Ownership in Islam

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Prologue

The topic of our discussion is ownership. First, we bad thought of posing and discussing the whole range of Islamic economy. However, due to its vast scope, and also to bypass the discussion of those parts having no immediate relevance to our current topic, only the aspect of ownership is dealt with here. Our discussion incorporates the problem of value which comprises divine ownership, its origin and extent, man's ownership, its origin, extent and types (individual ownership and its types, collective ownership and its types) and the effects of ownership as expressed in the right to possession, right to cede and its compulsory transfer.

An in-depth attitude will be adopted while treating the sensitive areas of man's ownership, its origin and scope occupying topmost position in our discussion; and also the effects of such ownership expressed in terms of the right to possession and its exploitation, etc., respectively.

The concept of ownership prevails under various cultural milieus, in all different socio economic set-ups, be it feudalism, capitalism, socialism and non-secularism (religious), the issue of ownership and its connotation carry much weight. Its propriety, manner (either individual or public), devolution of the means of ownership to individuals or their centralization in the hands of the government and their respective extents are the aspects which are inescapably viewed and discussed under the above-mentioned set-ups.

Definition Of Ownership

Definition of Ownership

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It is the social and conventional conferring of the, sole right upon a person or group or society reflecting a , potential[2] deserving to use a particular object while excluding others from the same entitlement. To make the social aspect of this assignment more clear we give an example with regard to the definition of social entitlement. When we say "my spectacles", what relationship exists between spectacles and my own person? Is it a physiological or social relationship? When we say "my hand", it refers to a physiological relationship; because my hands are an integral part of my body. However terms like "my spectacles", "my watch" and "my pen" come under the coverage of social allotment.

Social allotment is a more scientific than physiological relationship. Ownership has validity with respect to the owner and the object only; entailing the right to its possession. When we say "it is my pen", the term "my" is expressed in connection with the object only. Ownership is a relationship between the owner and the object with the consequent right to its usage, and it constitutes a social relationship and not a physiological one. While to the former, presence of mind is a prerequisite, the latter form exists irrespective of presence or otherwise of the mind.

What is rightfulness? The term has different implications corresponding to diverse societies. Here, we do not say that all types of ownership are legitimate but we proceed to say under conditions of capitalism, for instance, certain criteria however illegitimate, according to us act to determine the capitalist as the rightful owner of the returns of his investment and therefore warrant legislation of the necessary norms to safeguard the same. You may say this is not legitimate. However, under the capitalist institution, the capital stands to entirely belong to the capitalist and therefore the right to exploit the same is legally allowed to him. One may object that not all types of ownership are correct. For example, a Muslim can never own alcoholic: drinks. This rule is only peculiar to an Islamic society with its unique structure; but in non-Muslim countries you cannot say nobody is supposed to own hard liquors. Therefore our discussion revolves around definition of ownership rather than its propriety. In short, acceptance, tolerance and propriety of ownership are dependent upon the pervading culture of any particular society.

Therefore, to take the above consideration into view another definition which could be given to "ownership" is, that it denotes a social and/or conventional relationship of an individual or group with an object on the basis of the prevailing norms of the society and reflects the legitimate possession of the object by the owner while debarring others from such entitlement (this legitimacy is a relative and variant term differing under diverse social systems).

Notes

1. A survey of various definitions of the term "ownership"' available to our external and internal sources, has proven our own definition to be more appropriate, which shall be expounded upon later.

2. "'Potential"- Sometimes due to certain factors, the right to possession is circumscribed, e.g., to tread on and destroy an orange. If the owner of an orange tramples upon his orange, his act of destroying the orange (a consumer item) is tantamount to commission of a sin. If the same person treads upon another person's orange; then his commission of sin becomes dichotomous, because firstly, he has transgressed and usurped another's property and secondly, he has destroyed a commodity which could otherwise have been used by mankind. Therefore similar acts are prohibited by Islam and the matter has received a lot of attention and emphasis.

Definition Of Commodity

A commodity is an object having utility. Utility implies the capacity to satisfy a need. Any commodity or service with the capacity to meet human wants directly or indirectly has its usage for human beings, e.g.,·wheat, apples, meat, milk, leather, cotton, wool, flowers, or a nice painting; the work of a barber, the services of a doctor, a teacher, or a peddlar, etc. Usefulness is relative and unstable. For example an air-conditioner has utility (usefulness) in an equatorial zone, whereas the same has no usefulness in polar region. The geographical, cultural and social peculiarities of different regions act in a group in determining the usefulness or otherwise of a commodity or service and its degree.

