited or considered as defiled on their own, or when added to food or medicine, change into Shariah-permissible subs tances through one of the two following methods:

a. Istihala (Transmutation)

In Fiqh terminology, Istihala (transmutation) means "occurrence of real change in a defiled or *prohibited* material leading to its conversion to another material that differs from the original one in name, characteristics and attributes." In general scientific terminology, this is taken to mean any complete chemical interaction such as the transmutation of oils and fats of different types to soap, and decomposition of material to its original components, as in the case of dismantling oils and fats to acids and fatty glycerin.

As chemical interaction can be done intentionally through scientific means and techniques, it can also take place – invisibly – as per the forms that Fiqh scholars have indicated, including for instance, pickling, tanning and burning. If chemical interaction is partial, it is not considered transmutation and, therefore, if the material in question is defiled initially, it remains as it is and should not be used. Accordingly:

i. Added composites that come from a prohibited or defiled animal origin and undergo transmutation as indicated above are considered immaculate and can permissibly be used as food or medications.

ii. Chemical composites extracted from defiled or prohibited origins like spilt over blood and sewage, and in which transmutation in the previously indicated form does not take place, cannot be used as food and medications. Such materials include foodstuffs to which spilt over blood is added like: blood-stuffed sausage, black pudding, blooded hamburger, baby food containing blood, blood doughs, blood soup and the likes; and are considered as defile and prohibited because they contain spilt over blood that does not undergo transmutation.

As for blood plasma, which constitutes a cheap substitute of egg's white, it is permissible and quite different from blood in terms of name, characteristics and attributes and therefore does not fall under the same ruling. Blood plasma is typically used in pies, soup, sausage, and hamburgers, in addition to different types of doughs such as cakes, biscuits, pudding, bread, milk products, and baby foods and medicine. It may also be added to flour.

b. Istihlak (Dilution): The Academy sees its postponement for further research.

RECOMMENDATIONS

1. Importance of using skins and bones of slaughtered animals for extrac-

tion of gelatin to be used in food and medicine, and thus avoid waste of livestock resources and ward off suspicion of using materials generated from Shariah-prohibited sources.

2. Calling on concerned officials in Muslim countries to ensure abidance by Shariah-acceptable terms and specifications in medicine and food industries, including raw materials used and manufacturing methods.
3. Competent authorities in Muslim countries should oblige companies which produce and import conserved foods to clearly indicate in national language the detailed ingredients of the unit of any product of this type.
4. Calling upon IOMS – Kuwait to closely monitor new developments in areas of food and medicines, and organize seminars in cooperation with the Academy for studying such developments and indicating Shariah position regarding them.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 199 (5/21)

Depiction of Prophets and Companions in Artistic Works

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435h (19–22 November 2013),

having examined the research papers submitted to the Academy concerning the *Depiction of Prophets and Companions in Artistic Works*,

having listened to the in-depth discussions the subject,

resolves

Postponement of discussion on the subject to a later session to allow time for conducting further research and studies on the subject.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 200 (6/21)

Shariah Rulings and Standards for the Foundations of Cooperative Insurance

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (19–22 November 2013),

having reviewed the recommendations of the scientific seminar on *Shariah Rulings and Standards for the Foundations of Cooperative Insurance,* organized by the Academy in Jeddah, Kingdom of Saudi Arabia, on 20–21 Jumādā al-Ākhirah 1434H (30 April – 1 May 2013) in response to Academy resolution no. 187 (2/20), issued at its 20th Session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having listened to the in-depth discussions on the subject,

resolves

Cooperative insurance is a new contract based on the principle of cooperation which, in its turn, is governed by criteria and standards derived from the guidance of the Quran and Sunnah (Prophetic Tradition).

Insurance, in general, is divisible into two types:

1. Commercial insurance aims to achieve gain to insurance holders through compensation for risks, while from the standpoint of the managing company, it aims to achieve profit.
2. Non-commercial insurance does not aim to achieve profit but to serve the interest of its participants through mutual contribution to the bearing of injury.

The second type of insurance has several denotations, including cooperative insurance, takaful insurance, reciprocal insurance and Islamic insurance.

There are essential differences between cooperative insurance and commercial insurance of which most important are the following:

1. Islamic cooperative insurance is a form of cooperation between members of a group or several groups in the society through mutual contribution

to risk-bearing without seeking profit. Therefore, it does not constitute a muawada (compensation) contract, and the degree of *gharar* (uncertainty) it involves is forgivable. Contrarily, commercial insurance is a muawada (compensation) contract that aims to generate profit through compensation for shifting risks from insurance clients to insurance companies. Therefore, commercial insurance is subject to the rulings on compensatory financial dealings that are affected by *gharar*.

2. The parties of the relationship in cooperative insurance are the total number of participants in the cooperative insurance fund and the managing party, while in commercial insurance, they are the company and the policyholders.
3. In cooperative insurance, there is a fund containing assets that comprise policyholders' contributions, profits generated from investment of contributions, and reserves, whereas there is no such fund in commercial insurance.
4. In cooperative insurance, the management company assumes the task of managing the coverage and insurance business, besides investment of insurance funds. In contrast, in commercial insurance, the insurance company is the insurer who owns the insurance premiums, insurance profits and surplus.
5. Policyholder and insurer in cooperative insurance are the same person with two different legal considerations, contrary to commercial insurance, where they are entirely different entities since the participant is the insurance client and the insurer is the insurance company.
6. Management in cooperative insurance, whether an elected body from the participants, a specialized company or public institution, is an agent that assumes contracting on behalf of participants'(policyholders) fund and has the right of receiving payment for that, while in commercial insurance management is a principal party who performs contracting on its own.
7. The managing company in cooperative insurance does not own the insurance premiums (contributions) because premiums are owned by participants' (policyholders) fund, but in commercial insurance, the company owns the insurance premiums against its commitment to provide compensation in case of injury.
8. In cooperative insurance, the remainders of the premiums and their returns – after deduction of expenses and compensations – remains owned

by and in the fund accounts. It constitutes the surplus, which regulations of the fund indicate the way of disposing of it. This can never happen in commercial insurance where the company owns the premiums contractually and in terms of actual possession. That is to say, in commercial insurance, premiums represent revenue and profit for the insurance company.

9. In cooperative insurance, returns on investment of premiums – after deduction of management costs which go to managing company – belong to the policyholders' fund, while such returns belong to the insurance company in commercial insurance.

10. On liquidation of the cooperative insurance fund, its assets are either spent on charitable purposes or distributed among participants instantly (as indicated in detail in clause 13 hereafter), where such assets go to shareholders in commercial insurance.

11. In cooperative insurance, the company is bound to observe relevant rules of Shariah and fatāwa (Shariah Opinions) of its Shariah Board, a situation which is irrelevant to commercial insurance.

12. Cooperative and commercial insurance are similar in consideration of the basic principles of insurance, including:

    i. Principle of Insurance Interest: This is the legal right of insurance that stems from a legally recognized financial relationship between the insurance client and the subject matter of insurance.
    ii. Principle of Good Faith: means the positive and voluntary duty of strict and perfect disclosure of all essential facts relating to the risk insured against, whether such facts are requested or not.
    iii. Principle of Close Direct Cause: This refers to that adequate cause that is sufficient to set in force a series of incidents constituting the cause of the result that originates from them, without the invention of any other factor stemming from an independent new source and breaking the series.
    iv. Principle of compensation.
    v. Principle of Participation.
    vi. Principle of Substitution and Rights.

Cooperative insurance also has its own distinguishing principles, which include:

1. Abidance by rules and principles of Shariah in all transactions and contracts.

2. No insurance for Shariah prohibitions.
3. Avoidance of any transaction that involves receipt or payment of ribā (usury).

The following is an overview of the most important foundations and principles of Islamic cooperative insurance:

clause (1): definition

Cooperative insurance is the participation of a group of people who face certain risk(s) agree that each of them contributes a specific amount, based on cooperation, to a non-profit fund that is to be used for compensating anyone of them for the harms he would encounter when the risk in question materializes, as per signed contracts and adopted regulatory legislations.

clause (2): forms of cooperative insurance management

Cooperative insurance is managed by an independent licensed body that works in compliance with the rules of Shariah and may take one of several forms of which most notable are the following:

a. A selected panel of policyholders.
b. A specialized insurance management company.
c. A Public institution established by and report to a state or number of states.

clause (3): relationship between insurance fund and management

Relationship between insurance fund and the managing party is as follows:

a. Regarding management of insurance business: relationship is according to agency contract, with or without pay.
b. Regarding investment, the relationship is governed by either an agency or a muḍārabah contract. When an agency contract is used, the agency can be against pay or not. When using muḍārabah, the managing party is entitled to a share in the profit as per the agreement, whereas loss is borne by the capital owner, except in case of negligence or default or breach of conditions or regulations.

clause (4): pay for management

Pay for management takes one of two forms:

a. When cooperative insurance business is managed according to rulings

of the agency contract, pay for managing party can be a lump sum or a given percentage of contributions.

b. When management of investment assets of participants' fund is arranged through muḍārabah, the muḍārib (managing party) is entitled to a given percentage of the profit, whereas if the investment is according to agency contract, pay could be a lump sum or a given percentage of invested amounts.

clause (5): ownership of contributions and returns on their investment

Contributions and net returns on their investment are considered the rights of cooperative insurance fund, whereas the rights of policyholders in the fund are determined according to the insurance system and entitlement conditions regarding compensation and insurance surplus.

clause (6): remuneration of insurance business managing party

Remuneration or pay for insurance business management is estimated subject to fair criteria set by an independent body such as an institution of insurance supervision or through negotiation between representatives of the fund or any party chosen by participants to oversee their interests and the managing party.

clause (7): responsibility of the fund:

The cooperative insurance fund bears any losses, whether in investment or in insurance activities, except when such losses originate from negligence, default or breach of conditions or regulations by the managing party, who should bear them in such case.

clause (8): insurance surplus of the fund

Insurance surplus is the financial balance that remains from collected contributions in addition to its investment returns and any other revenues, after payment of compensations and deduction of necessary allocations and reserve balances, as well as all due expenses and outstanding commitments of the fund.

The entire insurance surplus can be retained in the fund or distributed, totally or partially, among policyholders in a way that achieves justice and conforms to regulations of the fund.

clause (9): cooperative insurance fund deficit and its cases

In case of failure of cooperative insurance fund to pay its due commitments, the managing company may resort, without commitment, to one or more of the following actions:

a. Borrowing from a third party.

b. Provision of *qarḍ ḥasan* (benevolent free loan) from the managing party.

c. Increasing the amount of contribution after the consent of participants.

d. Agreement with compensations' beneficiaries to reduce their amounts or pay them in installments.

The managing company may also resort to any other arrangements it deems suitable after clearance by the fund's Shariah Board.

CLAUSE (10): REINSURANCE

1. It is permissible for the cooperative insurance company to conclude reinsurance contracts, taking into consideration that the reinsurance transactions it takes part in by virtue of such contracts conform to rulings of Shariah and basic principles of cooperative insurance as decided by its Shariah Supervisory Board.

2. Cooperative insurance companies should be committed to doing all their reinsurance arrangements with Islamic reinsurance companies. When it is impossible, for reasonable justifications, to observe such commitment, they may conclude reinsurance contracts with conventional reinsurance companies to the extent of their real needs and in conformity with the criteria set by Shariah boards and any other criteria they deem suitable, including the following:
   a. Cooperative insurance companies should keep the ratio of conventional reinsurance coverage at the minimum level.
   b. Managing party should not direct reinsurance premiums paid to the cooperative insurance company to any type of investment that does not comply with rules and principles of Shariah. Further, the managing party should neither claim a share in the returns on investments of conventional reinsurance companies nor should it accept to bear any portion in the losses incurred by investments of these companies.
   c. Cooperative insurance companies should not pay or receive any interest relating to their reinsurance arrangements with conventional reinsurance companies. Additionally, reinsurance funds should be kept with cooperative insurance companies rather than with conventional reinsurance companies.
   d. Agreement with conventional reinsurance companies should be for the minimum possible period.

clause (11): shariah compliance

Cooperative insurance management should comply with the rules of Shariah in all insurance operations, activities and investments.

clause (12): shariah supervision

A cooperative insurance company should appoint a Shariah supervisory board and a Shariah audit body as has been stated in the Academy resolution no. 177 (3/19) on *Role of Shariah Supervision in Controlling Islamic Banking Business (Significance, Conditions and Modus Operandi)*. Appointment and operation of this Shariah board should be subject to the approval of the central Shariah supervisory body, if any.

clause (13): fund liquidation

When a cooperative insurance fund is liquidated, its assets can be channelled into charitable purposes or distributed among participants according to fair bases after meeting its technical and legal commitments subject to the regulation of the fund and under supervision of the public authority of Shariah supervision. The fund manager, in this case, is not entitled to any share of the assets.

clause (14): disputes resolution

Disputes that arise between the cooperative insurance company and policyholders should be dealt with according to prevailing regulations and laws, starting from reconciliation, then arbitration, and finally resorting to a competent judiciary body.

clause (15): relationship between participants of the cooperative insurance fund

The relationship between participants of the fund is a form of cooperation in which a group of people agree to contribute specific amounts so that the proceeds of their contributions be used in compensation for harm or realization of interest to any one of them when the need arises. Such cooperation is based on forgiveness, equality and permissibility of benefiting from the rights of each other, rather than on reciprocal compensation, stinginess, and drive for profit. Therefore, a lot of *gharar* can be excusable under this type of arrangement, which also has nothing to do with *ribā*. Several instances to substantiate this fact can by quoted from Shariah, such as:

first: The divine order to cooperate in the cause of righteousness and piety. In this regard, Allāh the Almighty says, «Help ye one another in righteousness and piety, but help not ye one another in sin and rancor.» (Al-Mā'idah, 2)

second: The Ḥadīth of the Asharis (Prophetic tradition about the Ashari

people) narrated by Abū Mūsā al-Ashari ﵁ who told that the Prophet ﷺ said, "When the Asharis encounter food shortage during invasion, or have insufficient food stocks for their families in Madinah, they used to collect and pile up all the food they have on a piece of cloth and divide it equally among themselves. (Therefore) Asharis are my people, and I am one of them." [Agreed upon]

Commenting on this ḥadīth, Imam al-Nawawī said,

> In this ḥadīth there is the virtue of the Asharis, the virtue of altruism and consolation, and the virtue of sharing food supplies during travel as well as in urban communities when there is food shortage. The ḥadīth does not refer to "Division" as it is known in Fiqh writings with all its conditions, its prohibition in ribāwiyāt (ribā-liable commodities), equality requirement and the like. What the ḥadīth seems to refer to is permissibility among the Asharis (to get equal shares) and their consolation to each other with what they had. (Al-Nawawī's Commentary on Ṣaḥīḥ Muslim, 16/62)

THIRD: *Nahd* or *Munahada* (Sharing): Imam al-Bukhārī indicated the concept of *Nihd* in the form of a long title as follows: *Chapter on Sharing, Sharing in Food, Nahd and goods and how a commodity that should be measured in terms of weight or volume is divided by rough estimate or by handful, when Muslims saw no harm that one eats some and another eats some of their footstock, and also using rough estimate in dividing gold and silver, or eating two dates at a time*. What is meant here is the contribution of a group of travellers to all travelling expenses and dividing such expenses among them.

Ibn Ḥajr al-'Asqalānī also indicated that *Nihd* or *Nahd* refers to equal sharing of sustenance items while on travel. He further elaborated that usually, sharing comprises a multitude of items, among which are food items, including *ribā*-liable commodities. Yet, according to al-'Asqalānī, *ribā* restrictions on exchange of *ribā*-liable commodities is forgiven in the case of *Nihd*, because proof of *Nihd* permissibility is well established. (Fatḥ al-Bārī, 5/128)

CLAUSE (16): FUND AUTONOMY

Cooperative insurance fund should be independent and may comprise other donations besides those of participants. Independence of the fund can be ensured by granting it a legal personality decided by law or through complete separation of its accounts from those of the managing party. Alternatively, a charitable cash *Waqf* can also be established based on the permissibility of such type of *Waqf*.

clause (17): withdrawal from fund

Cooperative insurance policy regulates cases of withdrawal according to regulations, conditions and criteria cleared by Shariah Board, without inflicting any harm on others.

clause (18): contribution to insurance fund

1. Contribution is determinable according to actuarial principles based on statistical techniques, with due consideration to whether the risk is constant or variable. The determination process would also involve applying the principle of proportionality between contribution and risk itself and taking into consideration the type and period of contribution, as well as the amount of insurance cover.
2. The risk insured against must be of probable occurrence, rather than just relating to the will of the insurance client, and should not relate to a prohibited object.

clause (19): substitution

Fund management substitutes participant it compensates for injury inflicted upon him in suing harm inflictor in all lawsuits and rights, and the proceeds thus collected goes to the fund.

clause (20): bearing part of liability

It is permissible to stipulate in the insurance policy that the insurance client has to bear a lump sum or a percentage of compensation amount for harms that others inflict upon him or those he inflicts upon others.

clause (21): ownership of premiums

It is permissible for the fund to own contributions, and in that case, policyholders will no longer remain owners of their contributions as soon as they pay them. In this case each, the policyholder is considered to have assigned his right of owning his contribution to the fund. One of these two options, of owning or relinquishment, of the right in contribution should be explicitly mentioned in insurance policy.

recommendations

1. Communication of these rulings, bases and conditions to concerned parties in Muslim countries, especially those responsible for issuing rules and regulations, cooperative insurance companies and other interested parties.
2. Operationalization of what has been stated in the Academy resolution

no. 177 (3/19) concerning call upon Muslim countries to establish central supervisory bodies to oversee the activities of supervisory boards of Islamic financial institutions and cooperative insurance companies.

3. Call for establishment of an international Shariah board under the supervision of the Academy with the participation of landmark institutions of the Islamic financial industry including:

   - Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).
   - Islamic Development Bank Group (ISDB).
   - Islamic Financial Services Board (IFSB).
   - General Council for Islamic Banks and Financial Institutions (GCIBFI).

   Among the essential functions of the proposed board is the issuance of Shariah standards that regulate cooperative insurance and Islamic banking activities, getting such standards ratified by the Academy and facilitating their adoption by supervisory and regulatory bodies as the laws that govern the work of Islamic financial institutions. The ISDB and the Secretariat of the Academy may coordinate for developing the detailed proposal on the working modalities of the board.

4. The Secretarial of the Academy should mobilize more studies on some issues of cooperative insurance, including:

   - Presentation of international experiences in the field of cooperative insurance and exploring their abidance by the bases adopted in this resolution.
   - Studying the idea of remunerating the managing party for management of insurance operations through a specific amount or ratio of the insurance surplus without allocating any part of contribution proceeds for payment of management expenses.
   - Studying the idea of remunerating the party that manages insurance operations through a combination of a ratio of contribution proceeds along with a ratio of the insurance surplus to ensure motivation of management for enhanced performance.
   - Studying the different aspects relating to the Waqf-based cooperative insurance.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 201 (7/21)

Slaughtering Animals after Electric Stunning in light of New Updates

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (19–22 November 2013),

having examined the research papers submitted to the Academy concerning *Slaughtering Animals after Electric Stunning in light of New Updates*,

having listened to the in-depth discussions on the subject,

resolves

first: Reemphasizing the Academy resolution no. 95 (3/10) "Animal Slaughters."

second: Regarding new updates, the Council of the Academy assigns its Secretariat the task of convening a committee comprising the Academy's members and outsourced experts to conduct field visits to the countries from which meat is imported and perform the required tasks, including the following:

1. Development of the procedural standards that would ensure slaughtering according to Shariah criteria.
2. Ensure that animal slaughtering in meat-producing factories is in conformity with relevant Shariah rulings, as indicated in the Academy resolution above.
3. Calling upon the Standards and Metrology Institute for Islamic Countries (SMIIC) to ensure the credibility of certificates issued by concerned bodies in this connection.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 202 (8/21)

Dialogue between Followers of Islamic Denominations

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435h (19–22 November 2013),

having examined the research papers submitted to the Academy concerning *Dialogue between Followers of Islamic Denominations*,

having listened to the in-depth discussions on the subject,

resolves

1. Reaffirming previous Academy resolutions, particularly resolution no. 98 (1/11) concerning Islamic Unity and no. 152 (1/17) on "Islam, the One Ummah: Theological, Jurisprudential, and Educational Schools."
2. Dialogue between followers of Islamic denominations is a process of exchanging views on a particular subject among followers of different Islamic denominations and schools far away from fanaticism and in order to reach common, convergent or co-existing understandings.
3. Dialogue is a social necessity for continuity and soundness of life and, indeed, the more so among followers of the same faith in the contemporary world of groupings and alliances.
4. Dialogue has specific morals that need to be recognized, including sincerity, dissenter respect, abandonment of bigotry, avoidance of exhibitionism and ostentation, choosing the best persuasion methods, and arguing in a friendly manner.
5. Dialogue has modalities that govern its process and ensure its success, of which most important are the following:
    a. Agreement on a referential method of reasoning – which is the method agreed upon among the scholars of the Ummah – and emphasizing the intention to observe it.
    b. Identification of aspects of agreement and those of dispute and using

the former as a basis for discussing the latter. This would ensure continuity of mutual understanding and respect of each other's opinion, as far as such opinion does not contradict a clear text of the Quran or Sunnah or challenge points of irrefutable consensus among scholars of the Ummah.

c. Dialogue is relevant in the context of suppositional issues, which are open for ijtihād (interpretative judgement). As regards issues on which decisive Shariah rulings are provided, dialogue is irrelevant except for the exchange of advice concerning their observation of such rulings and how they could be applied.

6. Adoption of the plan prepared by the Secretariat of the Academy for tackling this aspect as part of the 10-Year Strategic Plan, endorsed by the resolution of the 3rd Extraordinary Islamic Summit, held in Makkah al-Mukarramah, on kind invitation from the Custodian of the Two Holy Mosques, during 5–6 Dhū al-Qi'dah 1426H (7–8 December 2005). This plan, which was submitted to OIC and cleared by a group of renowned leading scholars from all Islamic schools on invitation from the OIC Secretary General on 28 July 2008, has to be circulated among the concerned parties indicated in it.

RECOMMENDATIONS

1. Reemphasizing that it is incumbent upon followers of all Islamic denominations to show full respect to the Mothers of Believers رضي الله عنهن (Ummuhāt al-Mu'minīn, Wives of the Prophet ﷺ) as well as Prophet's companions and family and refrain from doing wrong to them through belittling of their high standing or defaming them.
2. Prohibition of charging any Muslim sect with infidelity as long as such sect believes in Allāh the Almighty, His Messenger Muhammad ﷺ, Fundamentals of Islam and those of Īmān (belief), while it does not deny intuitively known aspects of religion.
3. Prohibition of shedding the blood of or fighting any follower of any Muslim sect.
4. Preventing any missionary work among followers of other schools in order to ward off sedition, separation, rancor and ill will between them.
5. Circulation of previous recommendations among OIC Member states to incorporate them in educational curricula, disseminate them through media and adopt them as a continuous political position.

6. Calling upon the Academy to organize seminars and forums to deepen the dialogue between followers of Islamic sects, eliminate barriers that encounter such dialogue, reaffirm common fundamentals and values and promote the culture of tolerance, reasonability and moderation.

Indeed, Allāh is the Giver of Success.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 203 (9/21)

Heredity, Genetic Engineering and Human Genome

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (19–22 November 2013),

having reviewed the recommendations of the Medical Fiqh Symposium on *Heredity, Genetic Engineering and Human Genome* organized by the Academy in Jeddah, Kingdom of Saudi Arabia, on 13–15 Rabīʿ al-Ākhir 1434H (23–25 February 2013), in collaboration with the Islamic Organization for Medical Sciences (IOMS) of Kuwait, in response to the Academy resolution no. 193 (8/20), issued at its 20th session in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012),

having listened to the in-depth discussions on the subject,

resolves

first: human genome

Reading the human genome, which means (drawing the complete genetic map of a human being) constitutes part of the attempts of human being to know themselves and explore the divine laws that govern Allāh's creatures in the world, a fact that the Quran indicates in the verse, «Soon will we show them our signs in the (furthest) regions (of the earth) and in their own souls,» (Fuṣṣilat, 53) and other similar verses. Because reading the human genome is a means for identification of some hereditary diseases or probability of their occurrence, it represents a valuable addition to endeavors of health and medical scientists to facilitate means of diagnosis, prevention and treatment of diseases, and, hence, is classified under acts of *farḍ al-kifāyah* (collective duty) in the society; with due consideration to the following rulings:

1. It is permissible to use the human genome or part of it for beneficial purposes, as long as it aims to achieve interests that conform to those pursued by Shariah, such as disease prevention and therapy.
2. Genome should not be used for harmful purposes or in any way that

contradicts with rules and principles of Shariah.

3. It is prohibited to conduct any research work, experiment, therapy or diagnosis relating to a person's genome before performing a precise pre-evaluation for the probable risks and benefits of the act to be conducted. Research work in this regard should be conducted with full abidance by relevant norms of Shariah.
4. For analyzing the genetic map of a person, appropriate and Shariah-recognizable permission must be obtained from him or his lawful guardian. In a genetic map, analyzing the interest of the person in question should also be given utmost priority.
5. Everybody has the right to decide on whether he wants to be informed about the results or consequences of any genetic examination he undergoes or not.
6. Whether kept or used for research or any other purpose, genetic diagnoses should be treated with complete confidentiality. Information relating to such diagnoses should never be disclosed except in cases indicated in Academy resolution no. 79 (10/8) on "Confidentiality in Medical Professions" and resolution no. 142 (8/15) on "Physician's Liability." The physician must obtain the patient's permission to disclose his secret to his family when the latter has a dangerous disease. If the patient refuses to give such permission, the physician should keep trying to convince him to save the lives of the patient's family members.
7. Reemphasizing Shariah criteria regarding human genome stated in the recommendation of the seminar on Heredity, Genetic Engineering, Human Genome and Genetic Treatment organized by IOMS – Kuwait in cooperation with the Academy in 1419H.
8. Nobody should encounter any form of discrimination due to his genetic characteristics if the aim behind such discrimination is to violate his fundamental rights and freedoms or abuse of his dignity.
9. It is prohibited to conduct any clinical research relating to the human genome or its applications, especially in biology, genetics, and medicine, that contradicts with rulings of Shariah or does not show respect to Shariah-recognizable human rights.

Genetic Treatment:

It refers to transferring a part of DNA (or a fit gene) to replace an infected gene

and hence restore a previous genetic function inside the cell. With regard to the genetic treatment of the cell, it can be divided into two types:

— First Type: Genetic Treatment of Somatic Cells

This type of treatment includes all body cells, and its Shariah ruling differs according to its specific purpose. If curing is the real purpose of genetic treatment, then treatment is permissible subject to the following conditions:

1. Treatment should not lead to more than the already existing harm.
2. Treatment is believed, most likely, to lead to healing or pain reduction.
3. When an alternative solution is unavailable.
4. Observation of Shariah-recognizable terms pertaining to donor and recipient in cases of transplantation of organs, as stated in Academy resolution no. 57 (8/6). Moreover, treatment should be done by specialists of vast experience, high performance and honesty.

