

**TOWARDS AN EQUITABLE FISCAL POLICY**

**IN**

**PAKISTAN**

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**by**

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\*The views expressed in the paper are the author's own and do not necessarily reflect the views of the institution where he works

The fiscal policy of a government may make or break a society; excessive taxation can stifle incentive, enterprise, and competition, and kill the goose that lays the revenues.

An excessive concentration of wealth may tear a society to pieces by promoting revolution.

(Ibn Khaldun)

## **THE MAQASID AL- SHARI‘AH**

The establishment of justice has been the primary objective of all the prophets whom God has sent to this world, as the Qur’an clearly emphasizes:

We sent our messengers with the Book and the Balance, so that mankind may establish justice (al- Qur’an, 57:25).

Hence, justice occupies the most prominent place among the *maqasid al-Shari‘ah* (goals of the *Shari‘ah*) and it is impossible to conceive of an ideal Muslim society where justice has not been established. The establishment of justice implies eradication of all traces of *zulm*, which is a comprehensive Islamic term referring to all forms of inequity, exploitation, oppression and wrongdoing, whereby a person either deprives others of their rights or does not fulfill his obligations towards them.

Since justice is one of the most important characteristics of a Muslim society, it must be reflected in all aspects of life, including the socio-economic. Socio-economic justice cannot be said to have been realised unless the scarce resources at our disposal, which are a trust from God, are

used in such a way that the well-being of all individuals is ensured. General well-being cannot however be realised unless poverty is eliminated, the fundamental needs of all individuals are fulfilled, unemployment is overcome, and income and wealth are equitably distributed.<sup>1</sup> Since an optimum rate of growth and economic stability are means to continued and uninterrupted well-being, they should also be among the goals of a Muslim society. All these goals need however to be realised within the limits of our resource endowment so that we do not get engulfed in the morass of prolonged macroeconomic and external imbalances.

This is the vision that Islam gives us of a Muslim society. However, the prevailing conditions in Pakistan reflect a picture which is in sharp contrast with this vision. We are tolerating in our midst, without apparently any moral qualms, extreme inequalities of income and wealth such that, while a preponderant proportion of our population suffers from extreme poverty and is unable to satisfy even the basic needs of life, the rich and the upper middle classes spend lavishly and live in luxury and opulence. According to Christina Lamb, "Today's Karachi symbolizes the hypocrisy of Pakistan. Glittering parties take place illegally in marble imitations of the White House, while in nearby ghettos people live like animals, with no water, electricity or sewerage system."<sup>2</sup> The absence of a practical manifestation of the Islamic vision is not only eroding the fabric of brotherhood and solidarity but also undermining the country's socio-political stability. In addition, we are also faced with extremely difficult macroeconomic and external imbalances reflected in relatively high rates of unemployment and inflation, excessive balance of payments deficits, continued exchange rate depreciation and heavy debt-servicing burden

One of the major reasons for the prevailing social turmoil in Pakistan is the gross absence of socio-economic justice. What else could one expect when all public amenities, including water supply, sewerage disposal system, electricity, paved roads, and street lights are available in the posh areas of our urban centres inhabited by mainly the rich and upper middle classes, while none of these amenities is available in areas inhabited mainly by the poor? Again, what else could one expect when children of rich parents are able to go abroad as well for education when all future hopes of the children of poor parents are shattered by their inability to get admission even in our low-standard educational institutions? The frustrations created by such iniquities are bound to be reflected in riots, strikes and violence no matter how much we try to exploit the fair name of Islam to pacify the masses. Even the Prophet, may the peace and blessings of God be on him, clearly stated that: "Poverty is on the verge of turning into disbelief."<sup>3</sup>

Nevertheless, instead of making a cool-headed analysis of the real cause of our social turmoil, we tend to put the entire blame for all our problems on external factors. There is no doubt that Pakistan is at present confronted with extremely serious external threats. However, the external threats can only be successful if our inner strength is sapped by socio-economic injustice and internal discord. In a living and dynamic society where justice is ensured and the people consequently have a high morale, the external challenge meets such a powerful response from within that it is not able to create any dent in the solidarity and stability of the society; it

rather becomes a source of greater strength. Hence we must do everything possible to remove all those sources of internal dissension and discord which are not becoming of a Muslim society and which every shrewd and powerful enemy would naturally try to exploit. Here we must bear in mind what the Qur'an says: "God does not change the condition of a people until they change their own inner selves" (13:11; see also 8:53).

The only effective way to end the social turmoil is to foster brotherhood and socio-economic justice by making a determined effort to solve the frustrating problems faced by a majority of our society. Socio-economic justice cannot however be effectively realised by means of patchwork changes here and there. It is necessary to bring about a revolutionary restructuring in all aspects of our social, economic and political life such that, instead of accentuating poverty, inequalities, discontents, frustrations and mutual hatred, we create a proper climate for brotherhood and the general well-being of all.

The state has a crucial role to play in such a restructuring. The very *raison detre* of an Islamic state is welfare of the people.<sup>4</sup> This position was clearly formulated by the Prophet, peace and blessings of God be on him, when he said: "Any ruler who is responsible for the affairs of Muslims but does not strive sincerely for their well-being will not enter Paradise with them."<sup>5</sup> The Prophet's companions also clearly recognized this welfare role of the Islamic state, as is clear from the numerous statements of the early

caliphs and their instructions to their governors. ‘Umar, the second Caliph, wrote to Abu Musa, the Governor of a province: "The best of rulers in the sight of God is he under whom people prosper and the worst of them is he under whom people encounter hardships."<sup>6</sup> Muslim jurists have also unanimously held the view that since catering to the welfare of the people and relieving them of hardships is the basic objective of the *Shari‘ah*, it is also the primary function of the Islamic state.<sup>7</sup> This is reflected in the writings of all medieval Islamic thinkers like Abu Yusuf (d.182AH/798AC), Mawardi (d.450/1058), Abu Ya‘la (458/1065), Ghazali (d.505/1111), Ibn Taymiyyah (d.728/1328), Ibn al-Qayyim (d.751/1350), Shatibi (d.790/1388) and Ibn Khaldun (d.808/1406).

The Government of Pakistan therefore needs to review all its policies and to restructure them in such a way that the *maqasid al-Shari‘ah* are realised. Meier has rightly observed that: "More and more economists have come to attribute the persistence of poverty to inappropriate policies".<sup>8</sup> This paper is however confined to only one aspect of Government policies, fiscal policy. Fiscal policy, is concerned with the use of Government expenditure, taxation and debt for realising socially-agreed allocational, distributional and stabilization objectives. In this brief paper I shall restrict myself to a discussion of only those aspects of allocation and distribution which will help in the actualization of the *maqasid al-Shari‘ah*, particularly socio-economic justice.

## **RESPONSIBLE GOVERNMENT SPENDING**

Since the creation of Pakistan, Government spending has increased manifold — much faster than revenues. The result is that, in spite of

substantial doses of foreign aid we have faced unhealthy levels of budgetary deficits. These deficits have been financed by monetary expansion and high levels of domestic and external borrowing. The result is that our external debt is now in excess of \$15 billion and our domestic debt is equal to Rs 272.5 billion.<sup>9</sup> Our economy has started creaking under the oppressive burden of debt servicing.