The Origin Of Ownership

Divine Ownership, Its Origin And Scope

Innate logic ordains an individual who is the creator of something and thus responsible for its being as the owner of the same with a thorough claim to it. In other words as an individual has complete discretion with regard to himself, likewise he has an indisputable claim to whatever things he has produced.

On this account ownership of one's labor and its form, realized by him are regarded to be natural and innately logical. According to the philosophy of believers, God is the Creator and mainspring of the cosmos, and therefore the same constitutes an irrefutable evidence to His existence as the Unique Creator with an infinite ownership of the whole universe. This is our comprehension of innate logic.

Innate logic grants explicit ownership rights to the procreator in relation to what he has procreated. From this premise one can perceive to acknowledge God as the Owner of the universe.

Divine ownership, its origin and scope, from the Qur'anic viewpoint says in verse 68 of the chapter Yunus:

"They say: 'Allah has taken a son (to himself)!' Glory be to him; He is the Self-sufficient; His is what is in the heavens and what is in the earth; you have no authority for this; do you say against Allah what you do not know?” (10:68)

The grace of this verse lies in its ascribing the attribute of absolute non-indigence to God before proceeding to pose the question: 'Has he adopted off springs!' He is clean and exalted; whatever is in the universe is created by Him; you who can have no such claim. how can you attribute such things to Him?

The Scope Of Divine Ownership

The fact that everything in the universe owes its origin to God, makes Him the unbound owner.

Human Ownership, its Origin and Scope

In various existing social set-ups we can clearly see individual or collective ownership of properties. Practically in all human societies irrespective of their administration apparatus, origin and nature of ownership are reflected in the culture prevailing in them. Therefore the principle of ownership by man is not a strange and baffling issue to the mind. But, on the contrary, it is a social phenomenon. (Take note, we do not say it is always rightful. We only mean to say it is a reality.)

To serve the purpose of differentiating between the terms "rightful" and "reality", the following example may be apt here: The incident involving U.S. aggression against Tabas, which presupposed dispatch of aircraft and helicopters to Iran, was motivated to fulfill certain ulterior political objectives in addition to the freeing of the American hostages. This is a reality and not a calumniation.

That the operation was carried out constitutes a reality, however. it was not rightful. Therefore, President Carter violated the territorial rights of a sovereign state like Iran.

In certain cases an event may be rightful but not a reality. For example, during the Shah's reign, Iranian people were endeavoring to uproot the monarchial regime and replace it by a popular Islamic government. The ideal of a popular Islamic Republic while being rightful was still not a reality. The dominating production norms of today are not-rightful. They are unjust. In other words, the governing principles of economic activities in spite of not being just and rightful are thoroughly tangible and a palpable reality. The rightful is still felt by its conspicuous absence and happens to be what we are striving to attain and establish.

The equitable production and distribution of goods and services, inspired by Islamic norms, constitute a rightful target, which has not yet been turned into reality. The Islamic Republic is both rightful and a reality for us today. Therefore, we conclude that the term "rightful" connotes something which ought to exist, even if it has not come into existence as yet; on the other hand "reality" refers to a thing which is tangible even if it is not rightful and desirable.

In other words, "reality" connotes existence of something irrespective of whether it is propitious or not; while "rightful" implies something which is adjudged to be propitious and which we shall endeavor to achieve, if it has not yet been attained.

Today, under the prevailing conditions, human ownership in relation to property has already assumed the status of reality; and hereby we attempt to demarcate the rightful and undesirable aspects of it.

The Origin Of Human Ownership

Creative Labor

As explained before, God, being the Creator and Originator of everything, is automatically assumed to be the Owner of the same. Likewise, the innate logic determines the producer of an object to be its owner. In other words, a human being owning his person, is considered to be both owner of his labor as well as the product of his labor.

You may deploy and coordinate your mind and body to construct a hut. In the process, you naturally first clean the earth by removing the unwanted elements like stones and pebbles. Then you pour water over the cleaned soil to tum it into soft, adhesive clay. Then you mould the clay into bricks and let them dry in the sun. Then you proceed to set the bricks in rows upon rows in a systematic manner. You carry this on until the task of construction of the hut is completed. The hut, in turn, offers you the intrinsic services like comfort and protection against intense sunshine and wild animals which could not be achieved by plain soil and water.