If genetic treatment is sought for the mere sake of acquiring specific characteristics such as shape alteration, it becomes prohibited because it involves the prohibited act of changing the original form of Allāh's creation. In the absence of any Shariah recognizable necessity or need that could justify it, genetic treatment is an act of futility and abuse of human dignity.

— Second Type: Genetic Treatment of Genital Cells

This refers to the genetic treatment of sex (reproduction) cells. It is permissible to perform a genetic examination for these cells to see if they suffer from a genetic disease or not.

However, genetic treatment of genital cells in their present form, which does not abide by Shariah rulings, especially with regard to mixing of lineage, is prohibited given the danger and harm it involves.

SECOND: GENETIC ENGINEERING

1. It is prohibited to use genetic engineering to change the genetic setup through what is known as "Enhancement of Human Progeny." Any attempt of genetic tampering with the human character or intervening with the capacity to assume individual responsibility is prohibited by Shariah.
2. Utilization of genetic engineering in the fields of botany and zoology is permissible in principle, subject to the following norms:
    a. Such utilization should not lead to harm sooner or later.

b. It should be for an appropriate and permissible purpose, rather than for the sake of abuse and wastefulness.

c. It should be undertaken by specialists of vast experience and credibility.

3. Genetic Engineering should not be used for harmful purposes.

THIRD: GENETIC COUNSELLING

Genetic counselling aims to provide its seekers with the proper knowledge, besides predictable outcomes and their statistical probability. Decision making, in this regard, belongs only to stakeholders and the treating physician with no attempt to influence them towards any specific direction. This process involves several aspects of which most important are the following:

a. Facilitation of genetic counselling services at a wide scope to families and those about to get married, recruitment of competent specialists, and using all available means for disseminating mass awareness and culturing.

b. Genetic counselling should be done as per the clause regarding "Preventive Genetic Survey" in this resolution, provided that its outcomes would not entail any mandatory action.

c. Information relating to counselling should be considered as top confidential.

d. Widening the scope of knowledge about genetic counselling in medical and health institutes and schools, in addition to the presentation of such knowledge through media and worship places, by well-qualified specialists in the subject.

e. Families that witness the frequent occurrence of a genetic disease in some of their members need to consult physicians to know about the probability of transmission of such disease.

SHARIAH RULINGS ON GENETIC TREATMENTS

Rulings on genetic treatment differ as follows:

A. Preventive Genetic Survey

It is permissible to conduct this type of survey, provided that the means used are permissible and safe. In order to achieve the interest of averting public harm, the competent national authority has the right to enforce such device when, for instance, an epidemic disease spreads in a country or when a country becomes vulnerable to radioactive or toxic materials that can adversely affect genes. However, the survey results should remain confidential to preserve the

privacy of personal affairs and maintain human dignity, as emphasized in the objectives and general principles of Shariah.

B. Pre-Marriage Genetic Examination

It is permissible to undertake pre-marriage genetic examination since it helps achieve objectives of Shariah by safeguarding family against genetic diseases, provided that the means used are permissible and safe. The competent authority can also enforce pre-marriage genetic examination for the realization of a Shariah recognizable public interest.

C. Genetic Diagnosis before Sperm Culture

It is permissible to perform diagnosis before sperm culture and after in-vitro fertilization (in-vitro fertilization babies), provided that precautionary measures are taken to ensure the avoidance of sample mixing.

D. Genetic Examination during Pregnancy

This method has several medical means and can be performed at different stages at the beginning, in the middle, or at the end of pregnancy. If it is proved that there is a genetic disease, the fetus can be aborted as indicated in Academy resolution no. 56 (7/6) on Abortion.

E. Genetic Examination after Delivery

The genetic examination must be done for newborns to give a chance for early intervention when there are curable cases.

RECOMMENDATIONS

1. Enhancing awareness about genetic diseases and working for reduction of their occurrence.
2. Encouraging pre-marriage genetic tests through enlightenment campaigns through media, organization of seminars and at worship places.
3. Calling upon national health authorities to increase the number of human genetic units to facilitate access to services of genetic counseling consultants and enlarge the scope of health services in diagnostic and therapeutic genetics to enhance reproductive health.
4. Calling upon IOMS and other specialized institutions to follow up new developments in the area of genetic engineering.
5. Calling upon Muslim countries to pay more attention to all Shariah-

recognizable areas of genetic engineering. This would require performance of several tasks, including:

- Establishment of specialized research centers that work in this field with the maximum possible synergy and complete conformity with rules and principles of Shariah.
- Provision of highly qualified human resources to work in these centers.
- Including genetics in educational programs at different levels.
- Simplification of results of genetic research work and surveys for its dissemination through different media outlets.

6. Muslim countries are urged to provide free of charge service of this kind to its needy people who cannot afford the payment of its high cost.
7. Companies that produce animal and plant products should clearly indicate if any of their products are produced through genetic engineering techniques so that consumers can base their decisions to purchase such products or not on such information.
8. Calling upon Muslim countries to issue necessary rules and regulations to protect their people against being used as fields of experimentation.
9. Activating the role of consumer protection agencies and raising its awareness in Muslim countries.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 204 (10/21)

Fighting between Muslims in the name of Jihad

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435h (19–22 November 2013),

having examined the research papers submitted to the Academy concerning *Fighting between Muslims in the name of Jihad*,

having listened to the in-depth discussions on the subject,

resolves

Postponement of issuing a resolution on this subject for further research and studies.

Indeed, Allāh is All-Knowing.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Current Events in the Arab World and in some Muslim countries

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (18–22 November 2013),

IN ITS CAPACITY as a reference institution of the Ummah in the area of Fiqh,

CONSIDERING the duties ensuing from such responsibility, at a time when the Ummah is facing a host of challenges and dangers that are quite apparent in terms of the current events in the Arab world and some Muslim countries,

OBSERVING closely the terrifying violence, turmoil, and riot prevailing in several countries in the Arab and Muslim worlds, and the chaos which is about to destroy the abilities of the Ummah, endanger its entity, challenge its unity, paralyze its economic power, and drag its people towards bitter sufferings of injustice, hunger, terror, disagreement, absence of peace and order and finally the complete destruction of social life,

BASED ON the obligation of the Academy towards the entire Ummah,

RECALLING the resolutions of the Academy in its previous sessions, especially its 20th Session held in Oran, People's Democratic Republic of Algeria, on 26 Shawwāl – 2 Dhū al-Qi'dah 1433H (13–18 September 2012), in which the Academy issued a statement on Syria,

ADDRESSES its following call to people, leaders, scholars and statesmen of the Ummah, especially in countries where awful killing and disorder is going on:

FIRST: Strongly confirming sanctity of human blood and Muslims' obligation to preserve each other's lives and avert evils of causing harm to others. In this regard, Allāh the Almighty says: «…if anyone slew a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole humanity,» (Al-Mā'idah, 32) and the Prophet ﷺ said: "…in no way it is permissible for a Muslim to hurt another Muslim whether in body, property or honor." (Reported by al-Bukhari and Muslim)

SECOND: Emphasizing unity and territorial integrity of Ummah, which no Muslim should work for – or help those who work for – its destruction. It should also be emphasized that national unity is the prime means of ensuring

the sustainability of social cohesion, national power and sovereignty; and facilitate avoidance of internal struggles.

THIRD: Necessity of raising awareness among all segments within Arab and Muslim societies to leave no chance for the enemies of the Ummah and spoil the wicked plans of those who are waiting to launch their aggressive attacks after diverting the attention of the Ummah away from its significant issues to endless internal struggles.

FOURTH: Emphasizing the necessity of abiding by the Islamic approach of dialogue indicated in the Academy resolution no. 98 (1/11), 152 (1/17), as a means of resolving political disputes and arranging the relationship between governing authority, citizens and political parties. No resort should be to violence, killing, intolerance, sectarianism or excessive loyalty to narrow partisanships among the people of the same nation and country.

FIFTH: Affirming the fact that acknowledgement of the right of all segments of the society to justice, consultation, cooperation and decent life is a fundamental prerequisite of achieving the supreme objectives of the Ummah.

SIXTH: Necessity of extending all possible support to oppressed people who suffer different types of unfairness, killing, violence, and loss of security, because, as clearly stated by Allāh the Almighty, «The believers are but a single brotherhood.» (Al-Ḥujurāt, 10)

SEVENTH: Emphasizing the right of people in freedom and working to prevent detestable acts and call for good deeds through peaceful means and subject to the rules of Shariah.

The Academy urges all the Ummah, represented by its leaders, individuals, political powers, scholars and thinkers, to join hands for facing the dangers surrounding it, so that every Muslim country can recover its role in serving the Ummah.

As an international organization that has emanated from the OIC, the Academy calls states' leaders to exert every possible effort in order to patch up the crack, put an end to injustice and spread peace in countries that have entirely lost peace and comfort

We pray to Allāh the Almighty to protect our nation against all types of evil and grant us His righteous guidance. Indeed, He is the Guardian of Success.

In the Name of Allāh, the Entirely Merciful, the Especially Merciful

Statement on Israeli Aggressions against al-Quds and Al-Aqsa Mosque

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muhammad, the last of prophets, on his family, and all his companions,

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 21st session in Riyadh, Kingdom of Saudi Arabia, on 15–19 Muḥarram 1435H (18–22 November 2013),

IN ITS CAPACITY as a reference institution of the Ummah in the area of Fiqh,

CONSCIOUS of its responsibilities towards the Ummah and the great challenges and dangers it is facing nowadays, particularly the terrifying attacks of the Israelis against Al-Quds City and Al-Aqsa Mosque,

EMPHASIZES the following:

- Al-Aqsa Mosque is a sacred symbol to which every Muslim has the utmost sense of love and longing and the jewel that adorns the forehead of Al-Quds City and Palestine. It is the first of the two qiblas (Muslims prayer direction) and the third of the three Mosques which Muslims are not supposed to set in travel for the mere sake of performing prayer in any mosque other than them. Furthermore, Al-Aqsa mosque is the sacred place that witnessed the "Midnight Journey" of the Prophet Muhammad ﷺ and his "Ascension" to the "Seven Heavens." The Quran indicates the incident of the Midnight Journey in the following verse: «Glory to Allāh Who did take His servant for a journey by night from the sacred mosque to the farthest mosque whose precincts We did bless in order that We might show him some of Our signs for He is the One Who hearth and seeth (all things).» (Al-Isrā', 1) This verse shows clearly the everlasting link between the Sacred Mosque and the Farthest Mosque which the Quran emphasizes, a fact which makes it incumbent upon Muslims to have much interest in this blessed Mosque.
- Al-Aqsa Mosque and its sacred city are facing now sinful and persistent aggression by the Israeli occupation, which strives to judaize the holy city and spread its complete control over Al-Aqsa Mosque through aggressive acts. In the course of achieving its judaizing plan, the Israeli invasion resorts to the seizure of lands and expansion of settlement areas; destruction of houses of Palestinians; conducting digging works that have reached the foundations of the mosque and are about to lead to its complete collapse; abuse of monuments; and origination of Jewish temples in the holy city to be-

come part of the points from which Jewish settlers invade Al-Aqsa Mosque and commit their brutal assaults against Muslims citizens. The occupation authority continued its aggression against Al-Aqsa Mosque by preparing plans to get it shared between Muslims and Jews time or space-wise. Such arrangements, which are done in pursuit of the final aim of establishing the contended "Temple," are repeatedly emphasized through official declarations and discussions, in one of the Israeli parliament committees, on a draft law to be issued to this effect.

- Being conscious of these severe dangers surrounding Al-Quds City, Al-Aqsa Mosque, and many other sacred places, the Council of the Academy calls upon all states, governments, and the entire Ummah to face these dangers and work for them stopping them through political and legal action in all regional and international fora. In order to augment the impact of the steadfastness and courage of Al-Quds people, Muslim countries and governments are also called upon to provide moral and material support to Al-Quds people. Material support should cover diverse areas of social and economic life, particularly housing requirements. Furthermore, the Council urges Arab countries to honor as soon as possible their pledges to provide support to Al-Quds people, which they announced in various Arab summits.
- The Council of the Academy appreciates the efforts of those who are stationed in the courtyards of Al-Aqsa Mosque to defend it against all types of Zionist aggression and extend its thanks to OIC and Arab League Member states and Al-Quds Committee for the efforts they make in order to preserve sacred places in the holy city. Thanks are also due to the Kingdom of Saudi Arabia, for its outstanding efforts and tangible support to the Palestinian problem in general and to Al-Quds City and Al-Aqsa Mosque in particular.

Finally, the Council appreciates the Kingdom's position manifested in its non-acceptance of the International Security Council seat to show its denial to the indifference of the international community towards the just Palestinian issue and the ordeal of Al-Quds City and Al-Aqsa Mosque. This position of the Kingdom constitutes an essential step along the path of pursuing reform of the International Security Council.

Moreover, the Council thanks the King, government and people of the Hashemite Kingdom of Jordan for supervision, sponsorship and support they extend to the Islamic sanctities in Al-Quds.

Finally, the Council thanks all institutions, organizations, committees, societies, and other bodies supporting Al-Quds City and perseverance of its people

until abatement of occupation of this sacred land. «Allāh will certainly aid those who aid his (cause); for verily Allāh is full of Strength, Exalted in Might, (able to enforce His Will).» (Al-Ḥajj, 22–40)

Resolutions and Recommendations of the 22nd Session of the Council of the International Islamic Fiqh Academy

KUWAIT CITY
STATE OF KUWAIT

2–5 Jumādā al-Ākhirah 1436
22–25 March 2015

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 205 (1/22)

Shūrā (Consultation) and Democracy: An Islamic Perspective

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436H (22–25 March 2015),

having examined the research papers submitted to the Academy concerning *Shūrā (Consultation) and Democracy: An Islamic Perspective*,

having listened to the in-depth discussions on the subject,

resolves

first: Shūrā is one of the basic rules of Islamic life and a fundamental aspect of the Islamic governance system. Muslims are obliged to observe it, as Allāh the Almighty said, «Who (conduct) their affairs by mutual consultation,» (Al-Shūrā, 38) and He ﷻ also said to draw the attention of His infallible Messenger ﷺ whose teachings are always derived from revelation, «And consult them in the matter. And when you have decided, then rely upon Allāh» (Āl-'Imrān, 159). The Prophet ﷺ carried out this divine order in the best way to the extent that his companion Abū Hurairah رضي الله عنه said, "I have never seen anyone who consults his companions more frequently than the Messenger of Allāh, peace and blessings upon him."

second: In principle, there is no harm in benefiting from democratic mechanisms for achieving private or public interests, provided that such mechanisms are taken in isolation from their underlying philosophy in non-Muslim societies, which originates from the principle of "Rule of the People," and has nothing to do with compliance to rules and principles of Shariah. Besides the observation of Shariah norms, benefiting from democratic mechanisms in this manner would also entail observation of the unique characteristics of each Muslim country, in compliance to the principle of "interest recognition," which constitutes a fundamental basis of "derivation of rulings" in Islamic jurisprudence.

recommendations

1. Giving more care for dissemination of the culture of Shūrā in Islam by

indicating its original principles and applications through lectures, seminars, education curricula, media and other means of communication.

2. Specialized scholars and researchers are called upon to conduct more research that could lead to new forms and applications derived from the principle of Shūrā within the framework of Shariah norms.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 206 (2/22)

Questions of the Standards and Metrology Institute for Islamic Countries (SMIIC)

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436H (22–25 March 2015),

having reviewed the questions of SMIIC and the answers of the Academy's seminar for this purpose,

having listened to the in-depth discussions on the subject,

resolves

Given the multiplicity of Fiqh opinions and the large number of issues relating to the questions, in addition to the observations of its members, the Council resolved to refer the subject to the Secretariat of the Academy to prepare its answers for SMIIC accordingly and resubmit them to the Academy.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 207 (3/22)

Offensive Jihad and Defensive Jihad

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436h (22–25 March 2015),

having examined the research papers submitted to the Academy concerning *Offensive Jihad and Defensive Jihad*,

having listened to the in-depth discussions on the subject,

having recalled the fundamental concepts and mission of jihad and that the relations between the Ummah and other nations are based primary deliberate on peace and tolerance,

having recalled that fighting, according to Islam, has its origins in aggression rather than the indifference of faith,

having considered the new changes in the circumstances of Dawah and developments of communication methods between human societies in the remote parts of the world,

resolves

first: Jihād, in the general sense, signifies any legitimate effort that aims to uphold the word of Allāh the Almighty; communicate the message of Islam through all material and moral means in hand; and spread of justice, security and mercy in human societies.

second: Jihād is of two types:

1. Offensive Jihad: which aims to protect freedom of spreading the call for Islam; removing any barriers it may encounter; and defending those who are under oppression and tyranny, subject to specific rules and conditions that Islamic jurists have indicated for the achievement of interest and aversion of harm.

   Allāh the Almighty said, «And fight them on until there is no more tumult or oppression and there prevail justice and faith in Allāh,» (Al-Baqarah, 193), and He ﷻ also said, «And why should ye not fight in the cause of Allāh and those who, being weak, are ill-treated (and oppressed)?

– Men, women and children whose cry is: "Our Lord! Rescue us from this town whose people are oppressors."» (Al-Nisā', 75)

The ultimate objective of "Offensive Jihad" is the communication of the message of Islam without compulsion, because Allāh the Almighty, said, «Let there be no compulsion in religion.» (Al-Baqarah, 256); «… the Apostle's duty is only to preach the clear(message).» (Al-Nūr, 54); and «…thy duty is but to convey (the message).» (Al-Shūrā, 48) In this type of Jihad, and under contemporary circumstances, preachers should make use of international conventions and treaties which have made the world a territory of *'ahd* (covenant) in which countries allow mobility and grant freedom of missionary work through various modern devices of communication; in different languages; and among different societies.

In this context, the Academy reaffirms the Shariah fundamentals in which it has already issued resolutions and recommendations, including preparation of necessary equipment and empowerment of armies in the Muslim world in order to be able to defend the lands and interests of the Ummah.

2. Defensive Jihād: which refers to the type of jihād dictated by the Shariah-based duty of defense when an attack is launched against religion, the Ummah, the country, the society or the individual. The Shariah ruling justifying this type of jihad ceases to be valid as soon as the aggressive attack is over and the enemy moves outside the land. In this respect, Allāh the Almighty said, «Fight in the cause of Allāh those who fight you, but do not transgress limits, for Allāh loveth not transgressors.» (Al-Baqarah, 190)

RECOMMENDATIONS

1. Implementing the proposal of establishing an Islamic Court of justice supported by armed forces from different Muslim countries to assume the responsibility of resolving conflicts between these countries.
2. Reaffirming the need for operationalizing Academy resolution no. 68 (6/7) issued at its the 7th Session, comprising a recommendation on the preparation of a draft for "Declaration of International Rights in Islam," and the Academy resolution no. 128 (2/14), including a recommendation about the preparation of an "Islamic Code of International Humanitarian Law."
3. Constituting a committee of scholars and specialists to prepare educational programs that elucidates facts about Islam in the area of interna-

tional relations during war and peace, accommodate new developments in the subject and preserve fundamental principles and values.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 208 (4/22)

Excommunication of Muslims: Causes, Effects and Remedy

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436H (22–25 March 2015),

having examined the research papers submitted to the Academy concerning *Excommunication of Muslims: Causes, Effects and Remedy*,

having listened to the in-depth discussions on the subject,

having witnessed this escalating phenomenon of excommunicating Muslims (takfir) and the rush to accuse Muslim individuals, societies, states and governments of apostasy without the slightest regard to the maxims, objectives and principles of Shariah,

having considered the severe consequences of such ill-founded accusations, including murder, destruction and displacement,

having presented Shariah-based measures that preserve the entity of the Ummah and protect Muslim societies and individuals from the dangers arising from the accusation of apostasy,

resolves

first: Confirmation of the Academy resolution no. 152 (1/17) on *Islam and the One Ummah: Theological, Jurisprudential, and Educational schools*, issued in the 17th Session of the Council, and which indicates impermissibility of charging with disbelief any group that believes in Allāh the Almighty, His Apostle ﷺ, pillars of Īmān (faith), and pillars of Islam; and does not deny any essentially-known aspect of religion.

second: Confirmation of resolution no. 175 (1/19) on *Freedom of Religion in Shariah: Dimensions and Criteria*, which comprises the ruling that *fatwā* about any case of apostasy or disbelief is an exclusive right of recognized *fiqh* scholars, whereas the judiciary assumes the task of carrying out what these scholars stipulate, besides elimination of suspicions, etc. The same resolution also warns against the dangers that stem from attempts of accusing a specific Muslim sect of apostasy or disbelief, leave alone daring to direct such accusations to com-

panions of the Prophet ﷺ and virtuous Mothers of Muslims رضي الله عنهن, or demean their appreciated status.

RECOMMENDATIONS

FIRSTLY

The Secretariat of the Academy shall finalize the previous recommendations of the Council regarding the organization of seminars and meetings for discussing the following subjects:

a. The issue of Walā' and Barā' (loyalty versus disavowal).

b. The *ḥadīth* of Al-Firqa Al-Najiya (Successful Group).

c. Accusing someone of apostasy due to the total non-application of Shariah Rulings.

SECONDLY

1. Youth of the Ummah to beware of propagandists of perverted thinking and radicalism and seek correct and useful learning through a moderate and well-balanced approach. Youth need to follow the example of the righteous ancestors of the Ummah particularly the companions of the Prophet and their successive devoted followers.

2. Scholars and preachers of the Ummah to establish links of communication with youth, discharge their missionary duty, and abide by the moderate approach in promoting virtue and prevention of vice.

3. States and governments of Muslim countries to provide all possible means and remove obstacles that could jeopardize the process of communication between scholars, intellectuals and leaders on the one hand, and youth of the Ummah on the other.

4. Muslim countries to share each other's success stories in initiating dialogue with proponents of deviant thoughts; for example, *Munasaha* (Counseling and Advice) experience of the Kingdom of Saudi Arabia.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 209 (5/22)

Non-Muslim Citizens in Muslim Countries: Rights, Obligations and Applicability of Shariah Rulings

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436h (22–25 March 2015),

having examined the research papers submitted to the Academy concerning *Non-Muslim Citizens in Muslim Countries: Rights, Obligations and Applicability of Shariah Rulings*,

having listened to the in-depth discussions on the subject,

resolves

first: Shariah guarantees non-Muslims residing in Muslim countries the same public and private rights as Muslims. Non-Muslims are bound by the same obligations as Muslims, for they are both equal in rights and duties.

second: Non-Muslims residing in Muslim countries have the right to abide by the rulings of their own faith in matters of worship and personal/family affairs. It is permissible to set special courts to look into their litigations with verdicts to be implemented by state. In other matters, the laws of the land applies.

third: Similar to Muslims, non-Muslims residing in Muslim countries should observe public order and manners in the country, avoid violation of law and show loyalty to the country to which they belong.

fourth: Various media is called upon to give due consideration to elucidating the rights of non-Muslims as guaranteed by Shariah, in its efforts to disseminate Islamic culture and show tolerance and justice of Islam. These should also be incorporated in educational curricula.

fifth: All various media should always avoid provocation of sedition and sectarian intolerance between different segments of the society in order to help maintain national peace and order.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 210 (6/22)

Transmutation and Dilution of Additives in Food and Medication

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436h (22–25 March 2015),

having entrusted the commission established by the Academy to examine the issues of Transmutation (Istiḥālah) and Dilution (Istihlak),

resolves

first: Regarding *Istiḥālah* (transmutation), the Council reaffirms the adoption of the definition stated in its resolution no. 198 (4/21), which explains:

> In Fiqh terminology, Istiḥāla means "occurrence of real change in the defiled or Shariah-banned material leading to its conversion to another material that differs from the original one in characteristics and attributes. In prevalent scientific terminology, this is taken to mean any complete chemical interaction such as transmutation of oils and fats of different types to soap and decomposition of the material to its original components as in the case of dismantling oils and fats to acids and fatty glycerin. As chemical interaction can be done intentionally through scientific means and techniques, while it can also take place – invisibly – as per the forms that Fiqh scholars have indicated, including for instance: pickling, tanning and, burning. If chemical interaction is partial, it is not considered as transmutation and, therefore if the material in question is originally defiled, it remains as it is and should not be used.

As for dilution, it is the "immersion of one material into another in such a way that the characteristics and attributes of the submersed material completely vanish and the material is no longer identifiable in any of its different forms."

In all points stated above, due consideration should be given to rules and standards agreed upon among specialists in this area.

second: Regarding blood plasma – mentioned in the previous resolution – the Academy believes that the subject should be revisited due to new information. The Secretariat of the Academy shall convene a committee for this purpose.

third: Based on the definition of istihlak (dilution) stated above, the Council

resolved the postponement of discussion of the subject to allow time for further research.

FOURTH: ALCOHOL, GELATIN AND THEIR TRANSMUTATION

Participants agreed to what has been stated in the fatwā (Shariah opinion) and recommendation issued by the Islamic Organization for Medical Sciences (IOMS) in the seminar on *Prohibited and Impure Materials in Food and Medicine* held in Kuwait during the period 22–24 Dhū al-Ḥijjah 1415H (22–24 May 1995), at IOMS headquarters. The text of the fatwā and recommendation was as follows:

General Principles:

1. It is incumbent upon every Muslim to observe Shariah rulings, especially in food and medicine, to ensure purity of his food, drink, and clothing. Among the uncountable forms of the mercy of Allāh and His will to facilitate easy abidance by his directives, is that Shariah fully recognizes states of necessity and need and cover them by well-established principles such as (1) Necessities relax prohibitions; (2) Need can be treated as a necessity; and (3) Benefits are permissible in principle unless a proof about their prohibition is established. Similarly, things are immaculate in principle unless a proof about their defilement is established and prohibition of eating or drinking something does not indicate its impurity in Shariah.
2. Shariah does not consider alcohol as an impure material, based on the previously mentioned principle that materials are pure in principle. This ruling holds true in the case of plain alcohol or when alcohol is diluted by adding water. Therefore, according to Shariah, there is no harm in using alcohol medically as a sterilizer for the skin (wounds) and instruments or as a germicide. There is no harm also in using perfumes (eau de cologne) in which alcohol is used as a dissolvent of volatile perfume materials or using cremes that contain alcohol. Nonetheless, such permissibility does not apply to wine because it is prohibited to seek benefit from it.
3. Since alcohol is an intoxicant substance and its drinking is prohibited, and until Muslims achieve their aspiration of manufacturing alcohol-free medicines, especially for children and pregnant women, there is no Shariah restriction against using medicines, produced in our days, that comprise alcohol as a meagre component for conservation or dissolving of elements that cannot be dissolved by water without it being used as a sedative substance and as long as there are no other medicine substitutes (without alcohol). The seminar recommended in this regard that concerned health authorities may determine the ratio of alcohol to be used

in medicines according to relevant scientific norms and regulatory rules.