Unfortunately, in spite of the steep rise in spending, the Government has neither laid down the minimum infrastructure necessary for balanced and accelerated development nor supplied adequately the services indispensable for realising the *maqasid al-Shari'ah*. Government development expenditure has in fact declined from 40.5 percent of the total in 1980/81 to 27.9 percent in 1987/88 while the current and unproductive spending has risen from 59.5 percent to 72.1 percent.<sup>10</sup> Rural infrastructure, on which the well-being of a preponderant proportion of our population depends, has received negligible attention. Education and health, which should constitute the foundation stone of an Islamic society and without which we can neither reduce the inequalities nor utilise the creative potential of our young men, have been unduly ignored; the expenditure on these constituted only 4.2 percent of total Government spending in 1986 compared with the average of 14.8 percent for all developing countries.<sup>11</sup> Housing has received hardly any public sector emphasis and slum areas with almost no amenities of life and sanitation have mushroomed. Roads are in miserable condition and the lack of an efficient urban transport system is subjecting a large part of our urban population to pathetic

misery every day of their lives. Yet considerable lip service is paid to Islam and its imperative of socio-economic justice.

Socio-economic justice cannot be realised without increasing public sector spending for a number of objectives. This may appear to be an unrealistic demand in Pakistan where Government spending has already reached a high level relative to the available resources. The relatively large budgetary deficit and our macroeconomic and external imbalances do not allow us to raise it any further. Nevertheless, since the realisation of socio-economic justice is imperative, we have no alternative to increased spending for this purpose. Thus we are faced with an apparent conflict in goals - to reduce overall spending and yet increase appropriations for some purposes. This conflict cannot be resolved unless we undertake a thorough restructuring of Government spending.

Such a restructuring is not possible without establishing clear-cut priorities for budgetary appropriations in conformity with our socio-economic goals. The establishment of such priorities will enable us to judge the 'essential' from the 'inessential' and the 'productive' from the 'wasteful' use of resources. The tragedy is that despite our apparent commitment to Islam we have failed to establish these priorities in the light of its teachings. The result is failure to realise our objectives in spite of secularly rising spending.

Commitment to the *maqasid al-Shari'ah*, and particularly to socio-economic justice, should help us establish priorities in Government spending decisions. The *maqasid al-Shari'ah* could be further reinforced by adhering to the following five broad principles adapted from the legal maxims developed over the centuries by Muslim jurists to provide a rational and consistent basis for Islamic jurisprudence.<sup>12</sup>

1. The principal criterion for all expenditure allocations should be the well-being of the people (Article 58).
2. The removal of hardship and injury must take precedence over the provision of comfort (Articles 17, 19, 20, 30, 31 and 32).
3. The larger interest of the majority should take precedence over the narrower interest of a minority (Article 28).
4. A private sacrifice or loss may be inflicted to save a public sacrifice or loss and a greater sacrifice or loss may be averted by imposing a smaller sacrifice or loss (Articles 26, 27 and 28).
5. Whoever receives the benefit must bear the cost (Articles 87 and 88).

These principles have an important bearing on Government spending and taxation in Pakistan. To clarify some of their implications for Government expenditure programmes, it may be helpful to consider a few examples.

One of the primary requisites for general well-being is need fulfillment. A large number of items may be included among the list of needs. However, some of the things which cannot be dispensed with are adequate nutrition and clothing, comfortable housing, medical facilities, education, clean water supply, sanitary services, electricity, public transport and employment opportunities. While the state cannot be held directly responsible for satisfying all these needs, it is its obligation to do everything it can to ensure that they get satisfied. A general *fiqhi* principle states that "Something without which an obligation cannot be discharged is also obligatory,"<sup>13</sup> Since needs cannot be satisfied without proper physical and social infrastructure, there is no reason why the construction of adequate infrastructure should not enjoy utmost priority in the expenditure allocations of the Pakistan Government.

If priority is to be given to serve the interest of the majority then the secondary importance given to rural development in Government expenditure programmes has no foundation. Since the majority of the population lives in rural areas and the mass uprooting of manpower from their families and society causes socio-economic problems, the development of these areas to raise agricultural productivity, expand

self-employment and employment opportunities, and fulfill their needs must take precedence. This will also automatically improve urban life by reducing the population congestion.

If priority is to be given to the removal of hardship, then the development of an efficient urban transport system acquires great priority. Its absence causes hardship to the majority of the urban population, adversely affects efficiency and development, and leads to an excessive import of cars and gasoline. While this provides extra comfort to a smaller proportion of the suburban population, it leads to an increased claim on foreign exchange resources and greater congestion and pollution on urban roads, thus harming everybody.

If inequalities of income and wealth are to be reduced, it becomes indispensable to raise the ability of the poor to earn more through greater and more convenient access to better educational and vocational training facilities and to finance. This demands the giving of priority in Government spending programmes to the proliferation of educational and vocational training institutions all over the country so that everyone who qualifies has an equal access to them. It is also necessary to restructure the financial system to make financing available to a broad spectrum of entrepreneurs in rural as well as urban areas to increase employment and self-employment opportunities.

Given the scarcity of financial resources at the disposal of the Government, such an increase in spending cannot be attained without an offsetting reduction elsewhere. A decision has hence to be taken about areas where spending must be reduced. Without such a reallocation, either the realisation of the *maqasid* will have to be compromised or else spending will exceed the limits of available resources and further accentuate our macroeconomic and external imbalances. Where can spending be reduced? It is important to identify some of the major areas where savings can be realised.

The most obvious way to achieve substantial savings is to minimize corruption, inefficiency and waste, which are seriously eroding our ability to utilise scarce resources efficiently and to actualize the *maqasid al-Shari'ah*. According to the Chairman of the Pakistan National Assembly's Public Accounts Committee, "The major part of the development budget is misappropriated". Instances cited by him include: defective buildings collapsing a few years after construction, roads washed away by a single rainstorm, imported railway machinery becoming scrap without being used, imports being sold elsewhere before reaching Pakistan, and big loans extended by nationalized banks to influential people being written off.<sup>14</sup> Why is it that a government which is all the time threatening taxpayers with severe punishments to get increased revenues does not manifest any serious desire to crack down on the inefficiency and corruption of

its own functionaries. The reason may be either the Government's lack of appreciation that corruption and waste represent a breach of faith in the use of taxpayers' money or the realisation that these are so rampant that even if it tries seriously it may not succeed. Here it is important to bear in mind that the major root of corruption is the ostentatious lifestyle now prevailing in Pakistan with the full encouragement and participation of the Government and the power elite. Such a lifestyle almost forces people to resort to unfair means of earning. Unless the Government strikes at this root of corruption, it will not be able to succeed in reducing corruption in the country. It is highly hypocritical on the part of the Government to talk of Islam and yet do nothing to minimize corruption and waste in its own machinery.

A second area where substantial savings can be made is subsidies which amounted to Rs 10 billion in the 1987/88 and constituted 5.8 percent of total Government spending.<sup>15</sup> This figure does not include a large number of subsidies that are implicit in Government taxation and expenditure programmes and the pricing policies of Government institutions and enterprises. Even though the welfare of the poor has to be the primary consideration of an Islamic state, a number of subsidies provided by the Government cannot be convincingly supported. Subsidies are usually defended on equity or economic considerations. However, on both these counts they do not stand up to the test of the *maqasid* or the five principles stated earlier.

If equity is the goal, the subsidy must redistribute income toward the truly needy. It does not. A lower price that does not cover costs tends to benefit the rich more than the poor because of their proportionately larger consumption. This is not defensible in a system committed to socio-economic justice. Only those who are unable to pay a realistic price should be helped. If subsidies are reduced, the Government may be able to provide more intensive relief to the needy by using only a proportion of the total amount spent on a general subsidy.