The hut is the crystallization of your creativity acting to represent your relationship with the hut as its rightful owner acknowledged by innate logic. The hut can therefore be referred to as the fruit of your labor exerted in the course of successive days.

Creative labor is therefore reckoned to be the mainspring of ownership. To elaborate further, on the concept of creative labor we can say it creates a new consumption value and adds qualitatively and quantitatively to the existing aggregate consumption values. Both water and soil possess beneficial properties and your power of creativity when set in motion, turned the same into a hut with its unique advantages. In other words, the hut with all its want - satisfying qualities is the crystallization of your labor and creativity.

Creative labor thus recognized to be the origin of ownership, comes to be covered by and complies with the innate logic which precludes the possibility of parallelism and circumlocution.

Extent Of Ownership

What would be the scope of ownership of an object produced by the individual? The answer to this question can be found in the question itself. The extent of an individual's ownership over what he has produced is gauged by his contribution to its production. The following example will help further illustrate the point:

Under conditions of dry farming, a farmer sets himself to cultivate a piece of land for this purpose. He initially sorts out the stones, thorns, etc. and clears the land. Then he ploughs the land and sprinkles 100 kgs of wheat seeds on the land, waiting for summer. If nature proves to be kind towards him and sufficient, timely rains occur, he would be put in the advantageous position to reap a harvest of hay and wheat and therefore his investment of 100 kgs of seed would yield him 2000 kgs of wheat:

100 kgs. wheat + farmer's labor = 2000 kgs. wheat. However if the rainfall was unseasonal and scanty, t he yield would have been halved:

100 kgs. wheat + farmer's labor + 10 rainfalls = 2000 kgs. wheat.

l00 kgs. wheat + farmer's labor + 6 rainfalls = 1000 kgs. wheat.

The above illustration sheds light on the fact that variation in the yield is caused not by the fixed elements, namely the farmer's labor or the seeds, but by the variable element of rainfall.

100 kgs. wheat + farmer's labor = nil wheat.

The cursory approach of attributing the entire output of 2000 kgs of wheat to the farmer is therefore incorrect, because the operation and contribution of the other determining factors, like rainfall, were overlooked. At the same time it is wrong and untenable to hold rainfall as the sole factor for the 2000 kgs of wheat yield. The production perspective furnished below is also equally wrong:

100 kgs. wheat + 10 rainfalls - farmer's labor = 100 kgs. of wheat.

It commits the fallacy of treating the farmer's labor input as the sole factor and therefore is entitled to 1900 kgs. of wheat. All the above illustrations are fallacious and are not in harmony with the principle of fixation of the farmer's entitlement to a part of the total yield commensurate to his role in the production process:

100 kgs wheat + farmer's input + 10 rainfalls + sunny days + etc. = 2000 kgs of wheat.

Therefore, in an attempt to determine the rightful owner of the 1900 kgs of wheat added to the total volume of consumption items at the disposal of humanity, the contribution of the constellation of factors such as the farmer's labor, soil, rainfall, air (oxygen), seeds, ploughing tools etc., must be taken into account.

Thus we come to the realization that the farmer's labor can be treated as only one of the several operational elements accredited for the generation of the new value, and his gain from the lot emanates from that only. In other words, it would be unfair to recognize the farmer as the originator of the 1900 kgs of wheat produced.

The farmer's labor is the embodiment of his mental capacity and awareness acquired from the society as well as his physical efforts. He is indebted to certain external factors for the evolution of his skill. Therefore,

an unbiased analysis of the above situation reveals that other people have due share in the produce assigned to him.

Wrong Deduction

Based on this assumption, many economists are led astray and they conclude that an individual cannot have a substantial claim to what he has produced, because it is automatically to be owned by the society. Various items used by him during the production process such as tools, his know-how, soil, raw materials, nature, etc., all and all belong to the society as a whole. Therefore the idea of individual ownership is jettisoned altogether, because it has no infrastructural validity; but at the same time, collective ownership is deemed to be logical and dominant. The term "collective ownership" transcends national and time limits. And its perspective is wide enough to include the world community throughout the range of human history. This constitutes one of the important pillars of the socialist school of thought.