4. It is not permissible to take foodstuffs that contain wine even if at a meager ratio, particularly foodstuffs which are widely used in the western countries like some types of chocolates and iced food (ice cream, *gelati* and *booza*) besides some kinds of carbonated drinks, based on the Shariah rule that it is not permissible to take a small quantity of a substance that is toxicant when taken in big quantity, in addition to unavailability of any Shariah-acceptable reason that justifies permissibility of taking such food.
5. Foodstuffs in which a slight amount of alcohol is used as a dissolvent of the elements that cannot be dissolved by water, such as colourants, conservation materials and the like, are permissible to consume due to its becoming a commonly accepted evil (Umum al-Balwa) because most of their alcohol component evaporates and vanishes during the process of manufacturing according to regulations and instructions of health and food authorities. Nevertheless, manufacturers and Muslims should always be keen to use alcohol-free substitutes whenever possible.
6. Foodstuffs that comprise pig fat-like, for instance, some types of cheese, oil, fat, ghee, and butter; and also some types of biscuits, chocolate and ice cream, are strictly prohibited, due to unanimous consensus among Shariah scholars about the impurity of pig and prohibition of eating it, besides lack of necessity of taking substances of these types.
7. Gelatin: The Academy considers assigning its Secretariat to conduct further research and study of the issue.

Hormones and Enzymes

- A hormone is a chemical substance that the endocrine glands secrete in the blood to regulate several autonomous and constructive biological processes. A hormone affects the entire body.
- The enzyme is a protein molecule secreted by the body cells and has a positional effect that accelerates chemical interaction in organisms without being consumed.
- Heparin extracted from pigs should not be used except under necessity. Modification of heparin for obtaining low molecular weight heparin does not constitute a transmutation process that can form a basis for an independent judgement. On the other hand, there is no harm in using heparin prepared through genetic engineering without any pig-related ingredient.

- The use of insulin extracted from pigs is not permissible except under necessity due to the availability of permissible substitutes, whereas the use of human insulin and its likes prepared through genetic engineering is permissible.
- Heart valves: Substitute valves can be either metallic or biological (human or zoological) and can be used, while pig valves cannot be used as substitutes except in case of necessity.

FURTHER, RESOLVES

CHEESE MANUFACTURED BY RENNET CURDLING

1. Pig rennet is prohibited and considered as impure.
2. If rennet is extracted from a meat-eatable animal that has been slaughtered in accordance with Shariah, it is considered pure and permissible.
3. If rennet is extracted from a dead animal that has not been slaughtered in accordance with Shariah, most of the participants are of the opinion that it is impure and not permissible, and some consider it pure.
4. It is permissible to use rennet prepared through genetic engineering from the gene that produces it.

TREATED SEWAGE WATER

It is water that people have already used for their living, household, services and industrial requirements, and which carry a diversity of human and industrial wastes.

USES OF TREATED SEWAGE WATER

The Academy resolved the permissibility of using treated sewage water for purposes like floor and clothes washing. It can also be used for irrigation of uneatable agricultural crops unless it is harmful. If treated sewage water is proved to be harmful when used for irrigation of uneatable crops, it should not be used to avoid its harmful consequences.

Treated sewage water should not be used for cooking and drinking unless its safety in such uses is proved. It is also not permissible to use treated sewage water for worship-related purposes except after ensuring its purity.

GENERAL RECOMMENDATIONS

1. Efforts for the treatment of sewage water are a Shariah duty even in the absence of intention to use it, in order to eliminate human and environmental dangers that could arise from its accumulation. Avoidance of such

dangers should taken into consideration, besides economic benefits that could be generated from sewage water recycling. Even if sewage water is just rechanneled into rivers and seas after treatment, that would constitute abidance by the Shariah maxim that "Aversion of harm has priority over the achievement of interest."

2. Raising awareness about rationalized water use for all purposes, including household, services and irrigation purposes, because our wise Shariah encourages to do so.
3. Continuation of scientific research on most suitable, cost-effective and less power consuming methods of sewage water treatment to avoid harmful consequences of the accumulation of sewage water.
4. Continuation of scientific research and experiments that ensure utilizing treated sewage water for suitable and Shariah-permissible purposes.
5. Strict control over facilities and people in-charge of sewage water treatment.
6. Continuous monitoring of safety of food and nonfood crops irrigated by treated sewage water.
7. People should be informed about products that depend on sewage water irrigation to facilitate access to such information before making purchase decisions.
8. Utilizing wastes in sewage water in energy production and to limit environmental pollution.

FODDERS CONTAINING PROHIBITED COMPONENTS

The Academy resolved the prohibition of using fodders that contain waste of dead animals, blood, pork, hormones and antibiotics, based on the fact that these components cause severe harms to human health.

RECOMMENDATION

Muslim countries should make due investigations when importing fodders from foreign countries, to ensure that fodders imported do not contain the above-mentioned components.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 211 (7/22)

Women and Public Governorships

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436h (22–25 March 2015),

having examined the research papers submitted to the Academy concerning *Women and Public Governorships*,

having listened to the in-depth discussions on the subject,

resolves

first: The Academy emphasizes that Islam has granted women their full rights and placed them in the most suitable position taking into consideration their social status and natural abilities, as well as their role and responsibility as a mother, daughter, and spouse.

second: The Academy shares the same opinion of the majority of Muslim scholars that woman is not to assume supreme governorship (head of state).

third: Women's assumption of public positions of powers such as head of the judiciary, ministerial positions and the likes is a controversial issue among Fiqh scholars of different schools. This is considered a matter of *khilāf mu'tabar* (recognizable difference of opinion); therefore, scholars can decide, at the country level, the viewpoint they deem worthy of preponderance.

fourth: When a woman assumes any public position of the above types, she should abide by the rules and manners of Shariah, especially how to dress among others. Besides, her assumption of such positions should by no means impede her primary educational functions towards her family.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 212 (8/22)

Bank Guarantee for Misinvestment of Clients Funds and Compensation for the Consequent Losses

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436h (22–25 March 2015),

having examined the research papers submitted to the Academy concerning *Bank Guarantee for Misinvestment of Clients Funds and Compensation for the Consequent Losses*,

having listened to the in-depth discussions on the subject,

resolves

first: Bank guarantee means that the bank bears the total or partial loss of depositors and owners of investment accounts' funds.

second: Description of the Bank's Hold on Deposited Funds in the Two Following Forms:

1. holding under guarantee: which means holding the funds as an owner, or to its own benefit as a holder, such as: holding by the purchaser, or recipient of the purchase price; or holding by the mortgagee, extorter, owner and borrower. Bank accounts that fall under guarantee holding are demand deposits (current accounts). In this regard, the Council reiterates what was stated about deposits in its resolution no. 86 (9/3), Clause (First) that "Demand (current) deposits with Islamic banks are loans in the Fiqh perspective, because the receiving bank holds them under guarantee, and is committed, according to Shariah, to repay them on demand."
2. holding under trusteeship: which means holding the funds on behalf of rather than in the capacity of an owner. Holding of the funds, in this case, is permitted by the owner, and it includes holding of the: deposit keeper, lessee, partner, Muḍārabah worker, Waqf supervisor, guardian and the like. Islamic Bank accounts that fall under this type of holding are investments deposits. In this connection, the Council reconfirms what

has been stated in Clause (Second (b)) of its resolution referred to in point (1) above"Deposits delivered to banks that are committed to rules of Shariah, based on an investment contract and for a profit share, are Muḍārabah capital and subject to Muḍārabah (qirad) rulings in Islamic Fiqh, which include – among others – impermissibility of guaranteeing Muḍārabah capital by the Muḍārabah worker/muḍārib(the bank in this case)."

THIRD: It is not permissible for the bank, when assuming the role of the *muḍārib*, to guarantee total or partial loss of investment accounts, except in case of transgression negligence or breach of contract, as indicated by the general rules of Shariah. Among cases of transgression are the following:

1. Noncompliance of the bank with Shariah criteria stipulated in contracts and agreements of opening investment accounts in all their different types.
2. Violation of banking and commercial regulations, laws, or practices issued by supervisory bodies responsible for regulating banking business, unless such regulations, laws, and practices contradict the rules and principles of Shariah.
3. Slackness in preparation of adequate feasibility studies for investment operations.
4. Selection of the wrong operational modes and mechanisms.
5. Failure of complinance with the bank's internal directives and operational norms.
6. Failure to obtain sufficient collaterals, as per normal practice in the industry.

FOURTH: It is not permissible to stipulate a guarantee by the bank as a *muḍārib* because such stipulation contradicts the essence of the Muḍārabah contract. Therefore the Council reconfirms what has been stated in its resolutions no. 86 and no. 30 (5/4) on Muqāraḍah Bonds, which indicates that "It is not permissible for Muqāraḍah Ṣukūk or prospectus to include any text indicating that Muḍārabah working party is to guarantee the capital or any lump sum or percentage return on capital. When such stipulation is implicitly or explicitly introduced the guarantee becomes invalid, and the muḍārib becomes entitled to a profit of similar Muḍārabah transactions."

FIFTH: In a legal suit of loss, the burden of proof shifts – contrary to the case in principle – to the bank, provided that there is evidence contradicting with

the bank's claim of not committing transgression. Among the factors that support resorting to this procedure (shifting the burden of proof) are the following:

1. If it is a common practice not to accept such claim of the *muḍārib* (the bank) unless it provides evidence validating the claim of not committing transgression or negligence.
2. Certitude of accusation against trustee: which means a preponderance of suspicion about the trustee's (the *muḍārib*) honesty in denial of transgression and negligence because the *muḍārib* is normally expected to preserve invested capital amounts against loss and achieve profits.
3. Certitude of of the existence of interest in shifting of burden of proof to the *muḍārib* (bank) in order to protect investors' funds against loss, claimed by *muḍārib* or in case of loss of investor's funds.

SIXTH: It is permissible for the bank to donate part of its profit share without stipulating that in the contract.

SEVENTH: Several bodies are normally entrusted with the determination of responsibility of the bank towards abuse of the funds of investment accounts holders, including the following:

1. Supervisory bodies like central banks, whether a full-fledged Islamic regulatory body or a conventional body with committees specialized in Islamic Banking.
2. Centers of reconciliation, arbitration and conflict resolution such as the Islamic International Center for Reconciliation and Arbitration in Dubai.
3. Auditors as per the generally accepted practices of the profession. According to Accounting Standard No. (5), issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) – Bahrain, this responsibility is considered to constitute part of the responsibilities of the external auditor. This task can also be assigned to the Shariah Supervisory Board.

EIGHTH: Compensation for losses in investment accounts should be confined to actual harm – whether the loss is total or partial – without guaranteeing potential profit that has not been realized (opportunity cost) because it is nothing more than an unrealized expectation not actually materialized.

RECOMMENDATIONS

1. Islamic banks should be keen while investing in depositors' funds to pursue methods and mechanisms that would mitigate investment risks and

safeguard these funds against loss. Suitable arrangements in this regard may include the establishment of special funds and the allocation of necessary reserves.

2. Muslim countries are called upon to enact laws for the establishment of institutions for deposits insurance or introduce amendments in the existing laws and regulations to cater for cooperative insurance funds to be established by Islamic financial institutions and managed given the rulings stated in the Academy resolution no. 200 (6/21) on *Shariah Rulings and Standards for the Foundations of Cooperative Insurance*.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 213 (9/22)

Rights of People with Disabilities in Islamic Jurisprudence

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436h (22–25 March 2015),

having examined the research papers submitted to the Academy concerning *Rights of People with Disabilities in Islamic Jurisprudence*,

having recalled the extreme attention given by Shariah to people with disabilities,

having listened to the in-depth discussions on the subject,

resolves

1. A person with a disability is a person who is unable mentally, sensorily or physically to perform the acts that he or she needs to perform compared to a healthy person.
2. The rights of people with disabilities refer to the qualities that Shariah and existing laws confer to them to lead a decent life.
3. Shariah has guaranteed the rights of people with disabilities to live a dignified life, and made them an inseparable part of their community, who enjoy the same rights of others, except for rights exempted by a Shariah evidence.
4. People with disabilities have rights over their families, including the right to take measures to eliminate the causes that lead to disability. The family should pay necessary expenses for its members with disabilities, provide them with appropriate education based on compassion and respect, and strive to meet their basic needs such as marriage, housing, etc.
5. People with disabilities have rights over their society. The most important of these is integration with other members of society, good fellowship, respect, non-humiliation in any way, and investment of their energies and abilities for their own wellbeing and benefit; and that of their society.
6. People with disabilities have rights over the State:

- Health care through the establishment of specialized medical institutions for the treatment and rehabilitation of people with disabilities, and through the training of their caregivers on how to care for them.
- Appropriate education, including providing the most developed methods and means of education and the training of teachers and educators specializing in their education and rehabilitation.
- Labour that takes into account abilities and means of people with disabilities, including training to prepare their entry into the job market.
- Financial adequacy of financially disadvantaged people with disabilities through Zakāh, Awqāf, charities, and public funds.
- Travelling by appropriate means, including providing appropriate means of transport and establishing appropriate standards for public buildings and utilities to facilitate their movement and mobility.
- Enact laws and regulations that preserve their rights and monitor their application.

RECOMMENDATIONS

1. Work to raise awareness in the family and society on the rights of people with disabilities in all possible ways; through media, educational, cultural and social programs.
2. Support from government and non-governmental organizations and institutions concerned with disability issues and strengthening their relevant collaborators.
3. Organizing conferences, seminars and workshops on disability issues.
4. Establish disability studies and research centers and benefit through programs directed to people with disabilities.
5. Widen the windows of mutual communication between society and people with disabilities and create and support associations that are interested in their rights and adopt their causes at local and international levels.
6. The Academy reaffirms the need to do everything possible to reduce the causes of disability, including pre-marital medical examinations and vaccination against poliomyelitis and other types of diseases.
7. Endorsing international conventions on the rights of people with disabilities without violating Shariah rules.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 214 (10/22)

Majority and Subordination in Financial Transactions: Cases, Criteria, and Conditions for their Achievement

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436h (22–25 March 2015),

having reviewed the recommendations of the scientific seminar on *Majority and Subordination in Financial Transactions: Cases, Criteria, and Conditions for their Achievement*, held in Jeddah on 25–26 Ṣafar 1436h (17–19 December 2014),

having recalled the Academy resolutions no. (30), (188), and (196), on the same subject,

concludes that this subject requires alignment and integration between the relevant resolutions in order to reformulate the recommendations of the above-mentioned seminar,

and plans to assign the Secretariat of the Academy to establish a scientific expert committee to present its conclusions to the Council at its next session.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 215 (11/22)

Continuation of the Research and Study on Cooperative Insurance Issues

pursuant to the Academy resolution no. 200 (6/21) concerning *Rulings and Standards for the Foundations of Cooperative Insurance*, issued at its 21st session at Imam Muhammad bin Saud Islamic University in Riyadh, Kingdom of Saudi Arabia on 15–19 Muḥarram 1435H (18–22 November 2013), which requested a special seminar to discuss several issues related to cooperative insurance in preparation for the Council of the Academy to issue appropriate resolutions and recommendations on the subject,

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436H (22–25 March 2015),

having reviewed the recommendations of the seminar held in Jeddah, Kingdom Saudi Arabia on 15–19 Muḥarram 1435 (18–22 November 2013), which addressed the following questions and issues:

- Establishing Shariah-based conditions and regulations for the activities of a legal person working for the policyholder.
- Determining the contractual relations governing the cooperative insurance contract in terms of:
  - Adjustment of relations between the policyholders and the fund to determine the beginning of the donation commitment to avoid obscurity of returning donation during the distribution of the surplus.
  - Adjustment of relations between the shareholders and the insured in case of default of the subscription account (*qarḍ ḥasan*/benevolent free loan).

- Examining the insurance surplus in terms of:
  - The extent to which part of the insurance surplus can be deducted to cover the risk of a deficit in the cooperative insurance fund.
  - The extent to which a specified percentage of the surplus can be deducted to cover the risk of natural disasters.

- The extent to which the indemnity granted to the manager of insurance transactions may constitute a part or a percentage of the insurance surplus for all its activities without deduction of contribution costs.
- The extent to which the possibility of combining a percentage of the amount of contributions with a percentage of the surplus of the remuneration received by the insurance manager in return for managing the insurance operations, would provide an incentive to improve performance.

- Studying the fundamentals of Waqf as a basis for Islamic insurance in all its aspects, explaining the motives behind the experiences implemented by companies concerned; and studying the extent to which this method fulfils Shariah conditions and regulations.
- Reviewing international experiences in cooperative insurance and identifying the extent of their compliance to the principles adopted in the resolution of the Academy no. 200 (6/21) concerning the rulings and regulations of Shariah on the principles of cooperative insurance.

HAVING EXAMINED AND DISCUSSED the above-mentioned questions and issues,

RESOLVES

Resolutions shall be divided into three aspects as follows:

ASPECT I: INSURANCE SURPLUS

- The extent to which a part of the insurance surplus can be deducted to cover the risk of a deficit in the cooperative insurance fund.
- The extent to which a certain percentage of the realized insurance surplus can be deducted to cover the risk of natural disasters.
- The extent to which the remuneration that may be paid to the insurance manager for his management of insurance transactions may constitute a part or a percentage of the insurance surplus for all its activities without deduction of contributions fees.
- The extent of the possibility of combining a percentage of the amount of the contributions with a percentage of the surplus of the remuneration received by the insurance manager in exchange for managing the insurance operations, which may be considered as an incentive to improve performance.

After reviewing its recommendations, the Council of the Academy reaffirms

articles 4 and 6 of resolution no. 200 (6/21), and considers that making *e'wadh* (compensation) a percentage of the surplus or making a percentage of the surplus an intensive for the managing party, should not be taken into consideration as it leads to practical and jurisprudential obscurities.

ASPECT II: STUDY OF THE WAQF FOUNDATIONS OF ISLAMIC INSURANCE IN ALL ITS ASPECTS

In accordance with article 16 of resolution no. 200 (6/21) concerning Shariah rulings on the principles of cooperative insurance, which states the following:

It is possible to establish a financial and charitable Waqf based on the making Waqf of money (Waqf al-nuqūd). The Council of the Academy estimates that it can benefit from the Waqf in the implementation of the previous resolution through the following procedures:

1. It is permissible to establish Waqf al-takaful fund (cooperative Waqf) to cover some risks of the proceeds of the funds endowed. It is also permissible to accept donations for different types of insurance. There is no established prohibition in Shariah on expenditures from the profits of awqāf and from the established awqāf and the donations received to cover risks.

   In order to cover these risks, the awqāf supervisory authorities of different countries, in coordination with the competent authorities of the cooperative insurance sector, should organize this type of activity in accordance with what they consider a factor for realizing the general interest and in compliance with the principles of justice.

2. It is permissible to deduce a portion of the insurance surplus to constitute a financial Waqf and strengthen the fund's solvency and its ability to cover the insured risks.

3. It is permissible for Islamic insurance companies to create a Waqf fund with financial contributions deducted from insurance surplus to use their proceeds in the event of a deficit or default of the companies participating in the fund.

Therefore, the Waqf fund may be used in the field of cooperative insurance, but it cannot replace the formulas that the Academy has clarified in its resolution.

ASPECT III: EXAMINATION OF INTERNATIONAL EXPERIENCES IN COOPERATIVE INSURANCE AND IDENTIFYING THE EXTENT OF THEIR COMMITMENT TO THE PRINCIPLES STATED IN RESOLUTION NO. 200 (6/21) ON SHARIAH RULINGS AND REGULATIONS REGARDING THE FOUNDATIONS OF COOPERATIVE INSURANCE

In the light of the studies on international experiences, the Council observed that most international experiences in the application of cooperative insurance have been in line with the Academy resolution no. 200 (6/21), but some infringements have been noted, in particular:

FIRST: absence of internal Shariah Supervisory Boards in some takaful insurance companies.

SECOND: managing company is required to pay the benevolent loan (qard hasan) or to commit itself in advance to it, as this is in contradiction with article 9 of the resolution of the Academy issued at its 21st session.

THIRD: non-disclosure of cooperative insurance mechanisms and procedures to participants at the time of the conclusion of the contract.

FOURTH: sharing the insurance surplus between the managing company and subscribers, as the company has already received its lease/payment right or a percentage of the profits under what was approved for the agency contract (wakāla) or speculation contract (Muḍārabah).

FIFTH: the policyholder must waive the benefit of Muḍārabah if the profit falls below a specified amount.

RECOMMENDATIONS

FIRST: the wide dissemination in different languages of the Academy resolution no. 200 (6/21) and its present resolution at the current session, which shall constitute a comprehensive reference for the principles and foundations governing the activities of cooperative insurance from a Shariah perspective. This shall include its distribution among operative cooperative insurance companies and their Shariah Supervisory Boards.

SECOND: recommending to legislative and fatwa councils working in the field of cooperative insurance in Muslim countries to include the two resolutions of the Academy in their legislation, in addition to mentioning the Academy as an official and leading reference in Shariah.

THIRD: recommending to include in the legislation governing cooperative insurance the declaration providing insurance pot (policyholder fund - independent accounts from the company accounts) - a legal personality that must include all the participants in the cooperative insurance accounts while taking note of the resolution of the Academy no. 200 (6/21). Thus, these legislations

identify who should represent this legal personality in a manner that does not lead to conflicts of interest.

FOURTH: publishing governance standards for Islamic insurance institutions and companies, in order to achieve the high objectives and vision of the Academy in its resolution no. 200 (6/21), which includes preserving the rights of the parties involved, in particular, the managing party and the insurance fund, in order to avoid conflicts of interests and to render justice to both parties.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 216 (12/22)

Visit to Jerusalem: Shariah Objectives and Rulings

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 22nd session in Kuwait City, State of Kuwait, on 2–5 Jumādā al-Ākhirah 1436H (22–25 March 2015),

having examined the research papers submitted to the Academy concerning the *Visit to Jerusalem: Shariah Objectives and Rulings*,

having listened to the in-depth discussions on the subject,

concludes that the Shariah ruling regarding this visit is a desirable and recommended act, but the discussion focused on the advantages and disadvantages of this visit.

considers that the evaluation of these advantages is due to competent specialists such as rulers and decision-makers in Muslim countries.

It is, therefore, necessary to remind all Muslims that the cause of al-Quds al-Sharīf (Jerusalem) is the cause of the entire Ummah, and it is an obligation to support and help al-Quds al-Sharīf, its inhabitants, and the Palestinian people.

Al-Quds Al-Sharīf is not only the concern of the Palestinian people but of all Muslims. The preservation of Al-Aqsa Mosque is part of the Islamic faith and among the responsibilities of Muslims.

Indeed, Allāh is All-Knowing.

Resolutions and Recommendations of the 23rd Session of the Council of the International Islamic Fiqh Academy

AL-MADINAH AL-MUNAWWARAH
KINGDOM OF SAUDI ARABIA

19–23 Ṣafar 1440
28 October – 1 November 2018

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 217 (1/23)

Young Girls Marriage between the Right of the Guardian, the Girl's Welfare, and the Extent of the Government's Authority in its Prevention or Restriction, from Shariah Perspective

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having examined the research papers submitted to the Academy concerning *Young Girls Marriage between the Right of the Guardian, the Girl's Welfare, and the Extent of the Government's Authority in its Prevention or Restriction, from Shariah Perspective*,

having listened to the in-depth discussions on the subject,

resolves

1. A young girl is someone who has not reached the age of puberty, and the age referenced to in marriage is puberty defined by the age of fifteen to sixteen years old because it is determinable as ascertained by Islamic jurists.
2. Islamic law did not set up a particular age for concluding a marriage contract. The age of consummation is a matter which is determined according to the circumstances of time and place, and to the capacity of both parties in the contract for marriage and establishing a family.
3. Considering the mercy and compassion of the father towards his daughter and the obligation he owes to take care of her welfare, he has the right to get his daughter married after taking the judge's permission. If it is confirmed that marrying causes her harm or damage, the father is forbidden to get her married. If the legal guardian is not the father, he is not allowed to get the young girl married until she reaches the age of puberty mentioned in paragraph (1).
4. Determining the age for a young girl's marriage, which requires a judge's

permission, is left to the Government in each country, being Walī al-Amr, that should determine it based on the circumstances of time, place, and age in realizing the welfare of all parties.

5. The girl's welfare should be a priority with respect to her marriage.
6. The father guardianship or other types of guardianships on the young girl are tied to the realization of her welfare.
7. Obtaining the girl's approval for marriage is an obligation. It is not permissible to get her married without her consent and satisfaction as per the ḥadīth of Prophet Muhammad ﷺ which states: "…the virgin should be asked for permission about her marriage, and her permission is her silence, and a woman who has been previously married has more right to her person than her guardian."
   If a woman has been married without her consent, she has the right to annulment.
8. Each country has the right to determine the appropriate marriage age, according to what it sees is realizing the welfare of the girl, family, and community, and each country has the right to determine an appropriate punishment for whoever forces a young girl into marriage without the judge's permission.
9. Health criteria should be implemented for young girl marriage, with a minimum age of 15 to 16 years old. It is not permissible (for any guardian) to marry a young woman without these criteria. Reliable doctors should estimate these criteria.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 218 (2/23)

Rulings on Insolvency and Bankruptcy in Shariah and Contemporary Systems (Continuation to the Previous Resolution)

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having reviewed the recommendations issued by the scientific symposium on the *Rulings on Insolvency and Bankruptcy in Shariah and Contemporary Systems*, held by the International Islamic Fiqh Academy in Jeddah, in collaboration with the Islamic Research and Training Institute of the Islamic Development Bank Group on 31 November – 1 December 2017.

having listened to the in-depth discussions on the subject,

resolves

first: confirmation of the Academy resolution no. 186 (1/20) statement on the definition of insolvency and insolvent debtor. In determining the applications of insolvency, customary practices should be taken into account.

second: confirmation of paragraph (2) of the resolution mentioned above on the criteria of bankruptcy, while taking into account the following:

1. No bankruptcy without a judicial decree.
2. Rulings on bankruptcy apply for both natural and legal persons.

third: confirmation of paragraphs (2), (3), and (4) of the resolution mentioned above.

fourth: some insolvency and bankruptcy issues in Islamic financial institutions are as follows:

1. A default in payment (of due obligations) is insolvency. It cannot be considered bankruptcy in the Shariah perspective if the assets owned by the institution or the company fulfil its debts. The creditor may recourse to the court for issuance of a bankruptcy decree. The indebting company

or institution may also recourse to court in order to obligate creditors for restructuring.