If efficiency is the goal, the subsidy must strengthen incentives for the realisation of the *maqasid* and allocate resources more effectively. It does not. Agricultural subsidy has mainly helped the big farmers "who have obtained a disproportionate share of it and have used it to amass land and other assets".<sup>16</sup> The subsidy paid to large-scale urban industries (through, for example, overvalued exchange rates, concessionary loans and high tariff protection) on the basis of infant industry argument rarely encourages them to cross the threshold of 'infancy'. However, if subsidy is used temporarily to enable small farmers or micro industries and businesses to adopt better technology and inputs, and to stand on their own feet, it could be justified on the basis of the *maqasid al-Shari'ah*. But the rural and urban poor "tend to be dispersed, unorganized and politically inarticulate" compared with the power elite.<sup>17</sup> Hence they rarely get producers' subsidies of the kind obtained by large-scale industries and landlords. The poor nevertheless end up

bearing the tax burden of subsidies because of our essentially regressive tax system.

A third important area of saving could be the gradual lifting of patronage provided to public sector enterprises. "By and large the performance of state-owned businesses in the developing world has been disappointing".<sup>18</sup> They have typically failed to provide the hoped for spur to industrialization and faster growth that governments had hoped for. Not only have the financial returns often been unimpressive but the social returns have also been poor. This is because they have operated without competition and the governments have often placed little emphasis on efficiency and have rarely used the sanction of liquidation. Low profitability limits their ability to self-finance their investments. Consequently, they have often been the source of a large burden on the public budget.

If the Government is not willing to crack down on its own inefficiency and corruption or to reduce its inessential spending (inessential within the context of *maqasid al-Shari'ah*), then where is the saving in resources going to come from. The only other area left for realising substantial savings is economy in defence spending. The question is: Is it possible for Pakistan to do this? This is a very sensitive question and is likely to raise emotions to the highest pitch. Many people would tend to argue that the threat Pakistan has always felt from India is so serious that there is

no question of even considering a reduction in defence spending. In fact, they would argue in favour of an increase.

This may no doubt be true. I do not wish to argue against this position. Nevertheless, I wish to point out that there are a number of people in Pakistan who feel otherwise. They give a number of arguments in favour of economy in defence spending. They point out that our ability to defend ourselves need not necessarily go down by an effort to economise. It should be possible to have better defence with smaller spending if efficiency is ensured in the use of resources, and if corruption, which tends to be more rampant in defence services everywhere in the world, is minimized. They also argue that, in spite of the great importance of defence, the weight that it receives in Government spending has to be conceived within the limits of our resources and the imperative of actualizing socio-economic justice.

Defence has always consumed a high proportion of our budget. In 1986, it accounted for 33.9 percent of Central Government expenditure compared with 18.4 percent in India, 11.2 percent in Bangladesh, 8.0 percent in Sri Lanka, and the average of 12.5 and 16.4 percent in developing and industrial countries respectively.<sup>19</sup> In addition, interest on the Federal debt, which is also primarily due to the high level of defence spending, accounts for 20.2 percent of Federal Government spending. Thus 54 percent of total Federal government spending is consumed by defence and interest payments, leaving only 46 percent for all other heads of spending.<sup>20</sup> According to the World Bank, "evidence

increasingly points to high military spending as contributing to fiscal and debt crises, complicating stabilization and adjustment, and negatively affecting economic growth and development”.<sup>21</sup>

To the monetary costs must be added other costs, which are much higher and more damaging to the nation in the short as well as the long-run. These costs, which are usually ignored, are sustained through less development, inadequate educational, health, housing and transport facilities, and reduced well-being of the poor. All these are sapping the inner strength and creativity of our country and reducing its ability to face successfully the internal and external challenges it is facing. The end result of this is bound to be nothing but social instability and national disintegration.

Since the existence of poverty and extreme inequalities, and the absence of adequate educational institutions, hospitals and public utilities, are subjecting a majority of our population to hardship and perpetual backwardness and reducing the growth potential of our country, there seems to be little economic or moral justification for diversion of a lion's share of our budgetary resources to defence. If defence is as important for our country as our budgetary appropriations indicate, then the Government should demand from itself and the rich the financial and economic sacrifices that defence requires. Countervailing adjustments should accordingly be made in Government spending and private sector lifestyles. But this is unfortunately not done in Pakistan and the needed sacrifice is quietly shifted to the urban and rural

poor through higher inflation, greater exchange rate depreciation, and the giving of low priority to the satisfaction of their needs.

It is also argued that the 'real' source of security for Pakistan lies in internal strength attained through moral reform, economic development and socio-economic justice. No amount of defence spending can provide security against internal disintegration which is gaining momentum in Pakistan and eroding our economic strength and social solidarity. It seems that even the very objective of defence build up, ensuring national and territorial integrity, is jeopardized by 'excessive' defence spending. This is because, as Paul Kennedy has aptly argued, a strong economic base is in the long run, more vital to a nation than military superiority; and nations which stretch themselves militarily beyond what their economies will sustain are looking for a fall.<sup>22</sup> The tragedy of Pakistan is that it has pitched defence spending at an abnormally high level over a period of not just five or ten years, but rather its entire life-span of forty years. This, the nation cannot sustain any longer and it will be suicidal to continue it further.

According to this second point of view, one of the most important goals of Government policy in Pakistan should be to minimize defence spending through policies of conciliation and peaceful coexistence with a view to release resources for satisfying the needs of the majority of Pakistan's population and realising the *maqasid al-Shari'ah*. If Pakistan

takes an initiative, there is bound to be a rise in public pressure for reduced defence spending even in India from which Pakistan feels the psychological threat. Everyone will then be better off. Pakistan needs to derive inspiration from the Prophet, peace and blessings of God be on him, who signed a truce agreement with the Makkans on extremely unfavourable terms to get a period of peace and tranquility.

I do not wish to discuss the strength or weakness of any of these two points of view. I have however raised the issue. It is for the people of Pakistan to decide which one of these points of view is the weightier one. They have unfortunately never received this opportunity. If there had been democracy in Pakistan, the issue would have been discussed in Parliament, the news media and intellectual circles. A certain point of view would have become crystallized. An elected Government would have had to take this point of view into consideration and also the need for resources to fulfill its promises to the electorate. Some sort of a balance between defence and socio-economic needs would have been arrived at. But the absence of democracy has prevented such a debate from taking place. The various governments in Pakistan have hence neither reduced the inefficient and wasteful use of resources nor economized on defence spending. The only people to suffer from the fiscal imbalance have been the poor and lower middle classes. This is most unfair in a country which calls itself an Islamic state.

## JUST TAXATION

The above discussion has indicated that the Government needs to increase spending on a number of projects to help realize the *maqasid al-Shari'ah*. While some funding for this purpose can be obtained by squeezing projects which carry a low priority on the scale of socio-economic justice, it is important to raise resources through other avenues, particularly taxation. The tax system should be structured in such a way that it enables the Government to have an adequate rise in revenues in a just and equitable manner.