The theory, however, is as insipid and severe as the previous theory establishing the farmer as the sole indisputable owner of his produce. The theory of absolute collective ownership tramples upon the individual' s right to ownership and, therefore, runs counter to the theory of innate logic. It discounts the indispensable elements of individualism in the form of creativity, initiative and innovation. It holds no respect for the fact that individuals, with all their unique characteristics are directly or indirectly linked to a certain production. On the contrary, innate logic is accommodative towards the individual's unique contribution and gives due acknowledgment to it.

In a society with different types of people, not all turn out to be inventors. Even members of the same family imparted with uniform education, do not necessarily turn out to be the same. Intelligence, power of creativity and aptitude vary from individual to individual, and these elements act and react upon each other to determine the quality and intensity of their contribution to the society. Therefore we can proceed to say that an individual, even at a microscopic level, partakes in the changes brought about in a society.

To further reinforce our conviction, we can reason that out of two persons, exposed to identical milieu and learning process, only one may turn out to become a genius.

The question which may be raised at this level would be to prove that the two individuals concerned existed under exactly identical living circumstances. In our answer to this question, we can say that human individuals have undoubtly unique characteristics. Here, it would not be impertinent to take a passing view of the anthropological approaches adopted. There are three views in this field:

1. Individualism: The first view namely individualism treats the individual as an absolutely independent entity with no dependence whatsoever on external elements.

2. Philosophical Socialism: The second view called philosophical socialism propounds that an individual has no pristine qualities at all, and that he invariably owes his social accomplishments and activities to the society. What has real existence is the whole and the individual has no

reality whatsoever. An individual constitutes a fraction of the whole, and what in reality is the whole or society only.

3. Combined View: The third school of thought is a state in between the two previous theories. It maintains that an individual human being is neither a hundred percent independent of his society, nor completely assimilated in it. He is a product of society influenced by the conditions prevailing in it, and simultaneously participates in and contributes his might to the development of the society.

The third theory has given birth to certain queries as to the extent and degree of interdependence between individuals and society. Accordingly different opinions which are not necessary to be discussed here, are expressed to gauge such interdependence.

Our logic initially assigns an irrefutable role to an individual in influencing creativity and innovation. Secondly, although an individual may be devoid of creativity and innovation, his performance in a work will turn out to be different from that of his counterparts, even if it amounts to repetition and deployment of his predecessors' past experience. Under identical climatic conditions such as the same quality and, amount of rainfall, same degree of sunshine, and the same quality of seeds and nutrition, three individual farmers would have diverse quality of yields representing different levels of productivity. One may be assiduous, the other may be sluggish and the third, mediocre in carrying out their task of harnessing the elements of nature. This means that individual characteristics differ from one person to another in exploiting natural factors.

Thus we can drive home this point: Our concerned farmer, owing to his unique level of productivity, can justifiably be entitled to a share out of the total output. At the same time his cultural background and also certain social conditions collectively had a bearing on his performance level.

Therefore such factors are also to be apportioned a share. In short the farmer, as well as his society, are the joint owners of the produce; and this stands as exemplary to innate logic with an infrastructural validity. The role of the elements, other than the farmer, in the production process could be direct or indirect and elaborations on this part will be made later on.

Hiazat

There is another case of human ownership which we would like to discuss here. You may come across certain gifts of nature which could be availed of without any harnessing or modification on your part.

If you feel thirsty and drink from a river you are passing by, you have only embarked on a consumption affair. And your act cannot be given the appellation of economic activity or of productive work.

At this juncture, we would like to examine man's relationship with such categories of consumption. Suppose three persons, moving together to cross a jungle, reach a coconut tree from which a coconut has fallen to the ground. Is the coconut the property of the first person who picked it up?! What would happen if the second person also puts forth a claim to the same coconut, in spite of another coconut being available and having fallen off a second tree a little farther ahead. Now let us see how innate logic deals with a situation of such nature and complexity.

In the process, however, certain likely questions such as: Is possession the origin of ownership and credibility and will it cause any priority in the society? Is innate logic always just? The process of breaking the problems in a bid to understand them has to be preceded by basic priority self-evident axioms. Such an embodiment is nothing but innate logic. It is equipped with all the requisite tools to discern just from unjust.

The above preliminaries determine that besides production there is something else called acquisition which in fiqh (jurisprudence) terminology has the name of Hiazat and in short it means taking possession of something. Man, through the medium of Hiazat takes possession of his share. Is Hiazat the origin of ownership or prior to its prevalence, man could already own things. Mankind is considered to govern nature entailing the right to harness and exploit it.