2. Some suggested solutions to solve insolvency (default/difficulty) in Islamic financial institutions and companies are as follows:

   a. Submitting a particular financial asset or a usufruct of a specific asset for the payment of the due debt.

   b. Transforming debts into shares (capitalization) through increasing the capital of the indebted company by issuing ordinary shares which the creditor contributes with his debt owed by the company. Then, he would turn into an owner of a portion in the company and its assets at the same amount the debtor company owed him.

3. An agreement between the debtor company or institution with the creditor on restructuring according to how an acceptable, reliable expert reference estimates the company's situation and determines the conditions of restructuring if the need arises.

RECOMMENDATIONS

1. Undertaking extensive studies on the practical solutions for insolvency in financial institutions to preserve the rights of all parties.
2. Drawing attention to introducing regulations and laws that protect crediting and debiting clients of the company while taking into consideration the preservation of all related parties' rights to rectify their financial status.
3. Concerned authorities, particularly judicial authorities, to give attention to judicial principles which keep pace with contemporary developments in the field of insolvency and bankruptcy.
4. The Secretariat of the Academy to continue studying the effects of insolvency and bankruptcy on limited liability companies, including the case when its majority owner is still at financial ease.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 219 (3/23)

Invalidators of Fasting in the Field of Therapeutics (Continuation to the Previous Resolution)

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

IN CONTINUATION to the Academy resolution no. 93 (1/10) on the *Invalidators of Fasting in the Field of Therapeutics*, that identified the issues required for research in this session, which are as follows:

1. Asthma inhaler.
2. Bloodletting and cupping.
3. Blood extraction for laboratory test, blood donation, or blood reception.
4. Hemodialysis and peritoneal dialysis.
5. Devices penetrating the anus, such as enema, suppositories or endoscopes.
6. General anaesthesia surgeries.

HAVING EXAMINED the research papers submitted to the Academy on the subject,

HAVING LISTENED to the in-depth discussions,

RESOLVES

1. Invalidators of fasting are deliberate acts of eating, drinking, marital intercourse (and their likes), and vomiting.
2. The inner part of the body that invalidates fasting due to what reaches it is: whatever exceeds the throat to the digestive system, and reaches the stomach whether it is nutritious or non-nutritious and usual or unusual methods.

A: NON-INVALIDATORS OF FASTING

1. Asthma inhaler does not affect the validity of fasting, as it targets the respiratory system, and the amount of its medication reaching the stomach is very small, forgivable, unintentional, and is lesser than what reaches the stomach from the remains of mouth rinsing during ablutions and from brushing teeth with miswāk (natural arak toothbrush).
2. Blood extraction for laboratory analysis or for donation.
3. Anything entering through the anus, such as injections, suppositories, endoscopes, and ointments, except for nutrient injections.
4. Hunger suppressant plasters.
5. Liposuction unless accompanied by injection of nutrient fluids.
6. Endoscopes or finger medical examination.
7. *Fasd* (bloodletting/phlebotomy) and *hijama* (wet cupping).
8. Loss of consciousness due to general anesthesia for a part of the day, even if unconsciousness persists until the end of the day, provided anaesthesia has been performed during fasting and has not been accompanied by fluids.

B: INVALIDATORS OF FASTING

1. Whatever enters the digestive system, exceeds the mouth and pharynx and dissolves or digests food, i.e. oesophagus and intestines.
2. Whatever nurtures the body of the fasting person through any natural outlet, such as nutrient injections, because it falls within the sense of nourishment and contradicts the purpose of fasting.
3. Respiratory gas humidification for the treatment of asthma is an invalidator because the amount reaching the stomach is much larger than the forgivable amount.
4. Blood transfusion as it contains a large quantity of water.
5. Hemodialysis, and peritoneal dialysis because they transmit a large amount of water, salts, and sucrose.
6. Asthma inhaler capsules containing a dry powder because a part of it is a substance that reaches the stomach.

RECOMMENDATIONS

1. The treating doctor plays a very important role in determining the necessity or the need for the execution of therapeutic or diagnostic interven-

tions which may invalidate fasting. If such a procedure is not necessary and can be postponed to the time of non-fasting, the doctor must point this out to his patient.

2. Work on raising patients' awareness of whatever pertains to their acts of worship in a correct and rewarded manner based on Shariah. Also, call to consult reliable scholars to clarify confusions and issues they may encounter during fasting.

3. Inform and advise renal failure patients, who are not expected to recover, not to fast in order to preserve their health, that they are excused, and should pay a *fidya* (compensation) consisting of feeding one needy person for each day not fasted.

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 220 (4/23)

Clitoral Hood Reduction Surgery (Clitoropexy) in Islamic Jurisprudence

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having examined the research papers submitted to the Academy concerning *Clitoral Hood Reduction Surgery (Clitoropexy) in Islamic Jurisprudence*,

having listened to the in-depth discussions on the subject,

resolves

1. Clitoral hood reduction in Islamic jurisprudence is the removal of a minimal amount from the prepuce over the clitoris while leaving the clitoris safe. This surgery is called clitoral hood reduction surgery or clitoropexy.
2. Clitoral hood reduction is an ancient social custom that Prophet Muhammad ﷺ advised to refine in a way to protect young females against excess over the usual reduction limit.
3. Clitoral hood reduction referred to in paragraph (1) is the subject of disagreement among Muslim scholars, and it is not practiced in most Muslim countries. Some Fiqh scholars deemed it permissible, provided it is done within Shariah criteria and conditions, which should be observed during its application, including medical supervision.
4. It is forbidden to modify any part of the female reproductive system, except what has been mentioned in paragraph (1) because it has harmful effects on women and their marital life. Shariah forbids such modification, and its perpetrator is criminalized, according to Shariah. Moreover, the International Islamic Fiqh Academy supports measures taken by Muslim governments to eliminate these violations.
5. Clitoral hood reduction in this resolution does not fall within the scope of female genital mutilation or cutting, which is prohibited in Islam and

condemned by international health organizations, particularly the World Health Organization.

RECOMMENDATIONS

- The Council of the Academy requests the World Health Organization to reopen the issue of female genital mutilation in partnership with religious, social, and medical leaderships, to enhance its understanding and knowledge of its Islamic ruling as well as to update its religious information and perceptions.
- Contemporary medical experts and institutions should be consulted when a woman needs to undergo clitoral hood reduction surgery and in order to clarify the difference between clitoral hood reduction and other forms of genital mutilation which are unanimously criminalized.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 221 (5/23)

Intellectual and Operational Procedures to Confront Fanaticism, Extremism, and Present-Day Terrorism in Different Areas and Fields

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having examined the research papers submitted to the Academy concerning *Intellectual and Operational Procedures to Confront Fanaticism, Extremism, and Present-Day Terrorism in Different Areas and Fields*,

having listened to the in-depth discussions,

resolves

All forms and kinds of extremism are prohibited in the Noble Quran and the Prophet's Sunnah. Its prohibition worsens when extremism leads its followers to assault human beings, dignities, properties, intellects, and religions.

recommendations

first: Improving the content and style of the religious discourse at Mosques by connecting it to social events and the living reality.

second: Elevating the position of the Imam (Mosque leader), Mu'adhin (caller to prayers) by improving their living standards and professional level in addition to qualification training and programs in the field of religious preaching and guidance. This should also include all workers in mosques.

third: Establishing Quran Academies in every country, supervised by a distinguished group of experts specialized in Quranic sciences and recitations and provide these centers with the latest educational means to fight extremist ideologies.

fourth: Recruiting competent Muftis who fulfil the conditions for issuing fatāwā (Shariah legal verdicts) and assigning them to different cities and regions in their countries. Also, calling on governments to rely on collective Iftā in gen-

eral and contemporary issues, in order to revive the jurisprudence of collective Ijtihād, and to introduce laws banning incompetent individuals from addressing fatwās, and to implement deterrent penalties against them.

FIFTH: Modernizing educational courses in educational institutions and bringing them up to date in order to open their content toward the respect of human rights and to renouncing violence, extremism, terrorism, and atheism, and to recognize diversity and divergence.

SIXTH: Designing educational curricula and programs based on the creed of our Ummah and its fundamental principles, through combining originality with modernity, and reviewing any misconceptions about Islam which they may contain, and working on their correction.

SEVENTH: Urging media corporations to adopt a discourse based on the medium path and moderation in their offered programs, and to rely on facts, and to distance themselves from rumors.

EIGHTH: Working on clarifying misconceptions about some Shariah concepts such as jihād, caliphate, loyalty and disavowal, law-giving authority and other topics used to manipulate youth to indulge in disputes.

NINTH: Introducing educational programs and subjects at schools and universities focusing on renouncing violence, criminality, and extremism and on reinforcing awareness on the impermissibility of assaulting human beings, properties, and dignities.

TENTH: Launching a comprehensive high-quality cultural program in society to be sponsored by relevant public institutions aiming to correct negative views about Islam and its teachings; and reset the well-established Shariah principles neglected by the public, preachers, and intellectuals.

ELEVENTH: Introducing an educational policy based on reinforcing the principles and values of tolerance, citizenship, critical thinking, and respecting the opinion of others.

TWELFTH: Calling on governments and communities to draw from successful experiences in countering extremism and terrorism.

THIRTEEN: Opening dialogue prospects with partisans of extremist ideologies to refute their ambiguities and to bring them back to the right path and moderate social life, and coexistence with the society and regimes in order to achieve social stability and prosperity.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 222 (6/23)

Banks' Privileges to Current Account Customers from a Shariah Perspective

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having examined the research papers submitted to the Academy concerning *Banks' Privileges to Current Account Customers from a Shariah Perspective*,

having listened to the in-depth discussions,

resolves

first: definition of a current account

It is a register of financial amounts deposited by the customer in the bank – Islamic or conventional – with the possibility to withdraw anytime through conventional means like cheques, bank transfers, and direct cash withdrawal. These deposited amounts are guaranteed and used by the bank for its interest as it wills and as regulated by laws.

second: shariah characterization

After the Academy had reviewed Shariah characterizations of the current account deposit such as its characterization as a real deposit which becomes guaranteed when used by the depositee, or as a new independent contract, or as a contractual system composed of a number of contracts, the Academy concluded with the confirmation of its resolution no. 86 (3/9) on banking deposits in "the current account" in which it asserted that demand deposits accounts (current accounts), whether in Islamic banks or usury-based banks, are considered loans from the Fiqh perspective.

THIRD: SHARIAH RULING ON BANKS PRIVILEGES TO CURRENT ACCOUNT CUSTOMERS (DEMAND DEPOSIT CUSTOMERS)

Definition of Banking Privileges

The meaning of banking privileges, in this context, are additional rights granted by the bank to current accounts users in order to bid and encourage them to create accounts or continue using them.

Banking privileges are, according to the nature of their benefits and the intended purposes, of two categories:

1. Privileges that benefit the Customer-only.
2. Privileges that benefit the two parties, bank and customer.

First Category: Customer-only Privileges

Customer-only privileges can also be divided into two sub-categories: moral privileges and material privileges.

1. MORAL PRIVILEGES are benefits and services offered by the bank to the customer which do not include a financial premium added to the amount of the deposit such as service priority at the bank branches, providing customers with a periodic guiding brochure, periodic account statement, solvency certificate, international ATM cards, and so forth.

   The Shariah ruling on this kind of privileges is permissibility because they are not considered an interest-like financial addition that the borrower must pay for the lender in addition to the loan amount. It is, in fact, a form of facilitation offered by the borrower to the lender to recover his financial rights. Therefore, the original ruling of permissibility *is carried over by virtue of istishab* (legal continuity) due to the absence of prohibiting evidence.

2. MATERIAL PRIVILEGES are additional items, benefits, and funds added to the deposit registered in the current account, and which are similar to material premiums for giving loans such as flight tickets, electric and electronic devices, and so forth.
   The Shariah ruling on these material privileges is prohibition, whether they are conditional or unconditional, as long as they are caused by lending and in regard to the loan's size and duration; this makes it a kind of interest addition that the borrower is required to pay for the lender in addition to the amount of the loan.

   However, if these material privileges are offered to every new custom-

er gained by the bank – whether in the current account or investment Muḍārabah account, or financing, etc. – they are then considered expenses on advertisement and marketing and gaining customers and clients. In this case, these privileges are permissible in the application of the original permissibility, as long as they are not specific to lending and its amount and duration.

Second Category: Privileges for Both Parties – the bank and the customer

Privileges of the first sub-category are related to deposits and withdrawal transactions, whereas privileges of the second sub-category are unrelated to those transactions.

1. Privileges related to deposit and withdrawal transactions from the current account and the benefits going to both parties. For example, chequebook and ATM card services.

   Their Shariah ruling is permissibility because they are a form of aid by the borrower to the lender to facilitate getting back his financial rights, keeping in mind that these benefits of the loan are not only for the lender but are also for both the lender and borrower.

   Moreover, it contains benefits for both parties without harming anyone, and Shariah does not reject unharmful privileges. This kind of privileges are neither explicitly forbidden in original Islamic texts nor fall within the context of explicit prohibition; therefore, it remains within the space of permissibility carried over from the original ruling.

2. Privileges, which benefit both parties but are not related to deposit and withdrawal transactions from the current account, such as granting some banking services at preferential fees or at lesser fees than those charged to other customers. This may relate to currency exchange rates, bank transfer fees, safe deposit boxes charges, credit letters fees, credit cards fees, letters of guarantee fees, and so forth. All of these privileges are prohibited because they constitute a loan bringing a benefit.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 223 (7/23)

Doctor's Liability for Non-Intentional Medical Errors from an Islamic Perspective

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having reviewed the resolution of the scientific conference on the *Doctor's Liability for Non-Intentional Medical Errors from an Islamic Perspective*, held by the Islamic Organizations for Medical Sciences in Kuwait on 5–7 Jumādā al-Akhirah 1436 (26–28 March 2015),

having listened to the in-depth discussions,

resolves

first: non-intentional medical errors

1. Approval of the definition of a 'medical error': a failure in achieving a planned action as intended due to negligence or shortening, and so forth.
2. Approval of the definition of a 'medical accident': damage that occurs due to medical intervention, and not caused by the patient's principal health conditions.
3. Approval of the definition of 'institutional accidents' as accidents caused by the synchronous occurrence of factors on different levels leading to the error, in addition to the internal causes related to the health system, which raise a high chance for risks occurrence due to a chain of extenuating circumstances.
4. Approval of the definition of medical profession's good practices as: "Well established processes and rules which are scientifically and practically recognized constant rules and principles."
5. Establishing scientific programs based on extensive studies and research regarding causes and circumstances leading to medical errors, in order to develop appropriate solutions to reduce them as much possible.

6. The need to establish an appropriate environment and circumstances, external and internal, with regard to health care to ensure its successful performance.
7. Patients safety must be the principal concern for all health policies.
8. Workshops should be organized for all workers in the health care sector in order to train and nurture their awareness and religious consciousness and to overcome mistakes they face, as such workshops are considered an essential part of the tasks of health practice.
9. Providing necessary means such as machines, laboratories, and information, and the commitment to international professional protocols, in order to contribute to and assure accurate characterization and diagnosis of the disease.
10. Commitment to international labour rules and laws by not exceeding working hours of the medical staff beyond eight hours a day, particularly during alternation, in order to preserve doctor's concentration which affects the patient's health.
11. Commitment to reduce the number of patients per doctor as much as possible in order to give the patient adequate time to explain his health issues.
12. The need to periodically review laws and regulations concerning safety guarantees and patients' protection from medical errors.
13. Confirming the importance of periodic medical equipment maintenance by competent specialized professionals to ensure their safety and sufficiency.
14. Work on establishing a higher authority on medical errors, which gathers professionals of different specialities with credited expertise, honesty, and sincerity, affiliated to the relevant ministry. One of its tasks should be to investigate medical incidents, whether they have caused injury or not, as quick as possible before its symptoms and effects disappear.
    The investigation should be complete in order to determine the cause and effect of the error if damage occurs. Its reports should be submitted to the concerned authorities attached with recommendations to avoid such errors in the future.
15. Encourage doctors to disclose their errors in order to show transparency and clarity that provide a valuable service to the future of medical practice and its success, and to find legal outlets to reduce their burdens.
16. Encouraging insiders, aware of medical errors, to report them while en-

suring their legal protection against harassment and revenge.

17. A databank of medical errors need to be established by a select committee of medical doctors, fuqahā (fiqh jurists), and law experts, and passing a law that requires all operating departments in health ministries to report errors and provide the databank with information leading to its causes and circumstances.
18. A special authority should evaluate the medical staff member if the latter is involved in severe errors that resulted in damage in order to find out more about his working circumstance, equipment, and its adequacy.
19. Urge the responsible authorities to record and supervise pharmaceuticals and medicines, in order to confirm the adequacy of their procedures, and to track them after usage, especially hazardous ones, and to record any observations on the side effects, drug interactions, or the damage level, if any, and to take necessary measures thereof.
20. Raising awareness to change the social perception of medical errors and to accept the possibility of errors in medical practices.
21. Working on creating a digital card with a barcode system for all people in every country, which will be used for all medical actions while confirming the need to verify the barcode device validity from time to time.
22. Working on the publication of research, protocols, and working manuals to ascertain patients' information database, health conditions and history.
23. The need to commit to gathering and classifying medical practice errors in order to utilize them in developing scientific reports and analysing every type of these errors.
24. Distinguishing between medical errors resulting from doctors' negligence and medical errors resulting from shortages inside medical institutions, underdevelopment of their systems and devices indispensable for medical treatment.
25. Distinguishing between medical errors and the undesirable counteractive medical accidents that are out of doctors' control and between medical errors and predictable medical complications that could follow medical practices.
26. Considering the doctor liable in cases of shortages and infringements contrary to established medical treatment practices agreed upon among medical experts; as well as in cases when the doctor treats the patient without his permission or the permission of his guardian, or the appropriate authority, in cases which require permission.

27. Charging the guarantee (compensation) to the person responsible for transgression or negligence as per Shariah and common law.
28. Designing textbooks and courses on medical practice ethics, and medical errors in all specialities, and how to prevent them, and introduce these as a compulsory subject in medical schools.
29. The doctor should seriously care about the patient, his disease, and the treatment's consequences for ensuring the patient's wellbeing based on social circumstances and the nature of the prevalent culture.
30. The doctor should take care of the patient as a full-hearted caretaker.
31. Preventing doctors from disclosing the medical secrets of their patients. The doctor becomes liable for whatever may result from disclosing secrets, whether moral or physical damage. See also the Academy resolution no. 79 (10/8), and the recommendation of the symposium of the Islamic Organization for Medical Sciences held in Kuwait in April 1987.

SECOND: MEDICAL CONSENT

A: The basic principle is to require medical consent

No exceptions are to be made except for a few cases, which are the following:

a. Urgent cases that have a threat to the patient's life or his essential body parts when it is not possible to acquire consent from the patient or his guardian.
b. Cases in which the general interest requires curing it, or preventing it, such as contagious diseases which represent a threat to public health.
c. If the patient has a mental or psychological illness threatening his life or the lives of others, he must be forced for treatment after taking necessary actions.

B: Medical Consent Waiver

a. If the patient's guardian refuses to grant consent, the patient's guardianship will shift to the next guardian in line or to the general guardianship (i.e. government or authorities).
b. In critical cases, when a sane adult patient refuses to grant consent for treatment, he should be informed clearly about the potential risks of his disapproval. The doctor should record this clarification in an official form, and the consent cannot be waved as long as the patient's mind is still conscious.

c. It is necessary to conduct more research and studies on cases requiring a caesarian birth to save the mother's life, fetus's life, or both, such as the nuchal cord wrapping over the fetus' neck if the mother refuses to grant consent for caesarian birth.

RECOMMENDATIONS

1. Calling the Islamic Organization for Medical Sciences to undertake comparative studies of the principles of Shariah in the field of medical practice and the liability on medical practice errors, and legal provisions and judicial principles in force in both the Arab and Muslim worlds. The IOMS is also recommended to suggest necessary actions to realize full compatibility between Shariah, these laws and judicial principles.
2. Coordination between the Organization of Islamic Cooperation and the Arab League, and similar organizations in the Muslim world, to study the establishment of a unified legal guiding project on the rulings of medical practices and the liability of its errors, which Arab and Muslim countries will utilize in enacting laws on medical practices, and medical errors.
3. Establishing an independent specialized body in every Arab and Muslim country, which will be distinguished to provide expertise reports in civil and private court lawsuits and in disputes for arbitration committees and tribunals on medical practice errors.
4. Introducing the reconciliation system in criminal lawsuits related to medical practice errors at any stage of the lawsuit, in which case reconciliation would result in dropping the criminal lawsuit and dropping the execution of penalties if reconciliation happened at the end of the criminal lawsuit when its verdicts become final.
5. Broaden the means of solving disputes and recourse to arbitration regarding civil liability resulting from medical practice errors.
6. Establishing special tribunals to look into non-criminal civil liability lawsuits for errors of doctors and assistants, provided that its jurisdiction be exclusive in this regard.
7. Raising awareness and spreading knowledge on all thematical and operational issues related to the principal teamwork components and reinforcing them through programs and training in an early stage at medical universities and institutes.
8. Doctors should receive training in practice and reactions (crisis management) related to developing teamwork knowledge and skills in order to refine the acquired competencies at universities, academies, and institutes.

9. Training doctors during the residency in reinforcing the importance of teamwork in health care in order to facilitate transformation towards a safety culture.
10. Health care sector should develop and intensify the lessons acquired from advanced qualifications programs.
11. Doctors' teamwork competencies should be enhanced through procedures of granting licenses for professional practice.
12. License examination by specialized boards should include an evaluation of new doctors' knowledge of the teamwork components and their common career expectations.
13. Study the establishment of insurance regulations on risks emanating from medical practices to encourage doctors to make more efforts in patient treatment.
14. Media and other means of awareness-raising should draw special attention to the information on psychological disorders, to treat it early and efficiently and to raise awareness on the rights of psychiatric patients.
15. Cooperation between Arab and Muslim countries to issue a unified guiding law on psychological health, inspired by Shariah principles, as well as relevant international conventions and principles.
16. The OIC, in coordination with Arab and Muslim governments, should adopt a unified guiding law for mental health, inspired by Shariah principles and relevant international conventions.
17. Hold a specialized seminar on psychological and mental health to discuss its ethical and legal issues and to conclude with specific recommendations in that regard.
18. Medical institutions should hold periodical meetings for doctors and their assistants, to investigate and study new issues in the field of medical practices, and to exchange views about the problems and obstacles of the medical profession, and to study medical errors, and suggest means and methods to prevent or minimize them.
19. Developing doctors' skills in communication with patients and their relatives in order to achieve the patients' welfare by following their health timeline and the problems that may occur during medical procedures' practice.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 224 (8/23)

Hedging in Financial Transactions: Principles and Rulings

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having reviewed the recommendations of the scientific seminar on *Hedging in Financial Transactions: Principles and Rulings*, held by the Academy in the Emirate of Dubai on 26–27 April 2016, in collaboration with the Islamic Affairs and Charitable Activities Department through the Islamic Economy Fiqh Forum in its second session,

having listened to the in-depth discussions,

resolves

first: definitions of key concepts

1. The Concept of Hedging

   a. The general meaning of hedging is covering, avoiding and preventing, i.e. protection as defined by Fuqahā (fiqh jurists).

   b. In financial terminology, the concept of hedging means the systemic measures to manage risks by neutralizing, minimizing, or eliminating, by transferring them to another party.

   c. In technical terminology, the concept of hedging refers to the protection against risks and reducing their effects without restricting its concept to common practices in financial markets, which are mostly based on *ribā* (usury), and sale of risks. These formulas include *derivatives* which include *futures, options, and swaps*. Some of these formulas have already been deemed illicit by the Academy resolutions, such as in the case of *options*, most of *futures*, as well as *deferred exchanges*, by virtue of the resolution concept on financial markets.

2. The Concept of Risk
   Linguistic meaning: The probability of loss (or destruction.)

   In financial terminology, it is the probability of destruction of property, financial loss, lack of profit, or the profit being less than expected.

   According to this definition, the risk does not dissociate from economic activity, and Shariah addressed documentation contracts such as lien, guarantee (Dhaman), etc., in order to protect both parties in the exchange contract against risks. Risks are generally undesired because they expose the property to loss.

3. As for the meaning of "protection," it is using available means for the safeguard against loss, decrease, destruction or damage. Protection, in this context, is more general than the capital guarantee because the latter is a commitment by a particular party to assume whatever happens to the capital of loss, destruction, decrease or damage. However, protection is the preservation of the capital, and it hence includes direct and indirect guarantees.

SECOND: SHARIAH POSITION ON RISKS HEDGING

1. Hedging, in general, means the protection and preservation of property against risks. In this sense, it is consistent with *Maqāṣid al-Shariah* (objectives of Islamic law) of property preservation.
2. The Shariah ruling on the practical application depends on the extent of abiding by the formulas and mechanisms of hedging in their different forms under the rules of Shariah. Every formula requires detailed research and precision-making regarding the extent of its Shariah-compliance.

THIRD: SHARIAH REGULATIONS FOR HEDGING FORMULAS AND METHODS

1. Hedging formulas should not involve or pave the way to *ribā*, and it should not contain *gharar* (uncertainty) as this amount to *consuming other people's properties unjustly*.
2. The hedging formula should itself be permissible in Shariah.
3. The hedging formula should not lead to selling debts at other than their face value, or to exchange illicit items as it has been observed in the usury-based financial markets.
4. Hedging formulas should not lead to selling pure abstract rights, like selling options which are prohibited by the Academy resolution no. 63 (1/7) paragraph (2-B). Moreover, it should not lead to the sale of commitment, such as paying the price for the guarantee, which is prohibited by the

Academy resolution no. 12 (12/2).

5. Observance of the objectives of Shariah when formulating hedging contracts. Their outcomes and their various effects in different aspects should also be consistent with the objectives of Shariah because the observance of outcomes is a fundamental principle in Shariah.
6. In cases of non-infringement, or terms violation, hedging contracts should not lead to guaranteeing capital or expected profit, whether the guarantee is by the manager, the Muḍārib, or the agent.
7. It is not permissible to make the risk in itself a subject of netting (muawada).
8. The fundamental objective of hedging instruments should be to safeguard property, not speculation on prices variances.