The right of the Islamic state to raise resources through taxes to enable it to perform its functions cannot be challenged provided that taxes are raised in a just manner and are within a certain 'bearable' limit. This right is defended on the basis of the Prophetic saying that "in your wealth there are also obligations beyond zakat,"<sup>23</sup> and the already quoted fundamental principles of Islamic jurisprudence that "a small sacrifice may be imposed to avoid a larger sacrifice" and that "something without which an obligation cannot be discharged is also obligatory." Most jurists, including Abu Yusuf (d.182/798), Mawardi (d.450/1058), Ibn Hazm (d.456/1064), Abu Ya'la (d.458/1065), Sarakhsi (d.483/1090), Marghinani (d.593/1197) and Shatibi (d.790/1388,) have hence upheld the right of the state to tax.<sup>24</sup> Abu Yusuf supported the right of the ruler to increase or decrease taxes depending on the ability of the people to bear the burden.<sup>25</sup> Marghinani contended that if the resources of the state are not

sufficient, the state should collect funds from the people to serve the public interest; if the benefit accrues to the people it is their obligation to bear the cost.<sup>26</sup>

However, only a just tax system has been held to be in harmony with the spirit of Islam. A tax system which is oppressive and too onerous as compared with the ability of the people to bear has been unanimously condemned. All rightly-guided caliphs, particularly ‘Umar, ‘Ali, and ‘Umar ibn ‘Abd al-‘Aziz are reported to have stressed that taxes should be collected with justice and leniency, that they should not be beyond the ability of the people to bear, and should not deprive the people of the basic necessities of life.<sup>27</sup> Abu Yusuf rationalized that a just tax system could only lead to an increase in tax revenues and development of the country.<sup>28</sup> Mawardi argued that taking more is iniquitous with respect to the rights of the people, whereas taking less is unfair with respect to the rights of the public treasury.<sup>29</sup> With respect to equitable distribution of the tax burden, Ibn Khaldun genuinely reflected the trend of thinking of Muslim scholars during his time by quoting from a letter of Tahir ibn al-Husayn to his son, who was the governor of a province:

So, distribute [taxes] among all people with justice and equity, making them general and not exempting anyone because of his nobility or wealth, and not exempting even your own officials or courtiers or followers. And do not levy on anyone a tax which is beyond his capacity to pay.<sup>30</sup>

In view of the goals of social justice and equitable distribution of income, a progressive tax system seems to be perfectly in harmony with the goals of Islam. It must, however, be emphasized that from the discussion of the jurists what is relevant from the point of view of modern times is the right of the Islamic state to tax with justice. It would not be proper to strictly confine taxation to only the items mentioned by the jurists. Circumstances have changed and there is need for devising a tax system which is not only equitable but also yields sufficient revenue to allow a modern Islamic state to discharge its responsibilities effectively.

Taxpayers in Pakistan should hence realize that by paying taxes they are not doing any favour to the state or to anyone else. They are only fulfilling an obligation by enabling the state to perform its functions. They must also realize that by paying taxes they are paying the price of services they are getting, including national security, roads, seaports, airports, water supply, street cleaning and sewerage system. While an effort should be made to recover the costs of Government services directly from the users on a quid pro quo basis, administrative difficulties and equity considerations do not always permit this. Hence, a substantial part of the cost of Government services has to be collected in the form of taxes. Horizontal and vertical equity demands that, in this operation, equals be treated equally and unequals unequally.

Since taxes represent payment for services enjoyed by the tax payers, the effort to evade taxes is like sneaking away without paying the fees for services received. Such a behaviour is equivalent to no less than cheating, fraud or theft. In a Muslim society such a behaviour is not only a legal crime but also a moral offence punishable by God in the Hereafter. Moreover, to the extent to which this behaviour of taxpayers reduces the financial ability of the Government to perform its role effectively, it frustrates the realisation of the *maqasid al-Shari'ah*. What could be a greater crime than this in an Islamic society? The taxpayers must bear in mind clearly that they are accountable before God on the Day of Judgment for the suffering of the poor if the Government is unable to make proper arrangements for their housing, education, medical treatment, employment, clean and healthy surroundings, and comfortable transport, not because of its own corruption and inefficiency but rather because of the taxpayers evasion of taxes.

However, while it is the moral obligation of the citizens of an Islamic state to pay taxes, it is also imperative that the tax system satisfies two conditions. Firstly, tax revenues must be treated by the Government in the nature of a trust and spent conscientiously and efficiently for realising the objectives of taxation; and secondly, the tax burden must be distributed equitably among all those who are able to pay taxes. In Pakistan both the conditions are unfortunately not satisfied.

Unless the taxpayers have an assurance that the funds they are providing to the Government will be utilized honestly and effectively for the realisation of the *maqasid* al-Shari'ah, they will not cooperate with the Government fully in its effort to realize taxes. Since the taxpayers do not have this assurance in Pakistan, as already discussed, there is reluctance on their part to pay taxes, leading to a constant conflict between them and the Government. The National Taxation Reform Commission (NTRC) has itself acknowledged this by stating that: "The tax payers frequently criticize the ever increasing expenditure of Government agencies in which they discern waste, ostentatiousness and many types of uneconomic and inefficient uses."<sup>31</sup>

Tax revenue constituted only 11.4 percent of the GDP in 1987/88 as compared with an expenditure equal to 25.2 percent of the GDP.<sup>32</sup> The tax/GDP ratio of 11.4 percent in Pakistan is extremely low compared with 55.8 percent in Sweden, 38 percent in the U.K., 28.9 percent in the U.S. and 24.4 percent in Turkey in 1987.<sup>33</sup> The Pakistan taxpayers cannot hence complain that Pakistan is an over-taxed country.

Pakistan is, however, a badly taxed country. The tax system is inequitable as well as inelastic. A number of factors clearly indicate this. Direct taxes contributed only 17.3 percent of tax revenues in 1987/88 as against the average of 24.6 percent in developing countries and 69 percent in OECD countries in 1986.<sup>34</sup> The ratio of direct taxes has in fact gone down

over the years; in 1981/82, it was 20.7 percent. Moreover, taxes contributed only 68.2 percent of total Government revenue and helped finance only 45.3 percent of the total Government spending of Rs. 172.7 billion in 1987/88. The balance was financed to the extent of 24.1 percent by non-tax revenue and to the extent of 30.6 percent by mainly external and internal borrowing. A tax system which relies so heavily on indirect taxes is highly regressive and unjust. Even Government borrowing tends to be regressive in such an inequitable tax system because the funds for interest payments come primarily out of indirect taxes.

The question is, why is it that tax revenue contributes such a low proportion of total Government spending? The reason is the narrowness of the tax base. This is what leads to an unending conflict between the tax payers and the Government. The narrower the tax base, the higher the tax rate must be to achieve a given amount of revenue. The higher the tax rate, the greater the incentive for corruption. Hence, the tax base, tax rates and corruption are parts of a vicious circle. This vicious circle leads not only to economic distortions but also to a greater reliance on indirect taxes and borrowing. It is well known that, as Gunnar Myrdal has rightly stated about developing countries, “tax evasion by the well-to-do is colossal, and they are anyhow relatively very few, while the poor are many. Taxation becomes forced to rely on regressive indirect taxes.”<sup>35</sup>

The number of income tax assesseees in Pakistan is only around 1 percent of the population.<sup>36</sup> Because of the small number of assesseees, a major part of the income earned in the urban sector has remained outside the direct tax net. Income earned in the agricultural sector, which is still the largest sector of the Pakistan economy, has also remained untaxed, thanks to a government which has always been dominated by landlords.<sup>37</sup> This has been further exacerbated by the large number of exemptions, deductions and exclusions in various forms such that the total income of even those assessed does not get fully taxed and the tax burden does not get fairly distributed among the income-earning population.<sup>38</sup>

The base of indirect taxes, which include mainly import tariffs, excise duties and sales taxes in Pakistan, is also narrow, largely because of several liberal exemptions and exclusions. In the case of import duties, only about 100 of the nearly 3,000 items imported into the country contribute 81 percent of customs duties. These 100 items represent about 43 percent of the total value of imports.<sup>39</sup> Similarly, in the case of excise duties, 90 percent of the duties collected are from only seven items, namely, cigarettes, cement, sugar, vegetable ghee, beverages, POL products and natural gas.<sup>40</sup> Sales tax also suffers on account of a narrow base. Eighty percent of sales tax proceeds are collected from levies on imports, 10 percent from excisable products and only 10 percent from other items.<sup>41</sup>

Because of the narrow base which “has been shrinking rather than expanding with the growth of the GDP,” the elasticity of the tax system is only 0.70.<sup>42</sup> Elasticity of customs duties, excise duties and sales taxes is also less than one, such that the overall elasticity of all Federal taxes is around 0.88.<sup>43</sup> The result is that tax revenues do not rise in proportion to the rise in income or inflation. This is bound to exacerbate the financing difficulties of the Government.