We regard the whole of humanity as governing nature with each individual human being granted his share of the cake. In other words, he is entitled to engage in the practice of Hiazat so as to benefit from the bounties of nature. Hiazat is, therefore, the act of acquiring one's share from the total asset.

Nature is the joint property of mankind, and the practice of Hiazat enables an individual to acquire his due share from the cake. Therefore, it would be wrong to assume Hiazat as the origin of ownership. The concept of collective ownership of nature by mankind precedes it and is already a principle accepted and imbibed in our logic.

Example: You want to buy a pen. Against tendering of the price of the pen, you assume the status of the owner of the pen. The transaction has served to bring about your ownership of the same.

The conscience of humanity regards human beings as the legitimate owner of nature.

"And the earth, He has set it for living creatures; Therein is fruit and palms having sheathed clusters," (55:10-11).

This verse indicates that the earth, with all its fruits, belongs to the whole of humanity.

Mosha, Joint Ownership: If some persons buy a house jointly, they are considered to own the house collectively, or to be the Mosha owners of the house. However, if based on an accord, each individual owner is alloted a part of the house for his respective use, then the practice of Hiazat has been duly performed. Therefore Hiazat means taking possession and control.

Innate logic views the whole of humanity to govern nature, and therefore the share of each individual exists in collective form along with the shares of others. Hence, the practice of Hiazat facilitates fixation, separation of and benefitting from the individual's share out of the entire asset. The act of a person who picks the first available apple is called Hiazat; and it serves to indicate to others that he has already separated his share from all the apples available on the ground. The apple represents his acquired share. He has no claim to the other available apples, and likewise the persons with him can have no claim to the apple in his possession.

Messrs. A, B, C and D collectively purchase a piece of cloth. The nature of their ownership of the cloth is Mosha. Now if Mr. A separates his due share of two meters from the whole piece he cannot have any claim to the rest of the cloth. Likewise Messrs. B, C, and D cannot put any claim on Mr. A's share.

In the foregoing illustration, we cannot contend that the act of cutting the piece of cloth with a scissor to separate Mr. A's share is the origin of ownership. His ownership existed even before the cloth was cut. As a matter of fact, it was realized right after the collective purchase of the cloth by him and his friends;

Summary

Summing up the above examples, the following conclusions can be arrived at:

1. In nature, certain types of items with consumption value are available which may be availed of directly and without any kind of transformation.
2. Such items are the joint property of mankind and are shared by all individuals.
3. Hiazat plays the role of separating the respective share of each individual from the aggregate share of mankind. The interesting and relevant question which can be raised here relates to the exact amount of such individual's share.

To provide an insight into the question, in the following paragraph, analysis of the pertinent narrations is made. One such hadith (narration), from both the Shia and Sunni jurisprudents is:

"People have shares in three things; fire, water and pastures. "

Another narration in this respect is from Imam Kazem (A.S.):

"Muslims are partners in the use of fire, water and pastures (those vegetations which are useful for grazing). "[1]

The second narration unequivocally considers Muslims as partners in the said three things, and therefore it aims to specify economic views of Islam in the wider perspective of the Muslim community with respect to ownership. Care should, however, be exercised not to be deceived by the fallacy that Zemmi (Kafir or infidel communities living in Muslim territories) are excluded from the principle of ownership.

Infidels also can have their due shares but according to the narration, priority is probably enjoyed by Muslims. Kafirs can partake after necessary approval by the Islamic government. This part of our assumption is, however, not based on a specific, clear-cut religious decree, and therefore we can assume that the term "Muslims" in the second narration was used to refer to the condition of an absolutely Muslim community with no Kafirs, and it is more of the type of a compliment. In the first narration, the term Naas (people) is used to preclude the possibility of a monopolistic position of an individual with regard to the bounties of nature; and at the same time, it has sanctioned collective ownership of the things.

Supposing that an individual uses some of the fuel reserves at his disposal to obviate a particular need. How much would his share from the remainder of the reserves be? Can he claim a right to the whole portion thus left? Islam has certain narrations which directly deal with such issues.

Such needs were peculiar to a society 'receding the era of Hadrat Mohammad (S.A.W.). They have relevance to a society with limited knowledge and less command over nature, apart from rudimentary economic activities confined to the primitive forms of farming and cattle breeding. Our discussion, hitherto, was wide enough to bring the available items to direct consumption without any requisite modifications under its purview. Thus the term "land" and the "hidden reserves" were excluded, and the term Hiazat was accordingly applied to the readily available things in nature.