RECOMMENDATIONS

1. Given the multiplicity of hedging formulas, methods, and mechanisms in the operational applications of Islamic financial institutions, and regarding it as one of the contemporary issues which can be broadly adapted in the principles of Ijtihād within the framework of the exalted Shariah, the Academy recommends holding scientific symposiums in cooperation with Islamic financial institutions to study hedging instruments and transactions that are practiced by Islamic financial institutions or which have been approved by their councils. This is in order to verify the extent of its compliance with the criteria and conditions approved by the Academy resolutions and recommendations.
2. Urging leaders and officials of Islamic financial institutions to draw on formulas and contracts approved by the International Islamic Fiqh Academy, the Islamic Fiqh Council of the Muslim World League, and other reliable Fiqh councils when it comes to formulating hedging contracts and transactions. For example, *salam* contract (forward contract for purchasing a product), *parallel salam contract*, Murābaḥah to the purchase orderer, *istiṣnā'* contract, parallel *istiṣnā'* contract, *khiyar al-Sharṭ* (conditional options). All these formulas should be based on Shariah criteria as stated in their respective resolutions.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 225 (9/23)

On the Ḥalāl Questions of the Standards and Metrology Institute for Islamic Countries (SMIIC)

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

HAVING REVIEWED the finalization report of the scientific seminar on *the Ḥalāl Questions of the Standards and Metrology Institute for Islamic Countries* (SMIIC), held by the Academy in Jeddah on 22–23 Rabīʿ al-Akhir 1436 (11–12 February 2015),

HAVING FINALIZED the report based on the Academy resolution no. 206 (2/22) concerning the *Questions of the Standards and Metrology Institute for Islamic Countries (SMIIC)*, issued at the 22nd Session of the Academy in Kuwait on 2–5 Jumādā al-Akhirah 1436H (22–25 March 2015),

HAVING LISTENED to the in-depth discussions about the questions,

RESOLVES

Forwarding the issue to the Secretariat of the Academy for studying and amendment as deemed appropriate and conveying the answers to the questioning organization (SMIIC).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 226 (10/23)

Majority and Subordination in Financial Transactions: Cases, Criteria, and Conditions for their Achievement

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440H (28 October – 1 November 2018),

having reviewed the finalization of the recommendations of the scientific symposium on Majority and Subordination in Financial Transactions: Cases, Criteria, and Conditions for their Achievement, held by the International Islamic Fiqh Academy and the Islamic Development Bank in Jeddah on 25–26 Ṣafar 1436 (17–18 December 2014),

having finalized the symposium recommendations based on the Academy resolution no. 214 (10/22) on *Majority and Subordination in Financial Transactions: Cases, Criteria, and Conditions for their Achievement*, issued at the 22nd session of the Academy in the State of Kuwait on 2–5 Jumādā al-Akhirah 1436 (22–25 March 2015),

having listened to the in-depth discussions on the subject,

having recalled the resolutions of the Academy concerning *Majority and Subordination*, namely resolutions no. 30, no. 188 and no. 196, and in particular no. 30,

resolves

first: confirmation of paragraphs (A) and (B) in article 3 of resolution no. 30, mentioned above, on funds collected upon subscription and before the start of the company's activity, that trading securities (shares, Ṣukūk, or units) are considered in this case an exchange of cash for cash; therefore rulings on Ṣarf contract apply on it. Also, if assets were transformed into debts, rulings on debts transfer must apply to them.

second: the principle of subordination (subordination of the subordinate to the subordinated) is well established in Shariah, and it dictates that the subordinate is treated as subordinate so whatever is subordinated to something takes

its same ruling. Therefore, it is permissible to apply this principle in trading financial securities, provided the existence of the subordinated is assured.

The criteria of verifying the existence of the subordinated is the presence of activity, work, and the responsible entity (institution or company) in transforming money. It is then permissible to trade securities without worrying about the percentage of money and debts in its assets because, in this case, these are subordinated to the subordinated entity and are not independent. It should be noted that the subordinated asset/entity should remain in existence throughout all trading stages.

THIRD: if the financial securities do not represent a trading activity where the money/properties are traded, but they represent only common ownership of some funding submitted by the financial institution, the Academy confirms paragraph (C) in article 3 of resolution no. 30 stating that if the security's assets were mingled and consist of money, debts, physical properties, usufructs/benefits; and also of money and debts arising from transactions of these assets, then it is permissible to trade them for an agreed (negotiated) price, provided that majority would consist of physical properties and usufruct/benefits.

The criteria for this is that physical properties and usufruct/benefits should exceed one half (>50%).

FOURTH: it is not permissible to make the legal permission of trading securities based on the principle of subordination – as an excuse or a trick to turn debts into ṣukūk and to trade them such as the components of security are debts and money to them added some physical properties and usufruct/benefits, as a majority which enable their securitization.

APPLICATIONS OF THE TWO PRINCIPLES OF MAJORITY AND SUBORDINATION ON SECURITIES TRADING

First: Ṣukūk and Investment Units

1. In the context of implementing the Two Principles of Majority and Subordination in *ṣukūk* trading, the components and conditions of the contract used to issue Ṣukūk should be based on Shariah, and should not include a condition contrary to its own nature's implications and its fundamental rulings.
2. Confirmation of the Academy resolution no. 196 on the *Pursuit of Research in Islamic Ṣukūk*, especially in articles 2, 3, and 4.
3. It is permissible to trade *ṣukūk* if the majority of its assets are physical properties, usufruct/benefits or services, after subscription closure and activity commencement. However, before activity commencement, Shariah criteria should be complied with; the Sarf contract if the assets are in the

form of money, but if they are in the form of debts, Shariah rulings on debt transfer should be observed.

4. It is permissible to trade Ṣukūk of usufruct ownership of existing designated leased physical properties before they are released. If the items were re-leased again, the Ṣukūk would represent the rent which is then a debt on the second lessee. Trading should then comply with Shariah rulings and criteria on debt disposition.

5. It is not permissible to trade usufruct's ownership Ṣukūk of properties described in the Dhimmah (clearance) before determining the property's existence and delivery, which generates the usufruct as these Ṣukūk are then subject to criteria of disposition of debts. However, if those usufruct generating properties become in existence and determined, Ṣukūk trading will be permissible.

6. It is permissible to trade services' ownership Ṣukūk, which emanate from a particular party before the resale of those services. If the services are resold (released), the Ṣukūk would represent rent (service price) and will, therefore, turn into debt on the second lessee. Trading shall hence become subject to Shariah rulings on debt disposition.

7. It is not permissible to trade services' ownership Ṣukūk, which emanates from a party described in the Dhimmah before designating the party who will deliver the service, except by observing Shariah rulings on debt transfer. If the party is designated, trading Ṣukūk becomes permissible.

8. It is permissible to trade Istiṣnā' Ṣukūk if they are issued by the manufacturer or if the money (Ṣukūk proceeds) transformed into physical items owned by Ṣukūk holders during the manufacturing period. However, if Ṣukūk proceeds are paid for the cost of a parallel Istiṣnā', or if the manufactured item has been delivered to the customer, this means that the manufacturing money turned into debt on his responsibility, then its trading will be subject to Shariah rules on debt transfer.

9. It is not permissible to trade Salam Ṣukūk because this is selling debts. Any transaction on Salam Ṣukūk is subject to Shariah rules of debts disposition.

10. It is not permissible to trade Murābaḥah ṣukūk after selling and delivering Murābaḥah items to the purchaser because it is selling debts.

11. It is permissible to trade *mushārakah, muḍārabah, and wakālah bil istithmār ṣukūk (ṣukūk investment through agency)* after subscription closure and after fulfilling criteria of the subordinated asset, as mentioned

above in article 3.

12. It is permissible to trade operational lease ṣukūk and lease ending with ownership Ṣukūk after the lessor takes over ownership of the item to be leased.

Second: Shares

With the observation of the content of resolutions mentioned above, the Academy resolution no. 63 on *Financial Markets*, and particularly sections (4), (5), (7), (8), and (13), the following regulations should be taken into consideration regarding shares issuance:

1. It is not permissible to trade companies shares if their assets constitute only debts, except when conforming to Shariah rulings on debts transactions.
2. It is not permissible to trade companies shares if their assets consist of money only, whether in the subscription stage or afterwards, and before a portion of its financial capital, 10%, turns into fixed assets.
3. If shares' assets were composed of physical items, benefits, money, and debts; and if the majority of physical items and benefits over debts and money was not fulfilled or they were equal; or if money and debts were the majority; or if it has not been possible to know it; therefore, the principle of subordination may be applied. The criteria of this principle are the existence of the subordinate, which is the activity, work, the entity in charge (administrative organization) instead of transforming money. In this case, it is permissible to trade ṣukūk without consideration of the percentage of money and debts in its assets as it is considered a subordinate – in this case – to the subordinated principal, and it is not independent; provided that the underlying subordinated principal must remain in all stages of trading.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 227 (11/23)

Implications of the Marriage Contract on Spouses Ownership

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440h (28 October – 1 November 2018),

having examined the research papers submitted to the Academy concerning the *Implications of the Marriage Contract on Spouses Ownership*,

having listened to the in-depth discussions on the subject,

resolves

first: each one of the two spouses enjoys an independent financial entity, and each party enjoys under that the right to act in relation to his or her properties, including the rights to exchange and donation.

second: each spouse property, whether resulting from the marriage contract or other reasons, is considered personal property of its owner and will, after demise, transfer to his or her inheritors.

third: there is no Shariah prohibition if the spouses mutually agree to share their properties based on consent and personal choice, and it is not permissible in Shariah to compel them to do so by a binding agreement.

fourth: if the marriage ends with divorce, or repudiation, or khul', that caused her loss, the wife shall have the right to recourse to court and claim compensation for losses that affected her. This is a contemporary activation of the divorcee's Mut'ah (compensation) right granted to her by the Almighty Most Wise Lawgiver.

fifth: calling to establish governmental and non-governmental institutions for divorced women care and for meeting their needs.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 228 (12/23)

Regarding the Suggestions of the Committee established by the Secretariat of the Academy to research some Ṣukūk issues

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 23rd session in al-Madinah al-Munawwarah, Kingdom of Saudi Arabia, on 19–23 Ṣafar 1440h (28 October – 1 November 2018),

having reviewed the meeting statements of the Academy's scientific committee on 9 Rabīʿ al-Awwal 1438 (8 December 2016), established to research the observations received on some Ṣukūk resolutions of the Academy,

resolves

Holding a scientific symposium in which several specialists should be called to submit their research and studies on the two following questions. The symposium is expected to come up with scientific recommendations to be presented to the Council of the Academy in its upcoming Session. The two questions are as follows:

first question: Is leasing the asset to its seller considered one of the forbidden forms of Bay' al-Inah (purchase with instant resale) in Shariah, as stated in the Academy resolution no. 178 (4/19)?

second question: The extent of the commitment to amortize Ṣukūk of lease ending-with-ownership at their face value; and why it would not be at their face value since the Ṣukūk issuer and recipient willfully agreed on that at the time of Ṣukūk issuance, as stated the Academy resolution no. 188(3/20)?

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 229 (13/23)

Madinah Declaration on Gracious Coexistence in the Shade of Islam

Given the Ummah's internal problems and external challenges, the International Islamic Fiqh Academy issued the *Madinah Declaration on Gracious Coexistence in the Shade of Islam* that will be published separately from the resolutions.

Indeed, Allāh is All-Knowing.

Madinah Declaration on Gracious Coexistence in the Shade of Islam

In the name of Allāh, the Entirely Merciful, the Especially Merciful

All praise is due to Allāh, Lord of the worlds, may the blessing and peace of Allāh be upon whom was sent as mercy to the worlds, our Prophet Muhammad, on his family and all his companions.

Thereafter,

The religion of Islam is the final religion, and its law is the seal of divine laws. It is a call to unify Allāh; its principal purpose is the same purpose of the divine revelations; the goodness and happiness of humanity in this world and the hereafter. Allāh the Almighty said:

> «We have not sent you, (O Muhammad), except as a mercy to the worlds.»
>
> *(Al-Anbiyā, 107)*

> «We have sent down to you the Book as clarification for all things and as guidance and mercy and good tidings for the Muslims.»
>
> *(Al-Nahl, 89)*

We, members of the Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, meeting in its 23rd session in al-Madinah al-Munawwarah, on 19–23 Ṣafar 1440H (28 October–01 November 2018),

BELIEVING in the importance of Islam, its principles and values, which are some of the most needed values by humanity and society, will present them in this declaration, following the footsteps of the Messenger of Allāh ﷺ when he migrated to Madinah and issued a covenant between its inhabitants and various groups to regulate relationships between them, wherein the Messenger of Allāh prescribed major Islamic principles, which are as follows:

– 1 –

The call of Islam is an open invitation, and the Messenger ﷺ was sent to all humanity. Allāh the Almighty said:

> «We have not sent you except to all humanity as a bringer of good tidings and a warner. But, most of the people do not know.»
>
> *(Saba', 28)*

Given the universality of the message of Islam, the call to Islam has been one of several obligations and should be conveyed with wisdom, good exhor-

tation, and gentle persuasion, away from arrogance and coarseness. Allāh the Almighty said:

> «Invite to the way of your Lord with wisdom and good exhortation and argue with them in a way that is best. Indeed, your Lord is most knowing of who have strayed from His way, and He is most knowing of who are rightly guided.»
>
> *(Al-Naḥl, 125)*

– 2 –

In the Islamic worldview, the human being is the vicegerent of Allāh on earth. Allāh the Almighty honored him by giving him a body and a soul. It is not permissible to harm, despise, or humiliate him, whether dead or alive. Allāh the Almighty said:

> «We have certainly honored the children of Adam and carried them on land and sea and provided for them of the good things (sustenance) and preferred them over much of what We have created, with definite preference.»
>
> *(Al-Isrā', 70)*

The Messenger of Allāh ﷺ said, "To break a dead person's bone is like breaking his bone alive."[29]

> All creatures are made to serve humanity thanks to Allāh the Almighty, who said: «Have you not seen that Allāh has subjected to you whatever is in the skies and whatever is on the earth, and has completed His favours to you, both seen and unseen? Yet there are some who dispute concerning Allāh, without knowledge or guidance or an enlightening Book.»
>
> *(Luqmān, 20)*

> «He has subjected whatever is in sky and on the earth to you; it is all from Him. In that are signs for those who think.»
>
> *(Al-Jāthiyah, 13)*

– 3 –

Given that Islam always emphasized the human being as body, mind and soul, to fulfil his/her duties of vicegerency on this earth, Allāh the Almighty has enjoined men to follow his laws carried by prophets and messengers. Man's fate is

---

29 Abū Dāwūd Sulaymān bin al-Ash'ath. *Al-Sunnan*. Volume 3, No. 3207.

determined in this life and on the last day in accordance with his commitment to divine laws. Allāh the Almighty said:

> «Descend from Paradise – all, as enemies to one another. And If there comes to you guidance from Me, then whoever follows My guidance will not lose his way, nor will he come to grief. And whoever turns away from My remembrance – indeed, he will have a depressed life, and We will gather him on the Day of Resurrection blind.»
>
> *(Ṭāhā, 123–124)*

– 4 –

Starting from the above, scholars divided the rules of Shariah into three categories to reflect its universality and its handling of all human conditions and his various relationships; the first being the creed; the second being morality, and the third is operational and includes the acts of worship and worldly transactions and dealings.

– 5 –

In Islam, there is no difference between humans based on color, gender, or language. They all come from the same origin, from one father and one mother (Adam and Eve), Allāh the Almighty said:

> «O mankind, fear your Lord, who created you from a single soul. He created its mate from it and from the two of them spread countless men and women (throughout the earth). And fear Allāh, in whose name you appeal to one another, and be mindful of your obligations in respect of ties of kinship. Indeed, Allāh is ever, over you, an Observer.»
>
> *(Al-Nisā', 1)*

The Messenger of Allāh ﷺ said:

> «Verily, Allāh the Almighty says: O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allāh is the most righteous of you.» (Al-Ḥujurāt, 13) Verily! There is no superiority of an Arab over a non-Arab or of a non-Arab over an Arab, or of a white man over a black man, or of a black man over a white man, except in terms of Taqwā (piety and obedience of Allāh).[30]

30 Sulaymān bin Aḥmad al-Ṭabarānī. *Al-Mu'jam al-Kabīr*. Volume 18.

– 6 –

Furthermore, there is no difference between males and females regarding their human dignity and their provisions in Shariah. Allāh the Almighty said:

> «The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakāh (obligatory charity) and obey Allāh and His Messenger. Those – Allāh will have mercy upon them. Indeed, Allāh is Exalted in Might and Wise.»
>
> *(Tawbah, 71)*

The Messenger of Allāh ﷺ said:
"Verily, women are equal to men."[31]

Hence, this is why the Quranic and the Prophetic discourses always address humanity with "O People", and "O Believers" which includes both males and females, as shown in the above verses.

– 7 –

One of the pillars of Islamic faith is to believe in all prophets and messengers, in the books revealed to them, and to respect and glorify all of them, and believe that they are all sent by Allāh the Almighty to call for His oneness and worship. It is not permissible for a Muslim to discriminate between the prophets and messengers of Allāh. Allāh the Almighty said:

> «The Messenger has believed in what was revealed to him from his Lord, and so have the believers. All of them have believed in Allāh and His angels and His books and His messengers, saying, "We make no distinction between any of His messengers." And they say, "We hear and we obey. We seek Your forgiveness, our Lord, and to You is the (final) destination."»
>
> *(Al-Baqarah, 285)*

Islam preaches dialogue and gentle persuasion with the People of the Book (Jews and Christians). Allāh the Almighty said:

> «Say, "O People of the Book, come to a word that is equitable between us and you – that we will not worship except Allāh and not associate anything with Him and not take one another as lords instead of Allāh."

31 Abū ʻĪsā Muḥammad al-Tirmidhī. *Al-Sunnan*. Volume 1. No. 113.

But if they turn away, then say, "Bear witness that we are Muslims [submitting to Him]."»

(Āl 'Imrān, 64)

– 8 –

Islam should be embraced with full conscience without moral or physical pressure or exploitation of the weaknesses of those invited to Islam. Allāh the Almighty said:

«There shall be no compulsion in acceptance of the religion. True guidance has become distinct from error. So, whoever disbelieves in Taghut and believes in Allāh has grasped the most trustworthy handhold with no break in it. And Allāh is Hearing and Knowing.»

(Al-Baqarah, 256)

«Had your Lord willed, those on earth would have believed – all of them entirely. Then, (O Muhammad), would you compel the people in order that they become believers?»

(Yūnus, 99)

– 9 –

Islam preserves human life and considers it sacred. Killing one soul in Islam is like killing all humanity, and reviving one soul is like reviving all humanity, which was also the call of all divine laws. Allāh the Almighty said:

«Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption done in the land – it is as if he had slain mankind entirely. And whoever saves one – it is as if he had saved mankind entirely. And our messengers had certainly come to them with clear proofs. Then indeed many of them, even after that, throughout the land, were transgressors.»

(Al-Mā'idah, 32)

– 10 –

Islam has forbidden and denounced aggressions against both Muslims and non-Muslims and considered it one of the most heinous crimes. Allāh the Almighty said:

«Do not spread corruption upon the earth after it has been set in order.»
(Al-A'rāf, 56)

«Say, My Lord has forbidden immoralities – what is apparent of them and what is concealed – and sin, and oppression without right, and that you associate with Allāh that for which He has not sent down authority, and that you say about Allāh that which you do not know.»
(Al-A'rāf, 33)

Because of the severity of corruption on earth, it shall receive appropriate punishments, in accordance with what Allāh the Almighty said: «Indeed, the penalty for those who wage war against Allāh and His Messenger and strive upon earth to cause corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the hereafter is a great punishment.»
(Al-Mā'idah, 33)

– 11 –

In Islam, the family is the core of a solid social fabric, and it is built on a successful marriage based on tranquility, affection, and compassion. It is not permissible to assault or harm it. Allāh the Almighty said:

«And of His signs is that He created for you from among yourselves spouses that you may find tranquility in them; and He placed between you affection and mercy. Indeed, in that are signs for a people who reflect.»
(Al-Rūm, 21)

– 12 –

Peace is one of the most prominent symbols of Islam, which is the basis of the relationship with others. Kindness to others is considered one of Islam's characteristics. Allāh the Almighty said:

«Allāh does not forbid you from those who do not fight you because of religion and do not expel you from your homes – from being righteous toward them and acting justly toward them. Indeed, Allāh loves those who act justly. Allāh only forbids you from those who fight you because of religion and expel you from your homes and aid in your expulsion

– (forbids) that you make allies of them. And whoever makes allies of them, then it is those who are the transgressors.»

(Al-Mumtaḥanah, 8–9)

«Fight in the way of Allāh those who wage war against you, but do not transgress. Indeed. Allāh does not like transgressors.»

(Al-Baqarah, 190)

Jihād (struggle or effort) was legislated to repel aggression, defend the country, break barriers that oppress people who wish to believe in Allāh and in his last religion, as well as to protect the vulnerable. Allāh the Almighty said:

«And what is [the matter] with you that you fight not in the cause of Allāh and for the oppressed among men, women, and children who say, "Our Lord, take us out of this city of oppressive people and appoint for us from Yourself a protector and appoint for us from Yourself a helper?"»

(Al-Nisā', 75)

Removing barriers includes correcting misconceptions about Islam and clarifying its true teachings. Therefore, jihād in Islam can only be justified to repel aggression, remove barriers preventing people from embracing Islam, and defend the oppressed and the vulnerable. Allāh the Almighty said:

«Confront them until there is no fitnah [a state of tribulation and prosecution] and [until] the religion, all of it, is for Allāh. And if they cease – then indeed, Allāh is Seeing of what they do.»

(Al-Anfāl, 39)

– 13 –

Aggression against others, their lives, properties and dignities, is not permissible in Islam. Responding to attacks in defence of religion, lives, dignity, and property can only be on an equitable basis. Allāh the Almighty said:

«Whoever has assaulted you, then assault him in the same way that he has assaulted you. And fear Allāh and know that Allāh is with those who fear Him.»

(Al-Baqarah, 194)

«If you want to retaliate, retaliate to the same degree as the injury done to you. But if you are patient, it is better to be so.»

(Al-Naḥl, 126)

– 14 –

The commitment to peace that preserves the rights of opponents is an important requirement in Islam. Allāh the Almighty said:

> «Then if they should be inclined to make peace, make peace with them, and put your trust in Allāh. Surely, it is He who is the Hearing, the Knowing»
>
> *(Al-Anfāl, 61)*

Treachery and treason are forbidden in Islam. Allāh the Almighty said:

> «If you have reason to fear from people a treachery, throw their treaty back to them, (putting you) on equal terms. Indeed, Allāh does not like traitors.»
>
> *(Al-Anfāl, 58)*

– 15 –

One of the clear teachings of Islam is the denunciation of all forms of current terrorism such as the killing of innocent people, assault on families, the expropriation of cities, towns, and properties, and assault on dignities are evil actions that afflict all humanity, in addition to the assault against al-Masjid al-Aqsa (The Sacred Mosque of Jerusalem), and the blowing up of any Mosque. Islam opposes all these crimes and evil actions and describes them as forms of oppression and transgression.

Therefore, a massive media campaign must be launched to clarify real facts about Islam and its great leadership of humanity, which brings welfare to it both in this life and in the hereafter. This should also reflect in our educational curricula and programs.

– 16 –

Mercy, compassion, amnesty, forgiveness, tolerance, kindness and honesty are qualities of the Messenger of Islam, Muhammad ﷺ. Muslims must follow his example and emulate his morals when dealing with others, whether Muslims or non-Muslims. Allāh the Almighty said:

> «Hence, We have made you a middle nation.»
>
> *(Al-Baqarah, 143)*

> «So by mercy from Allāh, (O Muhammad), you were gentle with them.

for if you had been harsh [in speech] and hard-hearted, they would surely have deserted you.»

(Āl 'Imrān, 159)

«There has certainly been for you in the Messenger of Allāh an excellent example for those whose hope is in Allāh and the Last Day and [who] remembers Allāh often.»

(Al-Aḥzāb, 21)

– 17 –

Temperance, moderation, and balance are the path Muslims must follow in all their affairs. Extremism and fanaticism are forbidden crimes. Allāh the Almighty said:

«Say, O People of the Book, do not exceed limits in your religion beyond the truth and do not follow the inclinations of a people who had gone astray before and misled many and have strayed from the soundness of the way.»

(Al-Mā'idah, 77)

Sayyidah Aishah ﵂ said, "Never did the Messenger of Allāh make a choice between two things but taking the easier one as compared to the difficult one, but his choice for the easier one was only in case it did not involve any sin, but if it involved sin he was the one who was the farthest from it amongst people."[32]

These values (temperance, moderation, and balance) are embodied in many forms addressed by the divine law. Its high objective is to harmonize between the physical and the spiritual, between public and private matters, and between earthly and heavenly rewards. Allāh the Almighty said:

«So when I have proportioned him (Adam) and breathed into him of My soul, then fall down to him in prostration.»

(Ṣād, 72)

Moreover, the Messenger of Allāh ﷺ said:

The likeness of the man who observes the limits prescribed by Allāh and that of the man who transgresses them is like the people who get on board a ship after casting lots. Some of them are in its lower deck and some of them in its upper (deck). Those who are in its lower (deck), when they require water, go to the occupants of the upper deck, and say to them, "If we make a hole in the bottom of the ship, we shall not harm you." If they (the occupants of the upper deck) leave them to carry out

32 Imam al-Bukhārī. *Ṣaḥīḥ*. Volume 4, No. 3560.

their design, they all will be drowned. But if they do not let them go ahead (with their plan), all of them will remain safe.[33]

– 18 –

Cooperation among the children of Adam is the practical result of their sound relationships, which should aim towards human welfare. The differences – based on religion, colour and gender – do not hinder or weaken the call for cooperation between humans. Allāh the Almighty said:

> «Do not let the enmity of those who barred you from al-Masjid al-Haram (the Sacred Mosque) lead you into sin. Help one another in goodness and in piety. Do not help one another in sin and aggression. Fear Allāh! Allāh is severe in punishment.»
>
> *(Al-Mā'idah, 2)*

– 19 –

Non-Muslims living in Muslim countries have the same rights as Muslims, and they have the freedom to maintain their religions and perform their rituals. Allāh the Almighty said:

> «Allāh does not forbid you from those who do not fight you because of religion and do not expel you from your homes – from being kind toward them and acting justly toward them. Indeed, Allāh loves those who act justly.»
>
> *(Al-Mumtaḥanah, 8)*

> The Almighty also said, «There shall be no compulsion in acceptance of the religion.»
>
> *(Al-Baqarah, 256)*

The Prophetic Covenant or the Charter of Medina, which the Messenger of Allāh ﷺ decreed to the people of Medina after his migration there, was the backbone that regulated relationships between the social components of the first Islamic society and state. It was the embodiment of the great principles addressed by Islam. Hence comes the importance of dialogue and gentle persuasion for a secure social fabric, which has been practically and repeatedly proven in Islamic history under the slogan: "They are equal to us, and we are equal to them."

Jizyah was, in fact, a fee in exchange for protection. Abu Ubayda Amer bin al-Jarah رضي الله عنه returned the jizyah to the people of Homs in Syria after its conquest until he proved he could protect them. Muslim armies withdrew from

33 Imam al-Bukhārī. *Ṣaḥīḥ*. Volume 3, No. 2493.

Samarkand after its conquest by a judicial decree after it became clear that they were neither invited to Islam, nor given a choice, nor waited for their response, as per the principles of jihad in Islam.