Because of the narrow tax base and low elasticity, the rates of tax have to be high, imposing a heavy burden on those who are within the tax net. The system thus penalises and harasses those tax payers who are honest and willing to pay taxes conscientiously. They suffer indignity and humiliation from the high-handed behaviour of tax officials.<sup>44</sup> The large number of exemptions and deductions penalize efficient industries and pamper inefficient and sick industries. According to the NTRC, “Pakistan’s present income tax base is far from fair,” and “as a result, the tax burden has not been distributed fairly among the population.”<sup>45</sup> Worse than this, “the post-tax income distribution is more skewed than the pre-tax.”<sup>46</sup>

Such an unjust tax system is bound to accentuate evasion and contribute to a substantial amount of black money.<sup>47</sup> The only outlets for such income are ostentatious consumption and capital outflow. Thus a

substantial part of the nation's income, which could have gone into productive domestic investment and contributed to higher economic growth, increased employment and greater tax revenue, and hence greater realisation of the *maqasid*, is not available for this purpose. It is roughly estimated that at least \$1.5 billion of Pakistan's capital is hiding abroad because of capital flight.<sup>48</sup>

Thus we see that the existing tax system is forcing the taxpayers to behave in an unhealthy manner - a behaviour which is not becoming of them as Muslims living in a country committed to Islam. This is not desirable. However, the tax payers alone cannot be blamed. While some of them must be dishonest and fraudulent, a majority must be honest and willing to pay a just share of taxes to the Government. The major fault lies with the Government - its expenditure programme, tax system and collecting machinery. Unless these are reformed in a revolutionary way, even conscientious tax payers will be induced to resort to corruption and maintenance of a double set of accounts.

The tax system must be reformed in such a way that it reflects equity. Equity demands that direct taxes must contribute a greater proportion of tax revenue and that the base for both direct and indirect taxes be sufficiently broadened. Equity also demands that the tax reform be fair to both the taxpayers and the Government. Fairness to the taxpayers implies that their tax liability should not rise steeply even if they abandon the present

un-Islamic practice of maintaining a double set of accounts. Fairness to the Government implies that its tax revenues should rise significantly to enable it to finance its increased spending and to reduce the fiscal imbalance.

Coming first to the reform of the income tax system, we find that the Government has three options. These are: a) to maintain the existing tax rates and to use an iron fist in the collection of taxes; b) to continue the system of self-assessment; and c) to undertake a thorough reform of the system.

The first option of using an iron fist is probably the worst, given the existing socio-political malaise in Pakistan. Some of the salient features of this malaise are (a) a corrupt tax administration ever ready to harass and humiliate taxpayers and to squeeze as high a bribe from them as possible; (b) a discontented and uncooperative body of taxpayers having no confidence in the integrity of the Government or the equity of the tax system, and not willing to fulfill its obligations towards an Islamic state; and (c) a socio-political climate full of favouritism, nepotism, provincialism, sectarianism and mutual suspicion. If only a few taxpayers were tax evaders, a tough policy would be justified and effective. However, when practically every business establishment evades taxes by maintaining a double set of accounts and the assessed income is on an average less than one-third of the actual income, toughness will lead to an average tax liability of more than three times the taxes actually paid.<sup>49</sup> No taxpayer would willingly allow his tax liability

to rise to this extent. Hence he will do everything he can, including resort to corruption, to protect himself.

In this situation, who will the tax collector be tough with? In a system infested with corruption, the natural and easiest victims of toughness will be those who do not have a power base of their own or are not in some way connected to the power elite. Toughness will hence arouse charges of provincialism and favouritism, accentuate hatred against the Government and further destabilize a country which has already reached an extremely sad state of socio-political turmoil and instability. Toughness will also accelerate capital flight from the country. Hence such a policy could not but ultimately lead to the undermining of all prospects for social solidarity and political stability in Pakistan.

The second option of self-assessment will not only be socially more acceptable but will also contribute to an increase in Government tax revenue. If there is an annual rise of 20 percent in the self-assessed income, the assessed income will double in a little less than 4 years. Such a rise in the assessed income of most assessees will contribute more to Government tax revenues than the penalized steep rise in the assessed income of some victimized assessees. It will also gradually narrow the gap between the actual and the assessed income and ultimately make them nearly equal. However, like the first option, this option is also inequitable. While the first option penalises those who do not have a power base and who hence become the victims,

this option favours those whose assessed income is far below their actual income as against those who have been relatively more honest and conscientious and whose assessed income will accordingly hit the ceiling of their actual income relatively faster. The double set of books will also continue at least until the disparity between actual and assessed incomes is substantial. Hence even though this option will satisfy the Government's need for increased revenue, it is an inefficient and inequitable method of realising the Government's objective.<sup>50</sup>

The third option of thoroughly reforming the tax system is the most preferable. It will help realize the objectives of introducing equity in the tax system, getting rid of the double set of accounts, and raising Government tax revenues over a given period of time. It would be desirable for the Government to concentrate on this.

The practice of maintaining a double set of accounts is not becoming of taxpayers in an Islamic country and needs to be brought to an end. It reflects hypocrisy and dishonesty, and as I indicated earlier, is an effort to frustrate the realisation of the *maqasid al-Shari'ah*. This practice will however not come to an end unless the tax rates are lowered to make the tax liability on actual income tolerably higher than what businesses are actually paying on their assessed income. Hence the tax reform should give due importance to this objective.

The tax reform should try to simplify the tax system to put an end to most of the exemptions and deductions, which do not only complicate the tax system and open avenues for corruption, but also effectively reduce its efficiency and equity. Tax rates should then be pitched at such a level that the tax revenue on actual income becomes equal to, say, one and a half times that on the currently assessed income. The tax collecting machinery should, also be made humane such that all taxpayers, even those without a power base, are treated with decency in accordance with the Qur'anic teaching, "Speak nicely to people." (2:83).

Such a tax reform will create a climate of mutual trust and accord between the taxpayers and the Government and reduce tax evasion substantially, thus reducing the volume of black money, conspicuous consumption and capital flight. This would also provide a boost to productive investment in the country and help raise economic growth, employment and government tax revenues.