A narration by Hadrat Mohammad (S.A.W.) says:

"Whosoever touches by hand something which was not touched by a Muslim previously is deemed to be the owner of the same."

This narration embraces natural reserves in general, and the available consumer items in particular.

In this narration also the term "Muslim" is used. Necessary elaboration as to whether the term "Muslim" is applied because the situation under discussion is meant to be a homogeneous Muslim community or it aims at making a distinction between the act of a Muslim and a non-Muslim will be made later on.

Interpretations of the term Hiazat in Islamic jurisprudence, is not considered as something inconsistent in declaring that an individual becomes owner through Hiazat. In other words, Hiazat is to specify ownership of a thing. However, no further specifications regarding its nature are given, and therefore, if you say that the purpose of converting part of a joint property into a private one is achieved, it will not be denied. In analyzing Islamic jurisprudence, two views are maintained: One maintains that people originally own the public property and that there is no such ownership at the outset but the ownership is generated by Hiazat. The other one however, holds that public property does not equate to common property and the medium of Hiazat is used as a means to achieve this end. Some may hold that the phrase "al-nass shuraka" is used not to imply that "they are partners in ownership", but that "all can avail of it" without being the owners of it which is also acceptable.

Therefore, two types of production activity and "Hiazat" are discussed in relation to the issue of ownership. However, there are certain types of activities which do not fall into either category; such as the functions of a doctor, injection work, dressing up of wounds, etc. Can we then consider such activities as services? The term "production activity" refers to a work whose effect, in a constructive manner, is palpable and crystallizes in another object.

On the other hand certain activities like teaching are enveloped in an air of controversy as to whether they should be considered production activities or otherwise. The criterion employed in establishing teaching as a service or production activity is the nature of the task performed. If we teach to enhance the level of our students' knowledge, and thus help quench their thirst for knowledge, then such teaching is labelled as a "service". However, if we teach at the production level and with the motive of turning an unskilled laborer into a skilled one then our work can be construed as a production activity. In the same line the imparting of mathematics or professional knowledge is considered as production activity.

It would not be improper if we call the later type of activity indirect production activity because we defined "productive work" as something which directly or indirectly contributes to the production process thereby making a net addition to the amount of the necessary goods available.

Thus, there is a certain type of work whose effects exist in an object. In other words, the object is the manifestation of certain accumulated labor. On the contrary, there are certain activities which do not have such a property. They are not crystallized, but their benefits are accumulated by the person or persons involved. Once these are halted, the benefits stop being transmitted as well. The latter type is called services.

Note

1. This narration is contained in Shaikh Tousi's book Tahzib, Vol. 7, and it is narrated by Ahmad ibn Mohammad ibn Salman quoting Abulhassan Imam Kazem (A.S.).

Services

Are Services The Origin Of Ownership!

A careful analysis reveals that we are the rightful owner of our labor, be it production work or a service. Entitlement of an individual to his labor constitutes the pith of all kinds of ownership. So far as his productive work continues to be there, he is the rightful owner of the same. Likewise if his work entails formation of an object manifesting his accumulated labor, he is also considered to be its owner.

But if a person is engaged in a sustained work and it does not exist in a crystallized form, then what type of claim does he have?

Would it be correct to say that a doctor who treats a patient can claim to be the owner of the patient's health? Is a tailor who transforms a piece of cloth given to him into a garment, entitled to a share? If you take your darling children to a doctor for treatment, can he put forth a similar claim and say that he should have a legitimate share of the children? Obviously not, because a person is not another person's property and therefore the interpretation of the term "ownership" is impertinent here.

However in the "service sphere", it would be correct also to say that person engaged in such activities is the owner of the same and no demarcation line is drawn. In both the spheres of "services" and "productive work", the individual's efforts act to constitute ownership.

However, the qualities of tangibility and crystallization cannot be ascribed to the former in the manner they exist in the case of the latter.

What would happen if a baker claimed to be the owner of the bread so baked, and refused to give bread to other. A doctor offers a service similar to that of a chemist, except that the chemist can produce and present the embodiment of his labor in the form of drugs. While a doctor cannot crystallize his work in an object. Although one can say that medical instructions can be considered to be productive. However, can a doctor's work be considered as productive if it is utilized to treat a retired old man, who is not productive to the society and is merely a consumer?