Furthermore, Islam also emphasized the rights of non-Muslim minorities living in Muslim society, called for leaving them in peace with their beliefs, and forbade attacking churches and places of worship. It also granted them freedom of faith and to maintain their religions.

– 20 –

The Islamic State of Madinah is a perfect example of Islamic principles and values. This was manifested in the Charter signed by Prophet Muhammad ﷺ when he arrived in Madinah, in which he gave the Jews safety over their religion and properties and therein he declared, "The Jews are free to practice their religion."[34]

– 21 –

Islam is an invitation to justice and respect for others' rights, regardless of their religion or gender, color or language. Injustice is forbidden even with enemies. Allāh the Almighty said:

> «Indeed, Allāh commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allāh instructs you. Indeed, Allāh is ever Hearing and Seeing.»
>
> *(Al-Nisā', 58)*

> «O you who have believed, be persistently standing firm for Allāh, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allāh; indeed, Allāh is Acquainted with what you do.»
>
> *(Al-Mā'idah, 8)*

The Messenger of Allāh ﷺ narrated in a ḥadīth qudsī that Allāh ﷻ says:

> O My slaves, I have made injustice unlawful for myself, and I have made it unlawful among you, so do not be unjust to one another.[35]

– 22 –

Holding firm on Allāh and working on unity and cooperation among Muslims

---

34 The Covenant of Prophet Muhammad , also known as the Charter or Constitution of Madinah.

35 Imam Muslim. *Ṣaḥīḥ*. Volume 4, No. 2577.

represent a strong fortress and a source of their happiness in this life and the hereafter, whereas distancing from Allāh and disunity among Muslims are the way to their misfortune and the reason for their calamities. Allāh the Almighty said:

«Whoever turns away from My remembrance – indeed, he will have a depressed life, and We will raise him on the Day of Resurrection blind.»

(Ṭāhā, 124)

«Hold firmly to the rope of Allāh all together and let nothing divide you.»

(Āl 'Imrān, 103)

«Whoever holds firmly to Allāh has indeed been guided to a straight path.»

(Āl 'Imrān, 101)

Scientific cooperation and economic solidarity amongst Muslims are a key to their strength; and a way to their enrichment and to the comfort of their peoples, as well as a source for their stability, prosperity and security. Allāh the Almighty said:

«Help one another in righteousness and piety but do not help one another in sin and aggression. And fear Allāh; indeed, Allāh is severe in punishment.»

(Al-Mā'idah, 2)

– 23 –

Islam emphasized the rights of neighbors regardless of their faith. It called and exhorted for honoring them, Allāh the Almighty said:

«Worship Allāh and associate nothing with Him, and to parents do good, and to relatives, orphans, the needy, the near neighbor, the neighbor farther away, the companion at your side, the traveller, and those whom your right hands possess. Indeed, Allāh does not like those who are arrogant and boastful.»

(Al-Nisā', 36)

The Messenger of Allāh ﷺ repeated three times:

"By Allāh, he does not have faith, by Allāh, he does not have faith, by Allāh, he does not have faith!" He was asked, "Who is it, O Messenger of Allāh?" The Messenger ﷺ said, "He whose neighbor is not safe from his harm."[36]

36 Imam al-Bukhārī. *Ṣaḥīḥ*. Volume 8, No. 6016.

– 24 –

Islam encourages science and advocates it. Allāh the Almighty said:

> «Only those fear Allāh, from among His servants, who have knowledge. Indeed, Allāh is Exalted in Might and Forgiving.»
>
> *(Fāṭir, 28)*

The first verse revealed in the Quran started with the command to READ:

> «Read! In the name of your Lord, who created – Created man from a clot [of blood]. Read! Your Lord is the Most Bountiful One, Who taught by the pen, Taught man what he did not know.»
>
> *(Al-ʻAlaq, 1–5)*

– 25 –

Working and striving on earth to secure livelihood is an obligation in Islam. There are many references to work in the Quran and Sunnah. Allāh the Almighty said:

> «And when the prayer has been concluded, disperse within the land and seek from the bounty of Allāh, and remember Allāh often that you may succeed,» (Al-Jumuʻah, 10) and He ﷻ said: «It is He who made the earth subservient to you – so walk among its slopes and eat of His provision – and to Him is the resurrection.»
>
> *(Al-Mulk, 15)*

Hard and responsible work is the only way to the renaissance of Muslims, the prosperity of their nations, and the comfort of their people. All prophets of Allāh used to work, Al-Miqdam bin Ma'adi Yakrib ﵁ reported that the Messenger of Allāh ﷺ said:

> No food is better to man than that which he earns through his manual work. Dawud, the Prophet of Allāh ﷺ, ate only out of earnings from his manual work.[37]

In the *Revival of Religious Sciences*, Imam al-Ghazzālī said,

> If people abandon industries and agriculture, life will become empty and most of society will be ruined. The best system is mutual cooperation, where each social group is committed to a particular profession. If all social groups practice the same profession, the remaining professions would disappear, and people would perish.

The Muslim society is united and cooperative. Al-Numan bin Bashir reported that the Messenger of Allāh ﷺ said:

---

37 Imam al-Bukhārī. *Ṣaḥīḥ*. Volume 3, No. 2072.

The likeliness of believers as regards to being merciful among themselves and showing love and being kind, resembles one body, so that, if any part of the body is not well then the whole body shares the sleeplessness and fever with it.[38]

The Messenger of Allāh ﷺ also said:

No one of you becomes a true believer until he loves for his brother what he loves for himself.[39]

– 26 –

Comprehensive development, with all its dimensions, is one of the main requirements in Islam by establishing plans and programs to achieve them. Muslims must contribute every effort to the renaissance of their countries in all areas, including agriculture, industry, defence, and medicine. They should acquire these through nationalization of sciences and technologies and integration between different specialities, based on what Allāh the Almighty said:

«And prepare for them whatever you are able of power.»

(Al-Anfāl, 60)

«We taught him the craft of making coats of armour to protect you from your (enemy in) battle. Will you then be grateful?»

(Al-Anbiyā, 80)

– 27 –

Reconciliation between Muslims and prevention of transgression is an essential commandment of Shariah, Allāh the Almighty said:

«If two factions among the believers fight against each other, then make peace between the two. But if one of them oppresses the other, then fight against the one that oppresses until it returns to the command of Allāh. And if it returns, then make peace between them in justice and act justly. Indeed, Allāh loves those who act justly.»

(Al-Ḥujurāt, 9)

Failure to reconcile between Muslims causes afflictions, unrests, and disputes among them. Afflictions pave the way for many evils so they must be prevented and fought by various means as they cause divisions among Muslims, break their unity, and enable their enemies to deceive them. Allāh the Almighty said:

38 Imam Muslim. *Ṣaḥīḥ*. Volume 4, No. 2586.

39 Imam Muslim. *Ṣaḥīḥ*. Volume 1, No. 45.

«Fear an affliction which will not strike those who have wronged among you exclusively, and know that Allāh is severe in punishment.»

(Al-Anfāl, 25)

The Almighty also said, «Do not dispute and thus lose courage and then your strength would depart, and be patient. Indeed, Allāh is with the patient.» (Al-Anfāl, 46)

– 28 –

Social solidarity between Muslims is one of the most important religious requirements.[40] The wealthy relative should help the poor relative and give the poor their due from their wealth, such as Zakāh – which is a legal obligation – charities, Awqāf, donations, and so forth. These acts are recommended and desirable in Shariah because solidarity is one of the causes of social security and stability. Allāh the Almighty said:

«Give to your relatives their due, and also to the needy and the wayfarer. Yet do not spend extravagantly.»

(Isrā', 27)

«Take, (O, Muhammad), from their wealth a charity by which you purify them and cause them increase, and invoke (Allāh's blessings) upon them. Indeed, your invocations are reassurance for them. And Allāh is Hearing and Knowing.»

(Tawbah, 103)

Ibn ʻAbbās ﵄ reported that the Messenger of Allāh ﷺ sent Muʻādh bin Jabal ﵁ to Yemen and told him:

Verily, you are coming to a people among the people of the Book, so call them to testify there is no Allāh but Allāh, and I am the Messenger of Allāh. If they accept that, then teach them that Allāh has obligated five prayers in each day and night. If they accept that, then teach them that Allāh as obligated charity to be taken from the rich and given to the poor.[41]

– 29 –

Among the fundamental principles of Islam, is the assurance of a serene life for every individual in society regardless of his creed. When Caliph ʻUmar bin al-Khaṭṭāb ﵁ (583–644CE) saw an old Jewish man complaining, "I do not

40 The numbering system has been amended in this resolution for translation purposes, but the original content remains unchanged.

41 Imam al-Bukhārī. *Ṣaḥīḥ*. Volume 5, No. 4347.

have money and jizyah is being taken from me." He replied, "Verily! We had not done justice to you as we took jizyah from you when you were young, but we forsook you when you are old." Then, he wrote to his agents in Basra not to take jizyah from the elderly, and he instructed the Bayt al-Māl (House of Wealth/Public Treasury) to take care of his needs and of whoever was like him.[42]

Moreover, 'Umar bin 'Abd al-'Azīz (682–720CE), another Caliph, also wrote to his agents in Basra saying, "Look after the elderly people of the dhimmah (non-Muslims under state protection) who have become old and weak, and do not take jizyah from them, and give them whatever they need from Bayt al-Māl."[43]

– 30 –

In light of the previous statements, which served as the basis for the resolutions of International Islamic Fiqh Academy, researched, discussed, and published on various topics such as beliefs, worships, transactions, crimes, ethics, and all that concerns the human community.

These resolutions should seriously be taken into consideration by the contemporary Islamic discourse, which requires that the preaching to Allāh be insightful when talking about economic, medical, family, intellectual, scientific, and so on issues. Allāh the Almighty said:

«Say, this is my way; I invite to Allāh with insight, I and those who follow me. And exalted is Allāh; and I am not of those who associate others with Him.» (Yūsuf, 108)

The training of preachers and scholars should meet the challenges of this age by knowing accurate facts about Islam and the realities of contemporary society, as well as calling to Allāh with wisdom and good exhortation, and defending Islam with kindness and gentleness, following the words of Allāh who said:

> «Invite to the way of your Lord with wisdom and good exhortation, and argue with them in a way that is best.»
>
> *(Al-Naḥl, 125)*

To conclude,

May the Blessing and peace of Allāh be upon our Prophet Muhammad, his family, and all his companions.

THE COUNCIL OF THE INTERNATIONAL ISLAMIC FIQH ACADEMY
23 Ṣafar 1440 (01 November 2018)

---

42 Ibn Zanjawī. *Kitāb al-Amwāl*. Volume 1, No. 165.

43 Ibn Zanjawī. *Kitāb al-Amwāl*. Volume 1, No. 79.

Resolutions and Recommendations of the 24th Session of the Council of the International Islamic Fiqh Academy

DUBAI
UNITED ARAB EMIRATES

7–9 Rabīʿ al-Awwal 1440
4–6 November 2019

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 230 (1/24)

Smart Contracts: Activation and Reversal Methods (Study of Smart Contracts and the Extent of their Relation to Cryptocurrency)

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440h (4–6 November 2019),

having examined the research papers submitted to the Academy concerning *Smart Contracts: Activation and Reversal Methods (Study of Smart Contracts and the Extent of their Relation to Cryptocurrency)*,

having listened to the in-depth discussions on the subject,

resolves

first: confirmation of the resolution of the International Islamic Fiqh Academy no. 52 (3/6), in its sixth session, held in Jeddah in 1440/1990, with all its paragraphs, on contracting using modern communication devices. This resolution also applies to electronic contracts which are independent of smart contracts.

second: the concept of smart contracts; It is an automatically implemented contract between two parties based on the idea of a peer-to-peer system through a decentralized distribution network (blockchain), which operates by encoded (encrypted) currencies such as bitcoin and others.

third: smart contracts are concluded via private centralized or public decentralized platforms and generally use cryptocurrencies.

fourth: the Academy resolved to postpone adopting a resolution on the subject, until holding a specialized symposium on smart contracts and after adopting a resolution on cryptocurrencies, in order to study all aspects of smart contracts, with a focus on those mentioned in paragraph (2). Moreover, it would be advisable to invite technical specialists in the blockchain, cryptocurrencies and related areas.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 231 (2/24)

Inflation and the Changing Value of Currency

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440h (4–6 November 2019),

having examined the research papers submitted to the Academy concerning *Inflation and the Changing Value of Currency*,

having listened to the in-depth discussions on the subject,

resolves

first: the Academy confirms resolution no. 42 (4/5) issued at its fifth session and considers it applicable in cases of non-inflation and low inflation.

second: in case of hyperinflation, its calculation on reconciliation, otherwise it is resorted by mutual consent, or by the judiciary, or by arbitration, depending on circumstances.

third: if hyperinflation occurs after the emergence of debt, nothing prevents the creditor and the debtor from agreeing, at the time when it is due, to settle it at its value or by dividing the losses between the two parties as a consensual reconciliation. Also, it is permissible to make a settlement through the judiciary or arbitration, but it is not permissible to make such an agreement at the time of the contract.

fourth: the Academy confirms the recommendation addressed to Muslim governments in resolution no. 115 (9/12).

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 232 (3/24)

FIDIC Contracts (International Federation of Consulting Engineers' Contracts Templates)

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440h (4–6 November 2019),

having examined the research papers submitted to the Academy concerning *FIDIC Contracts*.

having listened to the in-depth discussions on the subject,

resolves

fidic contracts are a set of engineering construction contracts templates designed to regulate the relationship between the employer or his representative and those who execute this contract, to achieve a project with multiple construction elements, to be delivered ready-for-use, as envisioned.

If Shariah provisions and rules have been complied with, the Academy considers these contracts permissible based on an analogy with the contracts of istiṣnā (manufacturing), ijārah (leasing), and muqawala (entrepreneurship). Disputes and disagreements that may arise should be resolved through arbitration by virtue of the Academy resolution no. 91 (8/9). In case of delay in meeting the execution deadline, it is permissible to apply a penalty clause by virtue of the Academy resolution no. 109 (3/12).

If the price increases due to a change in execution circumstances, or to a modification in the project of the contract, it shall be considered a compensation for the losses.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 233 (4/24)

Tolerance in Islam: Social, International Necessity and Effects

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440h (4–6 November 2019),

having examined the research papers submitted to the Academy concerning *Tolerance in Islam: Social, International Necessity and Effects*,

having listened to the in-depth discussions on the subject,

resolves

first: confirming the resolutions, recommendations, statements and press releases of the Academy Council calling for peaceful coexistence.

second: tolerance is a fundamental principle, with many references in the Holy Quran and the Noble Sunnah. It had many applications throughout the life of Prophet Muhammad ﷺ, in the actions of the Companions رضي الله عنهم and Islamic history.

The Charter of Medina is one of the most notable examples of tolerance towards non-Muslims in the time of Prophet Muhammad ﷺ.

third: tolerance is enjoined among Muslims as well as between Muslims and non-Muslims.

fourth: there is an urgent need to behave on the principle of tolerance in both words and actions, and all areas. Tolerance is one of the most important consequences of peaceful coexistence and social cohesion. It is essential to maintain social relations and unity with all its components, as well as to preserve national unity.

fifth: the Council of the Academy commends the following:

1. International initiatives, declarations, and efforts by world states.
2. The United Arab Emirates' various activities to achieve tolerance and coexistence between peoples reflect an excellent image of Islam's tolerance and coexistence.

- Include the values of tolerance in educational programs and curricula.
- Include the values of tolerance in all areas of religious discourse.
- Highlight the values of tolerance in the media and various social networks.
- Urge experts and intellectuals to give prominence to writing, translating, and propagating the values of tolerance via the media.
- Invite the United Nations and its Member states to enact laws and sign international treaties that criminalize xenophobia, exclusion, fanaticism, and racial discrimination, and to reinforce these within constitutions of its Member states.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 234 (5/24)

Achieving Food and Water Security, Most Critical Problems and their Effects on the Future Challenges of the Ummah

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440h (4–6 November 2019),

having examined the research papers submitted to the Academy concerning *Achieving Food and Water Security, Most Critical Problems and their Effects on the Future Challenges of the Ummah*,

having listened to the in-depth discussions on the subject,

resolves

first: water security means the supply of safe water for human use, enough to meet the country's needs in quantity and quality and to ensure its continuity without interruptions.

second: food security means providing people with safe and healthy food while ensuring the minimum nutritional needs of all members of society.

recommendations

As Islam calls for the preservation and economy of water and food and prohibits excess and waste in everything that harm humans and societies, the Academy recommends the following:

1. Governments of Muslim countries should prioritize water and food security and develop policies and programs to rationalize water and food consumption.
2. As dictated by Shariah, Muslims should save water and food and not waste them.
3. Scientists specialising in hydrology, agriculture, and the environment should strive to establish devices and find solutions to ensure water and food security. They should also take advantage of techniques provided by the fourth industrial revolution in water recycling, in accordance with the

regulations and rulings of Shariah.

4. Muslim countries have to urgently cooperate to solve problems related to water and food shortages by establishing appropriate policies and plans to ensure developing water resources and achieving food security. They should also cooperate with regional as well as international organizations specialized in water and food areas.
5. Use modern seed production techniques and improve agricultural development equipment to ensure higher production rates and to achieve food security.
6. Muslim countries should endeavor to benefit from Shariah teachings and regulations in regard to developing agricultural resources by following the doctrine of the restoration of infertile soil, as advocated by Shariah teachings and regulations. They should also endeavor to remove obstacles to its realization.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 235 (6/24)

Human Genome and Future Bioengineering: Review of iifa Resolutions, their Practical Results, Updates and Challenges

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440h (4–6 November 2019),

having examined the research papers submitted to the Academy concerning the *Human Genome and Future Bioengineering: Review of IIFA Resolutions, their Practical Results, Updates and Challenges*,

having listened to the in-depth discussions on the subject,

resolves

first: confirmation of the Academy resolution no. 203 (9/21) on *Heredity, Genetic Engineering and Human Genome*, held at its 21st session in Riyadh, Kingdom of Saudi Arabia, on 18–19 Muḥarram 1435 (22 November 2013).

second: genome editing techniques (e.g. crispr-cas 9) are modern techniques of genomic modification and genome editing, which utilize substitution or correction, resembling the method used in computer spell-checking; but instead of editing words, genome editing techniques rewrite dna.

These techniques are more accurate and accessible than previous gene therapy techniques and aim to cure many incurable diseases. However, these techniques still need further research to ensure their safety and effectiveness. Genome editing would be allowed only if it fulfils the following conditions:

1. Safety and effectiveness should be accredited by relevant medical authorities.
2. To be used for medical purposes, such as preventing and treating genetic diseases. Using these techniques for aesthetic (ameliorative) purposes is strictly forbidden.
3. Requiring stringent regulatory procedures to ensure genome editing patients' dignity and prevent abuse of these techniques.

THIRD: Mitochondrial Transfer Technique. Given the confounding of kinships (ikhtilāṭ al-ansāb) that this entails, it is prohibited in Shariah to transfer mitochondria (i.e. the cell energy generator) of the egg cell of a healthy woman with its DNA to a woman suffering from mitochondria DNA lesion by using the mitochondrial technique for the purpose of producing a healthier child as it may also cause an incurable disease, as well as the confounding of kinships mentioned above.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 236 (7/24)

The Role of Religious Education in Promoting Peace

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440H (4–6 November 2019),

having examined the research papers submitted to the Academy concerning the *Role of Religious Education in Promoting Peace*,

having reviewed the recommendations of the international scientific symposium on the Role of Religious Education in Promoting Peace held by the Academy in Rabat, Kingdom of Morocco, on 17–18 Shaʿbān 1440 (23–24 April 2019), in cooperation with the Islamic Educational, Scientific, and Cultural Organization (ISESCO),

having listened to the in-depth discussions on the subject,

resolves

1. Drawing attention to the Holy Quran, the book of guidance, sent by Allāh, The All-Wise and the All-Knowing, and to the Noble Sunnah of Prophet Muhammad ﷺ and strengthen drawing from the educational methods found in the Holy Quran and the Noble Sunnah.
2. Continue holding regional and sub-regional conferences, seminars and meetings within the Muslim world and beyond on strengthening the role of religious education and learning and also, organizing international dialogue forums, with the participation of a well-selected elite of intellectuals and experts to present Islamic teachings on moderation and temperance.
3. Invite OIC Member states to establish special commissions to conduct detailed scientific studies on religious education programs in their respective countries and also include Islamic values and teachings on peace, dialogue and coexistence.
4. Invite competent educational authorities of OIC Member states to include religious teachings on peace in their school curricula.

5. Emphasize, in religious education programs, that Allāh the All-High has honored the human being; and as a human being, he/she has the right to a decent life, education, good health and other life essentials.
6. Highlight skills and concepts that promote religious values on tolerance, patriotism, and positive community attitudes; and emphasize these in religious education, learning, and preaching programs.
7. Spread advanced educational programs for teaching the Arabic language to non-Arabic speakers, in order to improve their knowledge of Islam, its culture, and values.
8. Broader propagation of educational programs using modern communication devices to rectify the common negative perceptions of Islam and Muslims.
9. Stress the importance of partnership and cooperation between religious scholars and experts in education and education sciences to elaborate religious education programs based on an educational approach that elevates religious values and reinforces them into the youth behaviour.
10. Coordination and cooperation between media, educational, preaching, dawah, and youth institutions, to reinforce and promote religious and cultural identity, and to consolidate national identity and respect of others' opinion.
11. Develop training methods and programs for religious guides and civil servants in religious affairs.
12. Scientific and pedagogical training of religious education teachers in the Member states and their continuous qualification through in-service training.
13. Develop educational methods and resources adapted to the multimedia generation, strengthen the values of dialogue and debate, and expand using educational activities method which teaches systematic thinking and constructs personal dialoguing attitude with others.
14. Prepare and publish foundational studies and research on strengthening education based on moderation and temperance, and translate them into living languages.
15. Establish research centers in charge of guiding and counselling Muslims, confronting fanaticism, takfirism, atheism, and refuting their opinions and arguments based on the teachings of Shariah.
16. Hold international symposiums and conferences on the use of social net-

works in promoting the values of peace, temperance and moderation.

17. Promote the culture of peace and develop skills, values and attitudes in religious education programs, which strengthen social interaction and cohesion.

18. Stress the importance of teaching comparative jurisprudence (*al-fiqh al-muqārin*) and comparative religion at Member states universities, following methodologies inspired by the flexibility of Shariah, its values of divergence and diversity, its role in pluralism, broader understanding and acceptance of others, and making flexible judgments.

19. Emphasize the importance of religious education and the development of its education methodologies.

20. Highlight authentic Islamic concepts regarding women and include them within religious education programs.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 237 (8/24)

Electronic Currencies

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440h (4–6 November 2019),

having reviewed the recommendations of the scientific symposium on *Electronic Currencies*, organized by the Academy in Jeddah, Kingdom of Saudi Arabia, on 10–11 Muḥarram 1441 (09-10 September 2019),

having listened to the in-depth discussions on this subject,

resolves

first: concept, dealing mechanisms and risks

1. Given the general meaning of the concept of electronic currencies, which includes credit cards, prepaid cards, electronic cheques and others, discussions concluded to use the term of "digital and coded (encrypted) currency." Some of the most popular of these currencies include bitcoin, ethereum, and the ripple. Despite having notable differences, these currencies are characterized by being encrypted, having no tangible physical existence or presence. Its transaction might be traded between parties without intermediaries, which is known as a peer-to-peer system.

   According to the research presented, these currencies are classified into three types:

   a. Coins, such as bitcoin.

   b. Alternative currencies or altcoins such as *light coin*, *bitcoin cash*, *ethereum* and the *ripple*.

   c. Tokens, which are tradable and exchangeable assets with goods and cryptocurrencies.

   One of the most significant characteristics of the first type of coins is decentralization, which means that, unlike other types of currencies, no government or private entity supervises its issuance. Most cryptocur-

rencies function on blockchain technology, producing the currency and maintaining the full record of currency transactions. Another characteristic of Bitcoin is the controversy over the personality of its first user (inventor).

2. Transactions in cryptocurrencies are processed directly via platforms available online or through brokers. There are fees to use these platforms, and the client should have a personal electronic wallet on his own computer, to document his ownership of the cryptocurrency and his ability to deal with it.

   One of the most distinctive characteristics of electronic platforms and wallets is the possibility of using pseudonyms, which is known as anonymity.

3. Some countries, such as Malaysia, have made it mandatory to obtain a necessary license from the relevant authorities to create these electronic platforms, and set in place regulations for their users, particularly disclosing their real identities.

4. Although cryptocurrencies have spread in many countries, in thousands of retail stores, have been exchanged for national currencies, and have been approved by some government authorities, many studies indicate the risks of using cryptocurrencies, particularly currency rates fluctuations.

SECOND: SHARIAH RULING

After reviewing the research presented and after listening to the debates on the subject, it became clear that some issues are affecting Shariah rulings on cryptocurrencies, which still need further consideration, notably:

1. What is the exact nature of the cryptocurrency; is it a commodity, a benefit, an investment financial asset or a digital asset?

2. Is cryptocurrency considered by Shariah a real-valued property and a tradable item?

THIRD: In light of the above and given the significant risks associated with this type of currencies and the instability of their transactions, the Academy recommends pursuing research and studies on issues affecting its ruling.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 238 (9/24)

Hedging Transactions in Islamic Financial Institutions

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 24th session in Dubai, United Arab Emirates, on 7–9 Rabīʿ al-Awwal 1440H (4–6 November 2019),

having reviewed the recommendations of the scientific seminar on Hedging Transactions in Islamic Financial Institutions, organized by the Academy in Jeddah, Kingdom of Saudi Arabia, in cooperation with the Iqra Waqf for Development and Employment, on 24–25 Rajab 1440 (31 March – 1 April 2019),

having listened to the in-depth discussions on the subject,

resolves

first: confirming the resolutions of the Academy concerning hedging in financial transactions; in particular, resolution no. 224 (8/23) on *Hedging in Financial Transactions, Regulations and Rulings*, adopted at its 23rd session in al-Madinah al-Munawwarah on 19–23 Ṣafar 1440 (28 October – 1 November 2018), including all its paragraphs, as follows:

1. Concept of hedging
2. Concept of risk.
3. Concept of protection.
4. Shariah position towards risks hedging.
5. Shariah rules for hedging formulas and methods.

second: Hedging (protection) transactions in their general meaning:

There is a range of transactions that can generally serve as a basis for hedging and protection formulas. They are in actual practice in financial institutions and they are permissible under Shariah, in particular:

1. economic hedging: It consists of a diversity of assets, investment portfolios and formulas. It is required, according to Shariah, in order to achieve good resources management.
2. cooperative hedging: It is based on takaful formulas by concluding

takaful insurance contracts to compensate for damages and losses that the Islamic financial institution may face. This formula is not objected by Shariah due to the lawfulness of cooperative insurance on projects and physical and financial assets. Hence, the Academy resolutions no. 9 (9/2) and no. 200 (21/6) confirmed the lawfulness of cooperative insurance and its different formulas.