Such a tax reform is not feasible without a commitment from business establishments and their trade associations to the Government that the reduction in tax rates will really bring an end to the double set of accounts. The Government will also have to give an assurance that the rectification of accounts will not lead to the victimisation of anyone through a back-dated increase in tax liability. The Government will also have to reassure the taxpayers that tax rates will not be raised in one stroke after their initial reduction and the rectification of accounts. This does not imply that the

Government may not raise tax rates gradually in the future to satisfy its increased need for revenues, if economic growth and expansion in the tax base do not take care of this adequately.

The Government may express its skepticism about the effectiveness of tax rate reduction in overcoming the practice of maintaining a double set of accounts. It may tend to argue that the taxpayers will seize this opportunity to reduce their tax liability rather than rectify their accounts. It may very well be true. However, it may not be unreasonable to expect that the taxpayers will behave like Muslims if the immediate cause of their unislamic behaviour is removed. There will no doubt be teething problems in the beginning. But it may be expected that once the taxpayers realise that the Government is sincere in its tax reform and has no intention of using it as a trap, most businesses will get rid of the double set of accounts even if this costs them a little extra in terms of tax liability.

Nevertheless, there will be taxpayers who will try to cheat. Such taxpayers, who have stooped so low morally that they use the reduction in tax rates to reduce their tax liability rather than rectify their accounts, deserve every humiliation and harassment to which they can be subjected. Once the reformed system is in place, such a minority of taxpayers should be subjected to harsh and exemplary punishment. In an environment where everybody is not a

tax evader, the taking of such harsh measures will not create the socio-political problems that it will create in the existing situation when practically every taxpayer is a tax evader.

Along with this reform of the tax system, the Government should make a concerted effort to expand the tax base. All incomes should be assessed irrespective of whether they arise from agriculture, manufacturing or business. Every farming, manufacturing or business establishment should be brought on the Government's taxpayer list irrespective of how small it is, and be made to pay income tax, even though it may be a token amount.<sup>51</sup> In the present-day world of computers this should not be a difficult objective to realise. This will no doubt be expensive initially, pose administrative difficulties, and require a serious effort. But, if the income tax department were to divert to this effort even a part of the time it spends in harassing and humiliating taxpayers, it will be able to prepare a comprehensive list of all potential taxpayers within two to three years. This will ultimately provide the Government a substantially larger base for expanding its tax revenues without victimising those who are already paying taxes. It will thus make the income tax system more equitable and elastic.

Similarly, the base of import tariffs, excise duties and sales taxes should also be expanded to introduce greater equity and ensure higher revenues for the Government.

## **RESTRAINED BORROWING**

Following the dictates of conventional wisdom, Pakistan has relied heavily on borrowing. Consequently, both the domestic and foreign debts have risen steeply. Interest payment alone on this debt amounted to Rs 26 billion in 1987/88 and constituted 35 percent of the total Federal Government tax revenues. This implies that out of every 100 Rupees that the taxpayers provide to the Government, 35 Rupees are used to pay interest on the Government debt. The interest burden of our debt has thus already reached an extremely high level. The more it rises in future, the greater will be the squeeze on expenditure for development and socio-economic justice.

The Government has, however, inexplicably disregarded an accepted principle of the same conventional wisdom that borrowing may be resorted to only for financing capital outlays and not for current expenditure. In Pakistan the Federal Government's current expenditure has exceeded the total revenue from both tax and non-tax sources since 1984/85. In 1987/88, the excess amounted to 8.7 percent of total revenue and constituted 1.5 percent of GDP.<sup>52</sup> This is not only extremely unhealthy but also highly unjust to our posterity. We are passing on to them even the burden of our current spending. Hence a reduction in the budgetary deficit has become a categorical imperative for Pakistan. The State Bank of Pakistan clearly warned the Government in its 1986/87 Annual Report, stating: "This trend in fiscal imbalance, if not checked, could have serious implications in the long-run both for domestic financial stability and balance of payments position."<sup>53</sup>

If it is borne in mind that borrowing does not obviate, but rather only postpones, the ultimate need for sacrifice, the Islamic ban on interest-based borrowing, will appear to be a blessing in disguise. It can help reduce the long-run heavy debt-servicing burden such borrowing normally leads to. The constraint it will impose on Government spending in the short-run may tend to be more than offset by the healthy discipline it will impose on Government spending, the much smaller debt-servicing burden it will create in both the domestic and the external sectors of the economy, and the sustained and steadier economic growth it will generate. Accordingly, it would be unrealistic for the Government of Pakistan to talk of Islamisation without making a serious effort to reduce its budgetary deficits.

Since the implementation of Islamic teachings will prevent the Government from resorting to interest-based borrowing, it will have to finance its budgetary spending through mainly taxation, leasing and equity finance. All current and unproductive spending and a part of development outlays will need to be financed out of tax revenues. This will restrain the Government from overstretching itself. It will be forced to keep its wasteful and unproductive expenditures under control and to apply cost-recovery methods in the pricing of public sector goods and services.

Capital outlays for projects which are commercially viable may be financed by private sector participation in the equity, if, for some overriding

reason, the management of the project cannot be left to the private sector. This will make the financing subject to a discipline which the relatively easy access to interest-based borrowing by the Government tends to obviate. The burdensome white elephant projects and inefficient public enterprises, which proliferate in Pakistan, as much as in other developing countries, would hence have to be avoided. Outlays on projects which are not amenable to pricing and equity financing, may be funded by means of leasing and hire purchase, thus opening a wider avenue for greater cooperation between the Government and the private sector. Wherever this is not possible, the Government may borrow from the State Bank to the extent feasible within the constraint of price stability.<sup>54</sup>

For social welfare projects, particularly projects related to the poor, the Government may also raise voluntary contributions or, preferably, encourage the private sector to undertake them. The institution of *awqaf* (charitable trusts) played an important role in Muslim history in the construction of educational institutions, hospitals, housing schemes, orphanages and other commendable social-service projects. However, its rich potential has so far remained unexploited in Pakistan due to a number of reasons, including expensive life styles and the unsound tax policies of the Government. The revival of this institution in its pristine form should help reduce substantially the Government's burden in the financing of educational, health and social welfare projects, thus making a rich contribution to the

furtherance of socio-economic justice and economic development.<sup>55</sup> The reform of the tax system as discussed earlier should remove a major obstacle in the revival of this institution.

Thus the constraint on interest-based financing need not necessarily limit the rich role that the Government can play in the economy. The Government's success in realising the *maqasid al Shari'ah* does not necessarily depend on excessive spending through heavy taxation and borrowing; it depends rather on the introduction of greater integrity in the Government machinery, establishment of proper priorities in spending and project selection, adoption of cost-recovery methods in pricing Government goods and services, and restructuring of the economy to the extent necessary to realise the *maqasid*. It is also possible for the Government to offset a substantial part of the decline in its borrowing by resort to leasing and equity finance. To avoid an excessive squeeze in the initial stage, the Government may apply the prohibition gradually and not in one stroke provided that it shows a determination to reduce borrowing, which must become reflected in the annual absolute decline in its borrowing. In case of emergencies and extremely difficult circumstances, when the spending is considered indispensable in the overall national interest and the financing cannot be raised otherwise, many jurists find it permissible for a Muslim government to resort to borrowing.<sup>56</sup>

## CONCLUSION

Thus we see that the actualisation of socio-economic justice is one of the most indispensable elements of the *maqasid al-Shari 'ah*. It constitutes the *raison detre* for the existence of the state and a Muslim country which does not make a serious effort to realise this goal does not deserve to be called Islamic. Even brotherhood, which is another characteristic feature of an Islamic society, would become a meaningless slogan until the soul of socio-economic justice is infused into it.