The stance adopted by socialists vis-a-vis wage system is a hostile one, advocating its complete liquidation. To further reinforce the conviction, they attribute the concept of alienation to it and go on to reason out that an individual, under the wage system gauges his personality in accordance with the level of his wage. In this bid, all other noble aspects of humanity, such as achievement of perfection, are eclipsed by his overwhelming consideration for monetary gains.

Therefore, to rid mankind of this evil with all its dangerous implications, wage system must be abolished from the sphere of economic activities, and treat the individual's labor value instead of wages as a proper remuneration to be paid to him.

However one can foresee that a person, with a lust for self-aggrandizement, under the conditions of a wage system or otherwise, will continue his relentless efforts in accumulating more wealth. For example, a switch-over from the wage system to a non-wage system would not guarantee the cessation of the mode of thinking of a self-sufficient carpet-

weaver. He may furnish all his rooms with various carpets woven by him, instead of giving priority to or having no consideration for his society's needs for the same. In other words, his concern for his own self overshadows all other important aspects of a social life. Moreover, can you recall any practical socialist government under which the issue of wage system may have been abolished or become non-existent?

The Motive to Work

A full-fledged Marxist system is governed by the motto of putting unlimited goods and services at the disposal of the citizens. An individual worker is under no direct constraints with regard to the volume of his production and contribution to the state economy. While his entitlement to a share from the aggregate available goods and services are a discretionary matter for him. He is not obliged to maximize his production efforts. This is meant to drive out the concept of economic alienation from the socio-economic sphere, and thus render it clean of the injurious element.

The parochial attitude on insulating the economy from the concept of greater productivity as a means to achieve greater consumption levels, and to have an alienation-free society, will in the long run, cause degeneration of the economy through lethargy and sluggishness.

As a counter-argument it is contended by Marxists that under the conditions of a Marxist system, an individual, having attained the highest level of development, is spontaneously gravitated towards work and greater activity, while being utterly repulsive to laziness and inactivity. Therefore, an individual rendered jobless one way or the other would inescapably tend to view his joblessness as a factor limiting his progress towards perfection.

Therefore, under such a social set-up, individuals are activated to work out of an intense love for the system rather than the remunerations promised by it. Hitherto, we have neither witnessed nor come across such an example in the world except in case of some outstanding individuals. Under the existing social institutions, whether capitalist or socialist, there are observed innumerable cases of servility of individuals. In certain cases, it may be more overt, and in others more subtle and covert. While in the former case, companies and individuals are the exploiters, in the latter, the State itself becomes the exploiter.

The idea that all individuals should possess capital and equipment so as to engage in the tasks of sowing and reaping, and thus provide their own food is fallacious. The services extended by a teacher or a doctor have nothing to do with the above-mentioned activities. They have their own distinct intrinsic usefulness, and their dispensation should meet all the relevant wants of the society. It is right that the principle of "from each according to his will, to each according to his wish" reigns supreme, and therefore the element of "alienation" is done away with.

It's right that the society abounds in its needed goods and services, owing to the twin factors of plentitude and the cultivated sublime quality of due self-restraint in consumption. This is supreme and can do away with alienation and all other evil repercussions of the wage system, but before having access to such human beings and such societies a mere shift from one system (socialism) to another (communism) is of no use. Because under

any system, there are certain types of beneficial efforts, which ought to be paid wages so as to encourage a venture into the same. At the same time, any attempt at delimiting the individual's needs under communism, will raise a reversion to the conditions of socialism with all its concomitant limitations. Under such conditions an individual is prompted to engage in greater activity for higher gains subject to government's definition of the individual's level of needs.

In a bid to satisfy his social needs over and above what is initially dictated, an individual will have to engage in extra work, the remunerations of which are likely to be confiscated by the government. Meanwhile, systems different from socialism, have been more successful in production; and this is substantiated by facts.

No doubt economics plays a very crucial role, but it cannot possibly occupy the sacred place rightfully accorded to ethics as an infrastructure in human lives. The prime motive must be to mould individuals imbued with all the sublime qualities of "justice" and "integrity". Here we do not attempt to ignore the vital bearings of an individual's economic milieu on his morality and functions in the society. In other words, due importance is attached to the factors of morality, economy, spirituality and materialism interacting upon one another in the process of formation of an individual's entity.