3. PARALLEL CONTRACTUAL HEDGING: It is undertaking a contract parallel to the original contract, with the same terms and specifications, whereby the financial institution protects itself against the risks of the original contract, such as *salam* (advance payment sale) and *salam muwazi* (parallel salam), *istisna* (manufacturing) and *istisna muwazi* (parallel istisna). This is as stated in the recommendations of Academy resolution no. 224 (8/23) on hedging.

   One of the most important Shariah rules regarding the lawfulness of parallel contracts is not to connect the first contract with the second contract; instead, each contract should remain independent from the other in all its rights and commitments.

4. COMBINED CONTRACTS: By combining contracts to hedge risks by ways of making the contract side by side, neither as a necessary condition nor incorporating one contract within another. E.g. the combination between a sale and a binding promise between *wakalah* (agency) and *Murābaḥah*. The following are some of the most important combination modes:

   a. The combination of *Murābaḥah* and *Mushārakah*: by dividing the investment portfolio into two parts: the first part is allocated to *Murābaḥah(s)* with creditworthy entities, at a fixed profit; and the second part is invested in a *Mushārakah* contract, such as trading stocks or real estate shares, and so on. Therefore, capital hedging is achieved through the *Murābaḥah* contract, with the possibility of loss for the second part.

   b. The combination of *Ijārah* and *Mushārakah*: hedging mechanism in this mode is similar to the previous method. However, hedging is applied with an *Ijārah* contract instead of a *Murābaḥah* contract, such as investing a part of the investment portfolio in the purchase of *ṣukūk al-Ijārah* with an income sufficient enough to protect all the capital, and the remaining amount shall be invested in *Musharaka* contracts.

   c. The combination of *Murābaḥah* and *Bay' al Urbun* (earnest money): The manager divides the capital in two parts: the first part is placed

in *Murābaḥah* contracts with solvent companies at a definite profit, while the second part is used as *Urbun* for the purchase of shares. If shares' price increases, the manager would proceed with purchasing them, take delivery of the shares and sell them, and of course pay the remainder of the contracted price to the seller, and the portfolio realizes profits for the funds. However, if shares prices do not increase, the manager does not proceed with the Urbun sale contract and loses the earnest money, but the capital remains already protected by the Murābaḥah contract.

In this process, it is compulsory to comply with Shariah rules of *bay' al urbun*, which includes keeping the subject matter of the *urbun* sale (in the hands of seller) intact without any disposition from the moment the contract was signed until the settlement between the two parties and avoidance of trading the *urbun* itself.

5. Hedging using *Khiyar al-Sharṭ* (conditional options) to cover against the client's default:

   For example; In *Murābaḥah*, and *Ijārah* ending with ownership contracts, the Academy resolutions on mutual promises confirm that they are permissible provided conditional options are made available one or both parties, but without this condition, the mutual promises are not permissible.

   It should be noted, in this regard, that in the resolutions in which the Academy allowed "binding undertaking" by one of the parties, regarding it as a hedge against the default of the client, and protection of the financial institution against any losses, still maintain the right to opt-out for the other party.

6. Hedging using guarantees to protect the investment capital: There are diverse mechanisms which are included within the guarantee modes to cover risks arising from loss or non-profit in investment projects that the Academy resolutions confirmed their permissibility of which are the follows:

   a. Third-party guarantee: It is a natural or legal person independent from both parties of the contract if he/it undertakes to donate the guarantee in a specified project. The Academy resolution no. 30 (5/4) confirmed that this guarantee is permissible if the guarantor is independent in his/its personality and financial entity from both parties of the contract. The third-party commits to donating a contribution, without any benefit to him/itself to compensate for the loss of a specific project provided that it is a commitment made

independently.

b. Charging the *muḍārib* the burden of proof if a loss is claimed: the Academy stressed in its resolution no. 212 (8/22) that transferring the burden of proving the loss to the bank (being the *muḍārib*) as contrary to general principles provided that there are indirect evidences contrary to its claim of non-violation.

THIRD: hedging transactions that are, in the general sense, prohibited in Shariah include: Hedging through conditional mutual loans in two different currencies:

This formula is used to cover against exchange rate fluctuations and overdraft of correspondent accounts. If a financial institution has a surplus of a particular currency, it lends it to another institution provided that the latter lends the former another currency that it needs, whether this condition is explicit, implicit or customary. It is a kind of lending a loan against getting another loan, which is not permissible in Shariah, based on a consensus of all fiqh schools, because of the association between two loans (i.e. give me a loan and I give you a loan in return) whether the due dates of the two loans are same or different.

Hedges to Secure Capital in Shares and Ṣukūk: There are a few hedges, conditions and commitments usually incorporated in Ṣukūk issuance prospectuses which are incompatible with Shariah rules and with the Academy resolution no. 30 (5/4) of 1988 on *Muqāraḍah Bonds and Investment Certificates*; and no. 188 (3/20) on the *Pursuit of Research on Islamic Ṣukūk*, notably:

1. Guaranteeing the nominal value by the issuer (mudarib, managing partner, investment agent).
2. The *Muḍārib* undertaking to lend the *ṣukūk* portfolio to guarantee a certain rate in the distribution of dividends.
3. Requiring that *ṣukūk* holders shall not have the ability to control the leased assets, i.e. no resort to dispose of the leased assets in case of installments payment default.
4. Non-transfer of *ṣukūk* assets ownership to investors or to *ṣukūk* holders which means that assets are not under their liability and are consequently not entitled to the assets' return as they do not bear the liability against deserving the return. This is indicated by the fact that these assets often remain on the balance sheet of the issuer.
5. Requiring the inclusion in the issuance prospectus a commitment by the manager to lend the *ṣukūk* holders in case the actual profits fall below a given percentage. This requirement is often backed by another that if

the profit exceeds this percentage, the excess shall fully be granted to the manager as an incentive.

FOURTH: Alternative hedging instruments for financial derivatives and their Shariah rulings: These instruments can be divided into three essential types:

TYPE I: HEDGING AGAINST THE RISK OF FUTURE EXCHANGE RATE FLUCTUATIONS

Among its most significant transactions are:

1. Binding mutual commitments between the two parties to enter into a currency exchange contract in the future:

   FORMULA: Both parties make binding commitments one to the other to enter into a currency exchange contract on a specified future day and at a pre-determined exchange rate.

   Shariah Ruling:

   A. It is not permissible to utilize the binding mutual commitment as a hedging mode for currency exchange contracts. The Academy resolution no. 102 (5/11) on trading currencies stated that it is not permissible to sell currencies on deferred payment. Mutual binding promises on future currency exchange contracts are also not permissible. This is because the binding mutual commitment are similar to the contract as stated in the Academy resolution no. 40 (2/5) on fulfilling promises and the Murābaḥah to the purchase orderer, which stated that the binding mutual commitments to sell are equivalent to the sale itself.

   B. This formula is not included in the exceptional cases mentioned in the Academy resolution no. 157 (17/6), on binding mutual commitments and collusion to make contracts; which allowed binding mutual commitments in exceptional cases while confirming that in such exceptional cases, binding mutual commitments should not have any *ribā*.

2. The two commitments, one against the other (a binding commitment with specific conditions, against a binding commitment with different conditions on a future currency exchange contract).
   FORMULA: The first party shall make a binding commitment to the second party to sell an amount of a currency at a fixed rate at a specified time if the exchange rate direction is not in favor of the promise. But if the exchange rate is in the latter's favor, the commitment becomes null.

The second party shall also make a binding commitment to purchase the same amount of same currency, at the same fixed rate, at the same specified time if the exchange rate direction is not in favor of the promise. However, if it is in his favor, the promise becomes null.

Shariah Ruling:

Mutual commitments are not allowed to hedge against exchange rate fluctuations, as their reality is similar to binding mutual commitments to make a currency exchange contract that is prohibited in Shariah, by virtue of the Academy resolutions above.

3. An offer extended for a fixed period binding the offeror to enter into a currency exchange contract.
FORMULA: The first party issues an offer, extended until a given day, in which a currency exchange contract is concluded by selling the currency at a fixed rate and amount. The other party makes a binding or non-binding undertaking to issue its consent within the agreed deadline.

Shariah ruling:

A. It is not permissible to apply the principle of an extended offer to the currency exchange contract due to the existence of the condition of *taqabud* (i.e. to take delivery of the object of sale and to pay its price) in the contract meeting; whether or not it is faced with a binding commitment on behalf of the other party, as stated in the Academy resolution no. 52 (3/6) on concluding contracts by modern communication devices. See article 4.

B. If the extended and binding offer is faced with binding commitment from the other party, it is then similar to the binding commitment, but even worse due to the existence of an offer, regarded as one of the two pillars of the contract.

4. Execution of two mutual tawaruq transactions (*tawaruq mutaqabil*):
FORMULA: The execution of *structured tawaruq* resulting in the confirmation of debt with the amount of the first currency required to be paid, then a *reverse tawaruq* transaction is carried out to result in a debt with the amount of the second currency required to be received. This will result in two mutual debts on both sides of the transaction, each in a different currency.

Shariah ruling:

It is prohibited because it is based in its structure on *Tawaruq* which Shariah prohibits. The Academy resolution no. 179 (5/19) on *tawaruq*

and its types confirmed that both types of *tawaruq* (structured or reversed) are prohibited, as there is explicit, or implicit, or customary collusion between the financier and the mustawriq (tawaruq beneficiary), to deceitfully collect at present money against a larger amount as future debt, and that is *riba*.

5. The bilateral binding commitment to conclude a *Murābaḥah* transaction or a future sale with loss, whose profit or loss is based on an agreed index.
FORMULA: This transaction is executed through a binding bilateral commitment by both parties to *make a Murābaḥah/sale with loss* transaction, from the first party to the second party or from the second party to the first party on a given future day. The profit or loss of this transaction is calculated based on the positive/negative variance in a future day agreed upon for the calculation index.

Shariah ruling:

A. The principle is that it is not permissible to make bilateral binding commitments between the two parties, in accordance with the Academy resolution no. 40 (2/5).

B. This formula is not included in exempted cases allowed by the Academy resolution no. (157), stated above, in paragraph (4), article 1/1/A.

6. Two mutual commitments (a binding commitment with specific conditions against a binding commitment with different conditions, to execute Murābaḥah/sale with loss transaction in the future).
FORMULA: The first party makes to the second party a binding commitment to execute a *Murābaḥah*/sale with loss transaction at a specified moment if the direction of the currency exchange rate index moves not in favor of the other party. However, if the direction of the currency exchange rate index moves in his favor, the promise is null. The second party shall also issue a promise to execute a *Murābaḥah/sale with loss* transaction at the same specified moment if the direction of the currency exchange rate index is contrary to promise benefit. However, if the exchange rate index is favorable to his interest, the commitment becomes null. The profit or loss of the sale is calculated based on the agreed index.

Shariah ruling:

The two mutual commitments are not permissible as their real form resembles a binding mutual commitment that is prohibited by Shariah according to the above mentioned paragraph (4) article (5).

TYPE II: HEDGING AGAINST FLUCTUATIONS IN INTEREST-RATE INDICES WHICH AFFECT PROFIT RATES IN ISLAMIC FORMULAS

1. Binding mutual commitment of both parties to enter into a future *Murābaḥah* or sale with loss contract, whose profit or loss will be calculated on basis of an agreed index.

   FORMULA: This transaction is made with binding mutual commitments by the two parties to carry out a series of Murābaḥah/sale with loss transactions from the first party to the second party or from the second party to the first party in a series of days in the future. The profit or loss of these sale transactions is made to equal with the positive or negative variance in each of the coming days agreed for the index's calculation.

   Shariah ruling:

   A. It is not permissible to utilize the bilateral binding commitments as a hedging mode to exchange fixed and floating interest rates because the mode of bilateral binding commitments is similar to the concluding a contract, as stated in the Academy resolution no. 40 (2/5) on fulfillment of promises and *Murābaḥah* to the purchase orderer. Binding mutual commitments to make a sale is similar to the sale itself.

   B. This mode is not included in the exempted cases allowed by the Academy resolution no. 157, as described above in paragraph (4) article 1/1/A.

2. Two mutual commitments (a binding commitment with specified terms against a binding commitment with different conditions to execute a future *Murābaḥah/sale with loss* transaction).

   FORMULA: The first party makes a binding promise to the second party to undertake a series of *Murābaḥah*/sale with loss transactions at a specified time if the direction of the interest rate index is not in favor of the second party. But if the direction of the interest rate index is in the latter's favor, the promise is annulled.

   The second party also undertakes to execute a series of *Murābaḥah/sale with loss* transactions at the same specified times if the direction of the interest rate index is not to his interests, but if the direction of the interest rate index is to his interests, the commitment becomes null. The profit in *Murābaḥah* or the sale with loss is calculated based on the changes in the agreed index.

   Shariah ruling:

It is not permissible to make two mutual commitments, as their reality is equivalent to the bilateral binding commitments prohibited in Shariah, according to paragraph (4) mentioned above.

3. Execution of *mutual tawaruq transactions*:
FORMULA: Executing a *structured tawaruq* transaction resulting in confirmation of indebtedness at the required fixed interest rate. Then proceeding to a reverse tawaruq transaction resulting in the affirmation of indebtedness at variable interest rates. This will allow the two debts to be offset against each other on each day up to their deadlines. Compensation is then made by paying only the difference. There are three methods usually utilized to calculate the variable interest rate in this *tawaruq* transaction:

   1. Contracting variable-rate *tawaruq*.
   2. Contracting fixed-rate *tawaruq* with a commitment to discount any excesses in interest rate index for each future installment day.
   3. *Cyclical tawaruq* by executing a series of short-term *tawaruq* transactions, each at a fixed price to create, at the end, a floating rate debt.

Shariah ruling:

It is not permissible because the transaction is based on a mode prohibited by Shariah (*tawaruq*), as stated in section (4), paragraph 4.

TYPE III: ONE-PARTY BINDING COMMITMENT AS AN ALTERNATIVE TO OPTIONS TRANSACTION

FORMULA: Issuance of a binding commitment by one party to execute a *Murābaḥah* transaction with the second party for the amount of the positive variance, on an agreed day or within an agreed period, when the second party requests.

This binding commitment is sold at a given price which shall be paid in the beginning. The first party who issues the binding commitment shall become the option seller, and the second party who has the right to enforce fulfillment of the binding commitment shall be the option purchaser.

Shariah Ruling:

It is not permissible to pay for a binding commitment.

The Academy resolution no. (63) on financial markets stated the following:

— Second: Options

D. Options contracts: The meaning of options contracts is to pay for the

undertaking to sell or purchase a specific item at a given price, within a given period, either directly or through an authority guaranteeing the rights of both parties.

E. Shariah ruling: Options contracts, as currently traded in the international financial markets, are new contracts that do not fall under any Shariah-nominate contracts. Since the subject matter of the contract is neither property nor a benefit, nor a financial right that can be paid for, this contract is therefore not permissible in Shariah. Furthermore, since these contracts are initially not permissible to create, their trading is not permissible either.

The International Islamic Fiqh Academy also issued resolution no. (224) on hedging that contains regulations of Shariah-permitted hedging. It stated that: "Hedging formulas/modes should not lead to the sale of purely abstract rights, such as the sales of options which the Academy affirmed their prohibition by resolution no. 63 (1/7), paragraph (2-B). They should also not lead to paying for undertakings, such as payment for the guarantee, which the Academy prohibited in resolution no. 12 (12/2)."

RECOMMENDATIONS

1. Shariah Councils, Fatwa and Shariah Supervisory Boards, scholars and researchers shall reconcile between compliance with the fundamental objectives of Shariah and its specific rules and regulations of individual contracts when practicing Ijtihad in structuring Islamic financial products in general and in drafting hedging contracts in particular. Also, to consider the outcomes of these contracts and their effects because the consideration of outcomes is a fundamental principle in Shariah.
2. Investment and treasury departments at the micro-institutional level, as well as authorities in charge of drafting monetary and financial policies at the macro-states level, shall ensure a balance between commitments and debts on the one hand, and wealth and actual economic activities on the other, and to avoid sinking in debts which negatively affects economic activity in general.

Indeed, Allāh is All-Knowing.

Resolutions and Recommendations of the 25th Session of the Council of the International Islamic Fiqh Academy

JEDDAH
KINGDOM OF SAUDI ARABIA

29 Rajab – 3 Sha'ban 1444
20–23 February 2023

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 239 (1/25)

Islamic Ruling on Religious and Non-Religious Education for Males and Females

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having considered the Academy's resolution no. 38 (13/4) on *Combatting Moral Evils, Areas of Islamic Unity, Methods of Benefiting from them, and the Islamization of Education in the Muslim World Today*, issued at the 4th session in Jeddah, on 18–23 Jumada Al-Akhira 1408h (6–11 February 1988),

having considered the Academy's resolutions no. 164 (2/18) on *Human Resources Development in the Muslim World*, and no. 169 (7/18) on the *Rights and Obligations of Muslim Women*, issued at its 18th session in Putrajaya, Malaysia, on 24–29 Jumada Al-Akhira 1428h (9–14 July 2007),

having considered the Academy's resolution no. 236 (7/24) on the *Role of Religious Education in Promoting Peace*, issued at its 24th session in Dubai, on 7–9 Rabiʿ al-Awal 1441h (4–6 November 2019),

having considered the Secretariat General of the Academy's statement on the *Suspension of Education for Girls and Women in Afghan Schools and Universities*, issued on 28 Jumada al-Ula 1444h (22 December 2022),

having examined the research papers submitted to the Academy on the *Islamic Ruling on Religious and Non-Religious Education for Males and Females*,

having listened to the discussions of the Academy's members and experts,

resolves

first: Education in Islam is the process of acquiring the values, principles, knowledge, and skills that enable humans to worship and serve Allah, prosper in the universe, and achieve happiness and success in this world and the hereafter.

second: Teaching males and females beneficial sciences is a right upon the family, the society, and the state, and it is the right of both sexes to obtain all types of education at all its levels. The scholars have been unanimous about this

right since the time of the Companions رضي الله عنهم to this day, in accordance with the Almighty's words:

«Read in the name of your Lord who created – created man from a clot Recite, and your Lord is the most Generous – who taught by the pen – taught man what he knew not» (Al-Alaq: 1–5)

«So high [above all] is Allah, the Sovereign, the Truth. And [O Muhammad], do not hasten with [recitation of] the Quran before its revelation is completed to you, and say, "My Lord, increase me in knowledge."» (Taha: 114)

«And among people and moving creatures and grazing livestock are various colors similarly. Only those fear Allah, from among His slaves, who have knowledge. Indeed, Allah is Exalted in Might and Forgiving.» (Fatir: 28)

In addition to many verses of the Quran, Prophet Muhammad ﷺ said, according to a hadith reported by Ibn Majah from Anas bin Malik رضي الله عنه, «Seeking knowledge is an obligation upon every Muslim.»

THIRD: Education prescribed in Islam includes any education that helps to achieve the five *Masalih daruriya* (necessary interests), namely the preservation of self, religion, family, mind, and wealth, and also any education that helps to achieve the needed (*Ḥājjīyah*) and complementary (*Taḥsinīyyah*) *Masalih*. This also includes religious education that enables humans to know what Allah has commanded, encouraged and prohibited in sayings and deeds, which includes the sciences of *aqeeda* (creed), *fiqh* (jurisprudence) and *usul fiqh* (sources of fiqh), as well as the sciences of *Sunnah* (Prophet's traditions), and *tafsir* (exegesis).

Similarly, it also includes worldly education that helps us understand the universe, life, and reality as well as enables the efficient use of what Allah has bestowed upon us. Examples include medicine, engineering, economics, sociology, humanities, and natural sciences.

FOURTH: Spending on religious and non-religious education is one of the duties of the family, society, and the state, according to Shariah, because it is the bedrock for success in religious and worldly affairs, as well as for the goodness of mankind in this life and the hereafter.

FIFTH: It is not permissible in Shariah to deprive a male or a female of any beneficial education, whether it be religious or worldly, as this is a clear violation of Shariah texts that ordered their education, as well as a violation of the consensus of the Ummah throughout the ages, that both genders should be educated, not to mention the many harmful consequences of the lack of education, such as the spread of ignorance, impoverishment, and diseases, among others.

RECOMMENDATIONS

1. Addressing unusual fatwas that violate the teachings of the Quran and

Sunnah, and prohibit women from learning and teaching.

2. Refuting views that deprive women of religious and worldly education with fallacious arguments and responding to them in ways that expose their falsehood.
3. Calling on governments to prioritize and facilitate men and women to receive religious and worldly education at all levels, especially girls' education, which is of paramount importance in ensuring a good education for future generations.
4. Calling on states and communities to address the issues and barriers that prevent or limit many girls' participation in lifelong learning in both religious and non-religious education.
5. Scientific centers in universities, Fiqh academies, research centers, scientific journals, scholars, intellectuals, imams, and preachers should carry out greater efforts in guiding people and raising their awareness of the importance of education for men and women because education is the pillar of strength for nations in all fields, including defense, economy, politics, society, and health. It is also one of the reasons for nurturing moderation and paving way for the rejection of extremism and fanaticism.
6. Calling on educational institutions, centers, and universities to improve their curricula and programs to prepare generations capable of transforming the challenges of the modern age into opportunities for prosperity, progress, and development, while strengthening the Islamic approach to education as it is the most effective approach for providing practical solutions to modern life problems by meeting these challenges and seizing these opportunities.
7. Promoting scientific research, developing creative and critical thinking, supporting innovation and invention, and strengthening scientific integration between religious and non-religious education, in order to prepare a full-fledged generation which is balanced both spiritually and physically, and in matters of religious and worldly life.

The Council of the Academy applauds the efforts of numerous OIC Member States that have made the education of both males and females a pillar of their renaissance and progress.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 240 (2/25)

Impact of Covid-19 Pandemic on the Shariah Rulings of Worship, Family, and Crimes

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Impact of the Covid-19 Pandemic on the Shariah Rulings of Worship, Family, and Crimes*,

having reviewed the recommendations of the Academy's Medical Fiqh Symposium concerning the *Novel Coronavirus (Covid-19): Medical Treatments and Shariah Rulings*, held via videoconferencing on 23 Sha'ban 1441h (16 April 2020),

having reviewed the recommendations of the Academy's Medical Fiqh Symposium, concerning the *Sharia Rulings on Covid-19 Vaccines, their Purchase, and Financing their Distribution with Zakat Funds*, held via videoconferencing on 10 Rajab 1442h (22 February 2021),

having listened to the discussions of the Academy's members and experts,

resolves

first: A pandemic refers to an epidemic that has spread widely in large areas of neighboring countries, affecting a large number of people, and the novel coronavirus refers to the coronavirus that causes inflammation in the respiratory system, also known as Covid-19.

second: The novel coronavirus (Covid-19) is a pandemic because it has spread worldwide; therefore, the Shariah rulings concerning pandemics and epidemics in Islamic jurisprudence apply.

third: The Shariah rulings concerning pandemics in general, and the Covid-19 pandemic in particular, include the following:

1. The ruler (government) should take measures to mitigate the spread of the pandemic, including the suspension of the Friday and daily congregational prayers in Mosques, Hajj and Umrah, imposition of curfews,

closure of schools, and other measures for the preservation of lives.

2. It is permissible to use Zakat funds to purchase vaccines, medicines, or medical equipment for *the poor, the needy, and whose hearts need to be reconciled* as these are included in the eight beneficiaries of Zakat. The funding of vaccines, medicines, and treatments can also be financed from other sources, including charities, donations, *awqaaf*, and other various forms of giving.
3. It is permissible, if necessary, for Muslims to expedite the payment of Zakat and to pay it during the pandemic to the patient who is unable to pay the cost of medical treatment, as well as to workers, civil servants, and others who have lost their jobs due to the pandemic if they do not have enough to live on.
4. A Muslim who has died from coronavirus must be washed, wrapped, given a funeral, prayed over, and buried while taking the precautionary sanitary measures. Should this become unattainable, *tayammum* (dry ablution) may be performed on the corpse, provided it is feasible.
5. It is not permissible to cremate a corpse that has died from the coronavirus but must be buried while taking precautionary sanitary measures.
6. The funeral and the prayer over the deceased with the coronavirus depend on the circumstances in a way that does not affect the healthy.
7. The deliberate spread of the coronavirus to healthy people is a punishable crime commensurate with the severity of the crime committed.

The Council of the Academy commends the fatwas and resolutions issued by respected Shariah boards and Fiqh councils in a number of OIC Member States, which have contributed to mitigating the pandemic.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 241 (3/25)

Impact of Covid-19 Pandemic on Shariah Rulings of Transactions, Contracts, and Financial Obligations

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Impact of the Covid-19 Pandemic on Shariah rulings of Transactions, Contracts, and Financial Obligations*,

having considered the Academy's previous resolution no. 240 (2/25) concerning the *Impact of the Covid-19 Pandemic on the Rulings of Worship, Family, and Crimes*,

having listened to the discussions and deliberations of the Academy's members and experts,

resolves

first: The Covid-19 pandemic is considered one of the emergency excuses that allow for contractual obligations to be reviewed, either by postponement, cancellation, termination, or otherwise. According to Islamic jurisprudence, the Shariah rulings on transactions in this context fall under the same section of Shariah rulings relating to pandemics and epidemics.

second: The aggrieved party has the right, in contracts whose conclusion or execution has been disrupted during the pandemic in the presence of an earnest deposit or a margin of seriousness, to terminate the contract and recover the deposit and the margin of seriousness, or to settle for a temporary suspension of the execution of the contract's obligations, or to alleviate the obligation of the aggrieved party in a manner that reconciles the advantages of both parties.

third: The Covid-19 pandemic has no effect on residential rentals after the rented property has been used, and the rental amount remains a debt owed to the tenant if the latter is unable to pay it.

fourth: It is not permissible to enforce the penalty clause if the Covid-19 pandemic has been the cause of the delay in the contract's execution.

FIFTH: It is permissible under state supervision to redistribute salaries, in a measure compatible with the impact of the pandemic on public life; and in the interests of justice for all parties during the pandemic. It is also permissible to reduce wages following the reduction of working hours in proportion with the reduced output.

SIXTH: Should Islamic cooperative insurance be inaccessible, it is permissible to turn to commercial insurance, to the extent needed, to cope with the consequences of the coronavirus.

SEVENTH: The financial arrears arising from the various financing contracts whose installments have been hampered by the Covid-19 pandemic, should be reconciled with due justice.

EIGHTH: Should any epidemic or a pandemic have similarities with the Covid-19 pandemic, it shall have the same Shariah rulings.