Socio-economic justice cannot however be realised unless the scarce resources at our disposal are utilised in such a way that poverty is removed, needs are fulfilled and inequalities of income and wealth are reduced. Pakistan has moved farther and farther away from this vision of Islam over the last forty years. This is one of the prime reasons for the social turmoil we are now facing in Pakistan. Inimical external forces are bound to exploit this source of social instability. Hence, while we should no doubt try to counter the external threat, we will not be able to succeed fully until we make an all-out effort to actualize socio-economic justice. For this purpose, the Government must introduce a revolutionary change in all its policies, including fiscal policy. The longer we take to do this, the greater will be the damage we will do to the socio-political fabric of our country.

Even though the internal conflict in Pakistan has attained a serious proportion there is no room for pessimism. There is no justification for taking the view that our problems are intrinsically insoluble and an unavoidable part of our fate. Such a defeatist attitude is *not in* harmony with the ethos of the Qur'an, according to which man is capable of solving his problems if he tries to do so within the framework of Divine Guidance. The Prophet, peace and blessings of God be on him, also emphasized this point by saying: "There is no malady for which God has not created a cure".

Since an elected government is in the offing, let us hope that it will give maximum priority to the realisation of socio-economic justice through a change in its priorities and the full reflection of these changed priorities in its fiscal policy. Let the new Government take heart from the Qur'anic verse which says:

And those who struggle in Our Cause, We will guide them to Our Paths, for We are undoubtedly with those who act rightly. (29:69).

## FOOTNOTES AND REFERENCES

<sup>1</sup>.The fulfillment of basic needs is now quite widely accepted as a strategy for development (See Paul Streeten's "A Basic Needs Approach to Economic Development" in Kenneth P. Jameson and Charles K. Wilber, eds., *Directions in Economic Development* (NotreDame: W. Notredame University Press, 1973), and Frances Stewart, *Basic Needs in Developing Countries* (Baltimore, Maryland: John Hopkins University Press, 1985). A number of other authors, have also written, over the last decade, on the concept of basic needs and its implications for development.

The stress on need fulfillment in Islam should however not be construed as an after-thought arising out of the recent Western discussion of the subject. It has received an important place in the *fiqh* and other Islamic literature throughout Muslim history. The jurists have unanimously held the view that it is the collective duty (*fard kifayah*) of the Muslim society to take care of the basic needs of the poor (see, for example, Abu Muhammad 'Ali Ibn Hazm, *Al-Muhalla* (Beirut: Al-Maktab al-Tijari, n.d.), Vol. 6, p. 156:725 In fact, according to Shatibi, this is the *raison de'tre*, of society itself (Abu Ishaq al- Shatibi, *Al-Muwafaqat fi Usul al-Shari'ah*, ed., Abdallah Daraz, Cairo: Al-Maktabah al-Tijariyyah al-Kubra, n. d., Vol. 2, p.126.

<sup>1</sup>. All modern writers, including Mawdudi, Sayyid Qutb., Mustafa al-Saba'f, Abu Zaharah, Bagir al-Sadr, M. al-Mubarak, and al-Qardawi, are also unanimously agreed on this point. (See for a brief introduction, M. N. Siddiqi, "Guarantee of a Minimum Level of Living in Islamic State", in Munawar Iqbal, ed., *Distributive Justice and Need Fulfillment in an Islamic Economy* (Leicester: The Islamic Foundation, 1986), pp. 251-303; 'Abd al-Salam al-'Abbadr, *Al-Milkiyyah fi al-Shari'ah al-Islamiyyah* (Amman, Jordan: Maktabah al-Aqsa, 1975), Vol. 3, pp. 81-95; Ibrahim Ahmad Ibrahim, *Nizam al-Nafaqat fi al-Shart'ah al-Islamiyyah* (Cairo: Al-Matba'ah al-Salafiyyah, 1349 A. H.); and M. Anas Zarqa, "Islamic Distributive Schemes," in M. Iqbal, *op. cit.*, pp. 163-219.

<sup>2</sup>Christina Lamb, "Sind Ethnic Problems Explode into Violence," *Financial Times*, 3 October, 1988, p. 3.

<sup>3</sup>Jalaluddin al-Sayuti, *Al-Jami' al-Saghir* (Cairo: Abdul Hamid Ahmad Hanafi, n.d.), Vol. 2, p. 89 - Reported from Anas ibn Malik in Abu Nu'aym's *al-Hilyah*)

<sup>4</sup>Shatibi, *op. cit.*, Vol. 2, p. 177; see also footnote 1.

<sup>5</sup>Muslim, *Sahih Muslim* (Cairo: Isa al-Babi al-Halabi, 1955), Vol. 1,

<sup>6</sup>Abu Yusuf Ya'qub ibn Ibrahim, *Kitab al-Kharaj* (Cairo: al-Matba'ah al-Salafiyyah, 2nd ed., 1352 A. H.), pp. 14-15.

<sup>7</sup>Muhammad Abu Zahrah, *Usul al-Fiqh* (Damascus: Dar al-Fikr al-'Arabi, 1957), p. 355.

<sup>8</sup>G. M. Meier, *Emerging from Poverty: The Economics that Really Matters* (New York: Oxford University Press, 1984), p. 223.

<sup>9</sup>For external debt, see, IBRD, *World Debt Tables*, 1986/87 ed., pp. 442-5. Pakistan's external debt, including undisbursed, amounted to \$14,936 million at the end of 1985. Of this, public debt amounted to \$14,107 million and private publicly guaranteed debt was \$829 million (p. 442). It may be assumed that most of this debt has by now become disbursed and that, if new commitments are included, the most current figure for both disbursed and undisbursed debt would be higher by at least \$3-4 billion. The projected debt servicing burden for 1988 was \$1.2 billion (p. 443). Total external debt was 350 percent of exports of goods and services in 1985 (p. 445).

For domestic debt, see Government of Pakistan, Finance Division, *Economic Survey, 1987/88*, Statistical Appendix, Table 8.6 p. 102.

<sup>10</sup>*Economic Survey, 1987/88, op. cit.*, Table 8.3, p. 99.

<sup>11</sup>IBRD, *World Development Report*, 1988, Table 23, p. 266.

<sup>12</sup>*Majallah al-Ahkam al-'Adliyyah*, briefly known as the *Majallah* states 100 maxims of jurisprudence (*al-Qawa'id al-Fiqhiyyah*) in its preamble. An English translation of the *Majallah* by C. R. Tyser, *et. al.* and entitled *The Mejelle* was published in 1967 by the All Pakistan Legal Decisions, Nabha Road, Lahore. Although the *Majallah* is a Hanafi compendium codified during the Ottoman period, the maxims of jurisprudence are almost universally used by jurists of all schools of Muslim jurisprudence. The numbers given within brackets after each principle refer to the articles of the *Majallah* from which the principle has been derived. See also Mustafa A. al-Zarqa', *Al-Fiqh al-Islami fi Thawbihi al-Jadid* (Damascus: Matabi' 'Alif Br' al-Adib, 1967), Vol. 2, pp. 945-1060.

<sup>13</sup>See al- Shatibi, *op. cit.*, Vol. 2, p. 394; see also Mustafa al-Zarqa, *op. cit.*, Vol. 2, pp. 784 and 1088.

<sup>14</sup>"Most of Pak Funds for Development Misused": Ali Shah Details Pak Findings," Summary of a report published on the authority of Reuters by the *Saudi Gazette*, 21 June 1987, p. 7.