RECOMMENDATIONS

1. Calling on governments to implement well-organized and sustainable humanitarian initiatives at the local and international level to mitigate the ravaging material effects resulting from the bankruptcy of numerous corporations and institutions by providing support to the least developed countries and to the aggrieved local sectors, as well as delivering effective and necessary aid to displaced people, refugees, the homeless, people in distress, and victims of conflicts, natural disasters, and epidemics, whenever possible.
2. Calling on commercial enterprises, financial institutions, and philanthropists to extend their donations, grants, and charities for people materially affected by the Covid-19 pandemic. This can be achieved through the establishment of volunteer programs and projects with the goal of alleviating the pandemic's effects on them.

The Council of the Academy commends the principles and resolutions issued by the judicial authorities in a number of OIC Member States that have addressed the impact of the pandemic on the rulings of contracts, transactions, and financial obligations; and urges researchers to take notes of them in their studies.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 242 (4/25)

Phenomenon of Non-Arabic Recitation in Salat

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Phenomenon of Non-Arabic Recitation in Salat*,

in light of the presentations of the Academy's members on this new phenomenon calling for *salat* in non-Arabic by reciting the translations of the meanings of the Noble Quran and *adhkaar* (prescribed invocations) as an alternative to the Arabic language, in which the Noble Quran was revealed,

having realized that this phenomenon is unrelated to the well-known juristic debate on the recitation of *salat* in languages other than Arabic,

having listened to the discussions and deliberations of the Academy's members and experts, and to eliminate the harmful effects of this dangerous phenomenon,

resolves

first: *Salat* or the regular compulsory prayer in Arabic is one of unanimously agreed-upon matters in both word and meaning (i.e., explicitly and implicitly); and one of the rites of Islam that the Ummah has practiced unanimously since the time of the Prophet's Companions ﵃ to this day. Therefore, it is not permissible to disagree with this well-established doctrine.

second: *Salat* in a language other than Arabic is null and void. There is no excuse for a person not to learn in Arabic the necessary elements from the Noble Quran and the prescribed invocations such as *takbeer*, *tasbeeh*, *tasmee'*, *tahmeed*, *tashahhud*, and so on. The only exceptions are a very new revert to Islam or someone completely incapable of learning the Arabic language.

third: The translation of the meanings of the Noble Quran is not considered Quran in itself by the consensus of all Muslims because the word *Quran* is a name that describes both the meanings and the structure as a whole. It is the inimitable and sequential word of Allah, which has a miraculous nature, that was

revealed to Prophet Muhammad ﷺ in a clear Arabic tongue. It is well-structured and fully contained between the two covers of the *Muṣḥaf*, and its recitation has been legislated by Allah as an act of worship.

However, translations of the meanings of the Quran are not Allah's words. Rather, they are the words of humans, devoid of miraculous characteristics and not free from error and misguidance, and hence their recitation cannot be regarded as a prescribed act of worship.

FOURTH: The performance of *Salat* with the translations of the meanings of the Noble Quran and *adhkaar* is null and void. It must be repeated appropriately due to dismissing one of the fundamental pillars of *salat*, which is the abandonment of the Arabic recitation of the Noble Quran as revealed to the Messenger of Allah ﷺ.

FIFTH: The official authorities are entitled to enact *ta'zīr* (discretionary penalization) on anyone who performs or advocates *salat* in a language other than Arabic due to the evils associated with these actions, and which can be used as pretexts to divert people from the Noble Quran, replacing it with translations of its meanings, and promoting discord within the Ummah by disseminating linguistic and ethnic prejudices.

RECOMMENDATIONS

1. Urging governments of OIC Member States and institutions concerned with Muslim communities to take measures against those who advocate *salat* with the translations of the Noble Quran and *adhkaar*, which already began in some OIC Member States and among Muslim communities abroad, instigated by well-known anti-Islamic entities aiming to sow discord among Muslims.
2. Calling on Ifta authorities, Shariah boards, Fiqh councils, and academies, as well as imams and preachers, to emphasize the dangers of this phenomenon and its harmful effects on the Ummah's unity.
3. Calling on various institutions, including universities, schools, and scientific centers to facilitate the learning of Arabic so that every Muslim will be able to read the Noble Quran in Arabic, the language chosen by Allah the Almighty for His Glorious Word which is miraculous and magnificent in both its meanings and forms.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 243 (5/25)

Shariah Ruling on Salat behind Telephone, Radio, and Television

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Sharia Ruling on Salat behind Telephone, Radio, and Television*,

having noticed the numerous developments in videoconferencing and meeting technologies, and social media,

having considered the special rulings prompted by the Covid-19 pandemic in terms of the suspension of *salat* in mosques, the physical distancing that rendered spaces in mosques insufficient for worshipers, and sometimes even preventing people from leaving their homes,

having listened to the discussions and deliberations of the Academy's members and experts,

resolves

first: From the conditions for the validity of *salat* with an *imam* is the union of space and time between the *imam* and the congregation either physically or in judgment, as well as the ability of the congregation to either see the *imam* or someone who can see the *imam*, and to hear *takbeer* proclaimed by the *imam* directly, even if only in some parts of *salat*.

second: It is not permissible to perform *salat* following the voice or an image of an imam on the telephone, radio, or television, regardless of whether the worshipper led in prayer is near or far, due to the absence of physical connection between the *imam* and the followers, the lack of the aforementioned conditions for congregational *salat*; and also due to the numerous negative consequences this entails, such as neglecting to attend collective prayers in mosques, weakening the community spirit and fraternal nature of *salat*, as well as neglecting mosque presence, maintenance and construction, and thus weakening faith.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 244 (6/25)

Shariah Rulings and Standards on Social Media and Dissemination of Information and News for Denunciation, Spreading Rumors, or Abuse

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having considered the Academy's Resolution no. 52 (3/6) on the *Conclusion of Contracts by Modern Means of Communication*,

having examined the research papers submitted to the Academy concerning *Sharia Rulings and Standards on Social Media and Dissemination of Information and News for Denunciation, Spreading Rumors, or Abuse*,

having listened to the discussions and deliberations of the Academy's members and experts,

resolves

first: Social media networks refer to a digital network system that allows subscribers to create their own web pages and connect with other subscribers via a virtual social system. Social media, on the other hand, refers to the media content of a personal type that is transferred between multiple parties via a social network, with the freedom to send and reply. These include, but are not limited to, Twitter, WhatsApp, Facebook, Snapchat, and any others that exist presently or may emerge in the future.

second: It is prohibited to transfer, disseminate, publish, record, and store any kind of Shariah-illicit materials or corrupt content using these or other means. It is also prohibited to spread fake news, rumors, and anything else that harms the society's security, stability, and authenticity of their religion, creed, and morals.

third: The denunciation of evils via social media networks should adhere to the conditions established by Islamic scholars for the denunciation of vice, such as ensuring that public good is clearly achieved by denouncing it, the denunciation of an evil should not lead to a greater evil, and it should not encroach the ruler's (government's) authority on such matters.

RECOMMENDATIONS

1. Including in schools' curricula the Shariah standards to observe when using different types of social media networks so that young generations can distinguish between right and wrong.
2. Refraining from using these means when driving vehicles and performing certain acts of worship such as *tawaf*, due to the distraction involved, as well as being a cause leading to contempt, arrogance, and hypocrisy, which affect the perfection of worship.

Indeed, Allāh is All-Knowing.

≈

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

Resolution no. 245 (7/25)

Issue of Foundlings and Births of Unknown Parentage from a Shariah Perspective

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444H (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Issue of Foundlings and Births of Unknown Parentage from a Shariah Perspective*,

having listened to the discussions and deliberations of the Academy's members and experts,

resolves

first: A foundling refers to a child whose parents are unknown, and who has been rejected or lost. A child of unknown parentage refers to a child whose parents could not be identified due to war, natural disasters, or other causes; it also includes a child whose mother is known and whose father is unknown or illegitimate.

second: Caring for foundlings and children of unknown parentage is *farḍ kifāyah* or a duty of sufficiency (i.e. if a sufficient number of the community fulfills this duty, others are not required to do it)[44] and it is one of the state's responsibilities to care for them when there is no sponsor available. This care includes the right to custody, expenses, education, healthcare, protection from anything that threatens their life and safety, and the provision of all the elements necessary for a decent life.

third: A child of unknown parentage should be affiliated to the person who claims him or her, as long as there is no rational or material evidence against it, or to the person whose biological paternity has been proven by a Shariah-approved method. The father whose paternity has been proven is to be obligated to provide and care for the child.

fourth: The foundlings and children of unknown parentage must be given

44 By contrast, *fard 'ayn* refers to an individual obligation that is incumbent on every Muslim.

a respectable name and surname, as well as the nationality of the country where they were found.

FIFTH: All the same inalienable civil and religious rights as everyone else are well-established to the foundling and the child of unknown parentage. It is forbidden to slander or disrespect them. Anyone who may do so should be subject to *taazir* (discretionary punishments) to deter others from doing the same.

SIXTH: It is not permissible to hand over a foundling and a child of unknown parentage to non-Islamic entities and organizations, or to untrustworthy individuals.

RECOMMENDATIONS

1. Urging governments to enact laws and regulations, and to take necessary measures to ensure the care for and protection of foundlings and children of unknown parentage.
2. A man who takes in a foundling must arrange for their breastfeeding by his wife or by another woman whose breastfeeding will establish a *mahram* relationship, such as his daughters. Therefore as the child grows up, develops feelings towards his/her family, to whom he or she belongs, and being part of a family that cares for them and shows them love and compassion.
3. Encouraging all Muslims, as individuals and charitable organizations, to care for foundlings and children of unknown parentage, to sponsor them, and establish care centers to support and raise them, especially in countries most affected by disasters, wars, and conflicts.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 246 (8/25)

A Shariah Approach to the Phenomenon of Street Children, Child Beggars, and Children in Hard Labor

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning *the Shariah Approach to the Phenomenon of Street Children, Child Beggars, and Children in Hard Labor*,

having considered resolution no. 113 (7/12) on the *Rights of Children and Elders*, and the necessity to enforce paragraph I in all its clauses (I–X), given its relevance to this subject,

having listened to the discussions of the Academy's members and experts,

resolves

first: Street children refer to children under the age of puberty who use the streets and other similar locations as a place of residence or a source of income, whether with or without the knowledge of their parents or guardians.

Child beggars refer to children under the age of puberty who are forced to beg unfairly in order to obtain money, food, or drinks for themselves or others, whether or not under the order and supervision of their parents or guardians.

Children in hard labor refers to children under the age of puberty who are forced to perform arduous work that jeopardizes their lives, health, and education and puts their future in peril, whether or not under the order and supervision of their parents or guardians.

second: It is not permissible to allow children to take the streets, and similar places, as a permanent or temporary residence or as a source of income, nor to employ them for begging on public streets, in homes, offices, or other places, nor to employ them in heavy work, as in mines, factories, farms, and homes.

It is not permissible to take advantage of poverty, destitution, or necessity as a pretext for any of the above as this is a violation of Shariah texts that safeguard the rights of children to life, upbringing, education, and health; and also

due to the disastrous consequences, which endanger their lives, deprive them of their rights, and make them vulnerable to criminal gangs and drug abuse.

RECOMMENDATIONS

1. Calling on governments to protect children against abuse, injustice, cruelty, and exploitation by enacting and applying laws and regulations that criminalize child labor.
2. Calling on scholars, preachers, and imams, to educate all segments of society about the Shariah prohibition on exploiting children in public spaces, whether for livelihood or begging, or employing them in hard labor.
3. Calling on countries, that have not yet officially banned child labor, to implement laws and regulations that protect children and prevent inflicting injustice and transgressions against them.
4. Strengthening the role of the family and encouraging parents to care for their children, and to embrace noble values and good morals in their behavior with children.
5. Urging the Muslim world's various types of media to carry out their duty in spreading comprehensive awareness of the dangers of these issues, namely street children, child beggars, and children in hard labor, and to coordinate efforts in mitigating and eradicating their causes.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 247 (9/25)

Guidelines for the Application of Maqāṣid in Regulating Contemporary Financial Transactions According to Shariah Rulings

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having considered the Academy's resolution no. 167 (18/5) on *Maqāṣid and their Role in Deriving Shariah Rulings*,

having examined the research papers submitted to the Academy concerning *Guidelines for the Application of Maqāṣid in Regulating Contemporary Financial Transactions According to Shariah Rulings*,

having listened to the discussions of the Academy's members and experts,

resolves

first: Emphasizing Academy's resolution no. 167 (5/18) on *Maqāṣid and their Role in Deriving Shariah Rulings*.

second: *Maqāṣid al-Sharia* (purposes or higher intents of Shariah) of financial transactions are the values and objectives that Shariah aims to realize through financial transactions, such as the purpose of justice in the transaction, the circulation and promotion of wealth, as well as transparency, protection, and growth.

third: Shariah boards and councils should consider and respect the implications of *Maqāṣid* on transactions and their guidelines, as well as their application to realities and actual incidences. The most important of these guidelines include:

1. These guidelines should not contradict stronger Shariah-based evidences.
2. Taking into consideration the categories of *Maqāṣid* and their stratification in terms of their originality, and subordination, comprehensiveness and partiality, conclusiveness and inconclusiveness, so that the inconclusive does not take precedence over the conclusive, nor does the partial take precedence over the comprehensive, nor the subordinate over the original.
3. Taking into consideration the five universal *Maqāṣid* when applying

Maqāṣid which are specific to certain transactions.

4. Distinguishing rulings on transactions, between what falls under *Maqāṣid* and what falls only under the means, so that neither the means revoke and invalidate an established *maqsad*, nor should the latter be abandoned in order to obstruct one of its means.
5. *Maqāṣid* of financial transactions can be benefited from in the formulation and interpretation of contemporary financial contracts and transactions and the resolution of disputes caused by pandemics and emergency circumstances, in light of the purpose of justice, and other purposes related to financial transactions, such as promotion, transparency, and stability.
6. *Maqāṣid* should be used to verify the realism and non-fictitious nature of contemporary transactions.
7. Taking into account *ma'alaat* (final consequences) of financial transactions in light of *Maqāṣid*.

RECOMMENDATIONS

1. Urging universities, institutes, and scientific centers to devote more attention to *Maqāṣid*, in their research and educational subjects, in order to prepare generations that understand both Shariah texts and their purposes, on the one hand, and Shariah texts and on-ground realities, on the other.
2. Drawing the attention of students, researchers, and scholars specializing in *Fiqh, Usul*, and *Maqāṣid*, to the importance of acquiring excellent knowledge in contemporary economics and finance.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 248 (10/25)

Shariah Rulings on Contemporary Applications of Debt Rescheduling, Composite, and Hybrid Sukuk

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning *Sharia Rulings on Contemporary Applications of Debt Reschedule, Composite and Hybrid Sukuk*,

having listened to the discussions of the Academy's members and experts,

resolves

first: shariah rulings on the applications of debt rescheduling

1. Debt rescheduling is converting an established debt into a larger debt in exchange for extending the maturity. It amounts to the cancellation/replacement of a debt by a new debt.

2. The Academy reiterates its resolution no. 101 (4/11) on *Debt Sale and Loan Debentures*, which states the following: "It is not permissible to sell a deferred debt by the non-debtor for immediate cash, of its kind or any other kind, because this results in *ribā* (usury). Likewise, it is not permissible to sell it for a deferred cash, of its type or otherwise, because it is similar to selling a debt for a debt, which is prohibited in Shariah."

   The Academy also reiterates its resolution no. 158 (7/17) on the *Sale of Debts*, which states: "Debt-for-Debt Swap, which Shariah prohibits, includes all and any arrangement involving or indirectly leading to 'increasing the amount of debt against extending the maturity.' One form of such arrangement is a debt swap, in which the original debt is settled, partially or entirely, through a new transaction between the two parties that creates a new larger debt regardless of whether the debtor is solvent or not. For example, the debtor purchases a commodity from his credi-

tor for a deferred price and sells it for an instant price used to settle the original debt or part of it."

3. Any form of debt rescheduling that leads to an increase in the debtor's debt in return for an extension of the maturity or which serves as a gateway to this (debt increase for extension), is considered a cancellation/replacement of a debt by a debt, which is prohibited in Shariah.

4. According to Shariah, the power of the contracting parties to amend their contracts is limited to the amendments that do not violate the rulings of Shariah, such as the prohibition of increasing the amount of a debt established as a liability in return for an extension in the due date of payment, regardless of whether it arises from *Murabaha*, *Istisna*, *Salam*, or others. Therefore, any amendments should not violate anything forbidden by an Ijma (consensus), such as interest on debts.

SECOND: COMPOSITE AND HYBRID SUKUK

After examining the research papers presented on this subject, the Council of the Academy decided to postpone adopting a resolution pending further research and studies.

RECOMMENDATIONS

FIRST: Emphasizing the Academy's previous recommendations, which include several solutions for defaulting debtors, including its resolution no. 218 (2/23) concerning *Sharia Rulings on Insolvency and Bankruptcy*.

SECOND: Calling on Islamic financial institutions to help defaulting debtors through a financing scheme that enables them to raise up their businesses and, as a result, to repay their debts.

THIRD: Calling on Shariah boards of Islamic financial institutions to adhere to the Academy's resolutions regarding the sale, cancellation, and rescheduling of debt.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 249 (11/25)

Effects of Modern Mental Illnesses on Eligibility in Shariah

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Effects of Modern Mental Illnesses on Eligibility in Shariah,*

having listened to the discussions of the Academy's members and experts,

resolves

The Council of the Academy decided to postpone adopting a resolution on this subject pending additional research and studies, with the recommendation to organize a specialized symposium beforehand.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 250 (12/25)

Shariah Ruling on Abortion Due to Rape

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Sharia Ruling on Abortion Due to Rape*,

having listened to the discussions of the Academy's members and experts,

resolves

The Council of the Academy decided to postpone adopting a resolution on this subject pending additional research and studies, with the recommendation to organize a specialized symposium beforehand.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 251 (13/25)

Shariah Ruling on Gender Transformation

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444H (20–23 February 2023),

having examined the research papers submitted to the Academy concerning *Sharia Ruling on Gender Transformation*,

having listened to the discussions of the Academy's members and experts,

resolves

first: "Gender transformation" means the transformation of a male into a female or a female into a male.

second: Gender transformation is prohibited in Shariah because it is an alteration of the divine creation, as confirmed in the Noble Quran:

«And I (i.e., satan) will mislead them, and I will arouse in them [sinful] desires, and I will command them so they will slit the ears of cattle, and I will command them so they will change the creation of Allah.» (An-Nisa: 119)

And in a hadith reported by Al-Bukhari ﷺ on the authority of Anas رضي الله عنه:

«The Messenger of Allah ﷺ cursed effeminate men and women who imitated men, and said: Take them out of your houses.»

third: If a husband transforms himself into a female in apparent features, the wife has the right to annulment of the marriage contract due to a physical defect, and if a wife transforms herself into a male in apparent features, the husband shall divorce her.

fourth: Shariah rulings on the religious and civil duties and rights of men and women remain the same as before the gender transformation from male to female or vice versa, particularly with regard to Shariah rulings on child custody, family expenditures, and inheritance, because becoming a female or male is not a real change, but rather a change in outward appearance, as doctors have confirmed. Therefore, this gender reassignment does not affect these Shariah rulings in force before gender transformation.

1. Calling on states and governments to ban sex reassignment surgeries, and to raise awareness of their dangers and detrimental consequences to both those who get them done and the society.
2. Advising people suffering from gender disorders or identity obsessions, whether caused by psychological or other reasons, to seek out appropriate treatments.
3. Raising awareness against the dangers of movements advocating promiscuity, homosexuality, and transsexuality, and which aim to spread immorality and obscenity under the guise of defending individual rights and liberties.
4. Returning to Allah the Almighty, seeking refuge in Him, and adhering to the practices permissible in Shariah, because returning to Him is one of the most effective ways to cure all problems, especially mental disorders, and their likes.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 252 (14/25)

Role of Islamic Social Financing Mechanisms in Humanitarian Action within Conflict and Disaster Areas, and Promoting a Culture of Volunteering to Strengthen Joint Islamic Action

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having recalled the Academy's resolution no. 165 (3/18) on *Fostering the Role of Zakāh for Poverty Alleviation*,

having examined the research papers submitted to the Academy concerning the *Role of Islamic Social Financing Mechanisms in Humanitarian Action within Conflict and Disaster Areas, and Promoting a Culture of Volunteering to Strengthen Joint Islamic Action*,

having listened to the discussions and deliberations of the Academy's members and experts,

resolves

first: Islamic social financing refers to the giving of money for social purposes in accordance with Shariah's rulings and principles, in order to contribute to economic empowerment, community development, and the prosperity of the universe. Islamic social financing instruments include obligatory instruments such as Zakat, and non-obligatory instruments such as *qard*, *al-ariya* contract, voluntary charities, and *awqaaf*.

second: It is permissible to use Islamic social financing instruments to support humanitarian action and provide relief to people affected by disasters, epidemics, and displacement due to conflicts.

recommendations

1. Calling to include the culture of volunteering and its importance in the curricula of schools and universities in order to raise awareness and increase volunteerism and the number of volunteers.
2. Calling on scholars, intellectuals, and preachers to encourage the commu-

nity to carry out organized voluntary activities of all types and methods.

3. Emphasizing the importance of humanitarian social work and fostering voluntarism in various fields in the service of humanity as a whole, especially during crises, disasters, and the rise in the number of refugees and displaced persons, regardless of religion or ethnicity.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 253 (15/25)

Role of Wills in Shariah as an Effective Means to Alleviate Poverty and Ensure the Circulation and Promotion of Wealth

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning the *Role of Wills in Shariah as an Effective Means to Alleviate Poverty and Ensure the Circulation and Promotion of Wealth*,

having listened to the extensive discussions and opinions of the Academy's members and experts,

resolves

The Council of the Academy decided to postpone adopting a resolution on this subject pending additional research and studies, with the recommendation to organize a specialized symposium beforehand.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 254 (16/25)

Revisiting New Issues in Contemporary Applications of Ijara Ending with Ownership

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444H (20–23 February 2023),

having considered the Academy's resolution no. 44 (6/5) on the *Rent-to-own Contracts*,

having considered the Academy's resolution no. 110 (4/12) on *Renting Ending in Ownership and Leasing Bonds*,

having considered the Academy's resolution no. 115 (9/12) on *Inflation and the Changing Value of Currency*,

having considered the Academy's resolution no. 228 (12/23) on the *Suggestions of the Committee established by the Secretariat General of the Academy to research some issues on Sukuk*,

having considered the Academy's resolution no. 238 (9/24) on *Hedging Transactions in Islamic Financial Institutions*,

having examined the research papers submitted to the Academy on *Revisiting New Issues in Contemporary Applications of Ijara Ending with Ownership*,

having listened to the discussions and deliberations of the Academy's members and experts,

resolves

The Council of the Academy decided to postpone adopting a resolution on this subject pending additional research and studies, with the recommendation to organize a specialized symposium.

Indeed, Allāh is All-Knowing.

In the Name of Allāh,
the Entirely Merciful, the Especially Merciful

Praise is due to Allāh, Lord of the worlds, may the blessings and peace be upon our master Muḥammad, the last of prophets, on his family, and all his companions.

resolution no. 255 (17/25)

Letter of Guarantee and Documentary Letter of Credit

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444h (20–23 February 2023),

having examined the research papers submitted to the Academy concerning *the Letter of Guarantee and the Documentary Letter of Credit*,

Having listened to the discussions and deliberations of the Academy's members and experts,

resolves

The Council of the Academy decided to postpone adopting a resolution on this subject pending additional research and studies, with the recommendation to organize a specialized symposium beforehand.

Indeed, Allāh is All-Knowing.

≈

In the name of Allah, The Entirely Merciful, The Especially Merciful

Statement on the Turkey-Syria Earthquake

Praise is due to Allah, Lord of the worlds, may Allah's blessings and peace be upon our master Muhammad, the seal of Prophets, on his family, and all his companions.

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444H (20–23 February 2023), states the following:

With hearts full of faith in Allah's destiny, and acceptance of the divine decree, the Council of the International Islamic Fiqh Academy, emanating from the OIC, expresses its deep sorrow and sadness for the devastating earthquake that resulted in the loss of tens of thousands of lives in the Republic of Turkey and the Syrian Arab Republic, and prays to Allah to accept those who perished as martyrs, to grant those who were injured a speedy recovery, and to bestow upon their families and their loved ones patience and comfort, for we belong to Allah and it is to Him we shall return.

In light of this tragic and horrific humanitarian situation, the Council of the Academy expresses its deepest condolences to the families of our brotherly nations, praying to Allah Almighty to shower them with his mercy and assist them in overcoming the ravaging effects of this disaster.

The Council of the Academy affirms its full solidarity with Turkey and Syria and calls on the Ummah and the human community to expedite the relief and assistance they need through official channels.

The Council of the Academy commends the relief efforts of the Kingdom of Saudi Arabia, under the leadership of the Custodian of the Two Holy Mosques, King Salman bin Abdulaziz Al Saud, and those of his brethren, Their Highnesses and Excellencies, Heads of the OIC Member States.

May Allah alleviate the effects of this calamity as soon as possible.

May Allah send His blessings and peace on our Prophet Muhammad, his family, and all his companions.

In the name of Allah, The Entirely Merciful, The Especially Merciful

Statement Condemning the Holy Quran Burning in Sweden, Denmark, and elsewhere

Praise is due to Allah, Lord of the worlds, may Allah's blessings and peace be upon our master Muhammad, the seal of Prophets, on his family, and all his companions.

The Council of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, holding its 25th session in Jeddah, Kingdom of Saudi Arabia, on 29 Rajab – 3 Sha'ban 1444H (20–23 February 2023),

CONDEMNS in the strongest terms the burning of the Quran by extremists in Sweden, Denmark, and elsewhere, which is an expression of their deep hatred for a religion followed by nearly two billion people worldwide, and an indication of the growing disease of islamophobia in their thoughts and behavior.

AND PROCEEDING from its Islamic position as the leading religious authority of the Ummah, and from the sense of scholars' responsibility to offer advice and preserve long-standing relations between Muslims and all societies of the world, and in defense of global peace and harmony between peoples, the Council of the International Islamic Fiqh Academy, hereby:

REAFFIRMS that such irresponsible and demagogic acts have not and will not undermine the sanctity of the Holy Quran, as it is a Book whose verses are perfected and delivered by The Wise and Knowledgeable One. Falsehood cannot approach His Book neither from the front nor from the back and it has been sent to the believers who are conscious of Allah and to guide all mankind.

REITERATES that these provocations will not alter the position of the Holy Quran in the hearts of Muslims, but rather will strengthen its presence and message.

RENEWS its call to States, institutions, and international organizations to strengthen cooperation and coordination in order to combat irresponsible acts that desecrate sanctities and religious symbols, and to work together to adopt international resolutions that criminalize such acts practiced under the guise of freedom of speech.

AND CALLS on Muslim countries and organizations to file lawsuits at the concerned national and international tribunals against anyone attempting to commit such crimes against Islam, its Prophet, and its symbols.

May Allah send His blessings and peace on our Prophet Muhammad, his family, and all his companions.