<sup>15</sup>*Economic Survey, 1987/88, op. cit.* Table 8.4, p. 100.

<sup>16</sup>“World Bank Presents its Six-Point Approach to Subsidies in Developing Countries, *BIS Review*, 8 April, 1987, p. 5; see also IBRD, *World Development Report, 1986*, pp. 90-104.

<sup>17</sup>*Ibid.*, p. 92.

<sup>18</sup>“Privatisation in the Third World,” *Financial Times*, 3 September 1987

<sup>19</sup>IBRD, *World Development Report, 1988*, Table 23, pp. 266-7.

<sup>20</sup>According to the *Financial Times*, defence and debt-servicing consume 70 percent of the Government budget. This leaves only 30 percent for all other heads. (“Democracy: Test for Pakistan,” *The Financial Times*, 9 June, 1988, p. 18).

<sup>21</sup>IBRD, *World Development Report, 1988*, p. 106.

<sup>22</sup>Paul Kennedy, *The Rise and Fall of the Great Powers; Economic Change and Military Conflict, 1500-2000* (New York: Random House, 1988).

<sup>23</sup>Abdallah al-Darimi, *Sunan al-Darimi* (Damascus: Matba’ah al-I’tidal, 1349 A.H.), Vol. 1, p. 385.

- <sup>24</sup> Abu Yusuf, *op. cit.*, pp. 85-6 and 105-11; Ibn Hazm, *op. cit.*, p. 156; Abu Ishaq al-Shatibi, *Al-I'tisam* (Cairo: Matba'ah al-Manar, 1914), Vol. 2, p. 295-8; Abu al-Hasan Ali al-Mawardi, *Al-Ahkam al-Sultaniyyah* (Cairo: Isa al-Babial-Halabi, 1960), pp. 152, 209 and 213-4; Muhammad Abu Ya'la , *Al-Ahkam al-Sultaniyyah* (Cairo: Isa al-Babial-Halabi, 1938), pp. 273-4; Al-Sarakhsi, *Al-Mabsut* (Cairo: Matba'ah al-Sa'adah, 1331 A.H.), Vol. 10, pp. 20-1; see also Siddiqi, *op. cit.*, p. 265,
- <sup>25</sup> Abu Yusuf, *op. cit.*, p. 85.
- <sup>26</sup> Abu al-Hasan al-Marghinani, *Al-Hidayah* (Cairo: 'Isa al-Babi al-Halabi, 1965), Vol. 4, p. 105.
- <sup>27</sup> Abu Yusuf, *op. cit.*, pp. 14, 16 and 86.
- <sup>28</sup> *Ibid.*, p. 111.
- <sup>29</sup> Mawardi, *op. cit.*, p. 209.
- <sup>30</sup> Abd al-Rahman ibn Khaldun, *Muqaddimah* (Cairo: al-Maktabah al-Tijaryyah al-Kubra, n.d.), p. 308.

- <sup>31</sup>National Taxation Reform Commission (NTRC), *Final Report*, December, 1986, p. 6.
- <sup>32</sup>*Economic Survey, 1987/88, op. cit.*, Statistical Appendix, Table 8.1, p. 97).
- <sup>33</sup>OECD, *Revenue Statistics of OECD Member Countries, 1965-1987* (Paris: OECD, 1988), Table 1.
- <sup>34</sup>*Economic Survey, 1987/88, op. cit.*, Statistical Appendix, Table 8.2, p. 98; IBRD, *World Development Report*, Table 24, pp. 268-9; and OECD, *op. cit.*, Table 2.
- <sup>35</sup>Gunner Myrdal, "Need for Reform in Underdeveloped Countries," National Bank of Pakistan, *Quarterly Economic Journal*, January-March 1979, p. 29.
- <sup>36</sup>Institute of Policy Studies, *Tax System in Pakistan: A Critical Evaluation and Recommendations for Change* (Islamabad: Institute of Policy Studies, 1986), p. 2.
- <sup>37</sup>See Gunnar Myrdal, *Asian Drama: An Inquiry into the Poverty of Nations* (New York: The Twentieth Century Fund, 1968), Vol. 1, p. 309; see also, Khalid Bin Sayeed, *Pakistan, The Formative Phase* (Karachi: Pakistan Publishing House, 1960), p. 216.

<sup>38</sup>According to the NTRC there are more than 200 exclusions and exemptions, *op. cit.*, p. 26.

<sup>39</sup>Institute of Policy Studies, *op. cit.*, p. 10.

<sup>40</sup>NTRC, *op. cit.*, p. 291.

<sup>41</sup>Institute of Policy Studies, *op. cit.*, p. 11.

<sup>42</sup>NTRC, *op. cit.*, p. 27.

<sup>43</sup>Institute of Policy Studies, *op. cit.*, p. 15.

<sup>44</sup>NTRC, *op. cit.*, p. 4.

<sup>45</sup>*Ibid.*, p. 26.

<sup>46</sup>Institute of Policy Studies, *op. cit.*, p. 17.

<sup>47</sup> I am not referring here to the black money earned illegally from activities such as smuggling and sales of narcotics, but rather to the legally earned income which also becomes black due to tax evasion.

<sup>48</sup>This has been estimated on the basis of data given in C. L. Ramirez-Rajas, "Monetary Substitution in Developing Countries," *Finance and Development*, June, 1986, Table 1, p. 36.

<sup>49</sup>According to the NTRC, the taxable income which escaped the tax net was Rs 5,076 crores as against an assessed income of Rs 1,930 crores (NTRC, p. 4). Thus the total assessable income was Rs 7,006 crores, 3.63 times that actually assessed.

<sup>50</sup>The NTRC has also advised the Government against its continuation; see para 4.40 on pp. 77-8 of the *Final Report*.

<sup>51</sup>The NTRC has suggested a tax liability of Rs 600 for *very* small retailers (See pp. 78-9 of the *Final Report*).

<sup>52</sup>*Economic Survey, 1987/88, op. cit.*, p. xxi.

<sup>53</sup>State Bank of Pakistan *Annual Report, 1986/7*, p. 153.

<sup>54</sup>See M. Umer Chapra, *The Islamic Welfare State and its Role in the Economy* (Leicester, U.K.: The Islamic Foundation, 1979), pp. 14-15.

<sup>55</sup>See M. Akram Khan's review on J. R. Barnes, *An introduction to Religious Foundations in the Ottoman Empire*, Leiden: E. J. Brill, 1986, in the *Muslim World Book Review*, No. 2, 1988, pp. 34-6.

<sup>56</sup>This opinion is based on the Qur'anic verse related to certain specified items which have been prohibited but the use of which has been allowed in extremely dire circumstances. "He has forbidden carrion, blood, pork and that which has been slaughtered in the name of other than God. However, if one is forced by dire necessity without willful disobedience or transgression of the limit, no sin shall be on him. Certainly God is Forgiving and Kind" (2:173). There are a number of other verses of this same implication in the Qur'an (5:3, 6:145, 16:115, 6:119). This principle is applied by way of analogy to interest paid if there is a dire need for funds and no alternative arrangement is possible, provided that the borrowing is resorted to only to the extent absolutely necessary.

<sup>57</sup>Bukhari, *Al-Jami' al-Sahih* (Cairo: Muhammad 'Ali Subayh, n.d.), Vol. 7, p. 158; and Ibn Majah, *Sunan Ibn Majah* (Cairo: 'Isaal-Babi al-Halabi, 1952), Vol. 2, p. 1138:3439.