Work constitutes the origin of ownership. Of course, if one allows public ownership on public property as it was discussed, then we would have ownership with no labor. There are, however, cases of laghateh which means that you find something which is not claimed by anyone. Such items are treated as common properties, and the act of picking it up and bringing it into one's possession is nothing but Hiazat. Therefore, laghateh means the act of coming into possession of a thing which has previously had an owner but for the moment is not claimed by anybody and it bears a price.

Now let us suppose that a person gives us a pen in whose production we were not involved at all. How can we treat such a case? This is a transfer, and constitutes a second-grade ownership. The original owner, whether the person who gave it to us or the previous owner, ought to have worked for it, and therefore the pen can be legitimately accepted.

Mr. A's father dies and he inherits his father's property. This too is treated as second-grade ownership because the inherited property is assumed to have been acquired through labor.

Therefore, we can conclude that labor is the platform where the concept of ownership originates and is molded, be it productive work or service of Hiazat.

Basis of Ownership

To sum up our previous discussions we can attribute three types of ownership to man. He is the owner of himself and therefore the owner of his current labor, the part of his labor crystallized in an object and he is also the owner of nature jointly with other human beings.

When we say man is the owner of himself, we are considering a human being vis-a-vis other human beings, and the idea of God, the Supreme Owner of the universe, does not come into the picture.

Here we are following innate logic that all human beings or, on a larger scale, all living beings, have a share in nature. An animal, preying upon other animals, can be considered to have its share in nature; just like human beings. However, the term "ownership" has applicability and pertinence only to human beings, and therefore animals are excluded. However, a man's action in separating his share from nature has to be governed by certain norms which act as safeguards to the rest of humanity's share.

All schools of thought have, invariably acknowledged human beings' dependence on nature, and the issue of ownership, its various kinds and degrees, has interspersed their history. Historical evidence testifies to our claim that ownership and its ensuing demarcation lines always dominated the relationship of an individual vis-a-vis another individual, group or groups of people.

Therefore, the idea of absolute commune contended by Marxists, does not enjoy historical sanction. At least there is no concrete evidence to this effect. Absolute common ownership may have existed only in the case of families. However, outside the family bounds, the social scene must have been rife with ownership-related conflicts.

Such views, because of the fact that they are crystal- clear and obvious, do not need to be held and expressed unanimously and by all. Therefore, their opposition by a certain group does not invalidate them.

Up to now we have discussed three main origins of ownership. These are followed by three bases of ownership which are corollaries to the former types.

Exchange Or Barter

Exchange can be described as voluntary disposal of a good or service upon acquisition of a good or service of a different nature, on the basis of mutual consent. Messrs. A and B, both have an object of their own. Mr. A has a fancy for Mr. B's object and vice versa. So, their willingness to engage in the exchange enjoys all the necessary approbation accorded by innate logic. Therefore, in exchange, there is a shift of ownership of objects from one individual to another. I had a kilo of apples which I exchanged for a kilo of melons that my friend had. Through this process, what I possess now is one kg. of melons, and likewise my friend has in his possession one kg. of apples which initially belonged to me.

What constituted my ownership of the apples must have been either Hiazat, productive activity or service; and the same thing applies to my friend. This is, however, labelled as second-grade ownership; because my present ownership of one kg. of melons presupposed my having obtained one kg. of apples, either through Hiazat, productive activity or service. And likewise it is a "must" that my friend had to obtain his initial one kg. of melons through the same process. Otherwise, engaging in the barter would not have been rendered legitimate.

In barter, two values are placed against each other, and attainment of one value embodied in an object necessitates relinquishment of another value. However, the prerequisite which warrants transfer of ownership, is the prior acquisition of the object through the usual operations of Hiazat, productive activity or service.

In a village, a doctor may barter his service for a few eggs, or if the patient has no money, the doctor may accept firewood in return for his service which Hiazat has fetched him.

Likewise, a service is likely to be bartered for another type of service. A doctor and a painter may mutually agree that in exchange for treatment given by the doctor, the painter would paint his building. Therefore, the doctor would become the owner of the painter's labor for a specific period of time and according to all the specifications mutually agreed upon. In the latter case, ownership of the painter's labor by the doctor constitutes a second-grade ownership, and any unilateral revocation of the agreement is tantamount to violation. In the light of above examples we are therefore faced with another source for value which is called the exchange value.

Definition of Exchange Value

Proportion of exchange between two items of consumer value is called the exchange value. Determining the amount of this proportion is so intricate in terms of different types of societies that its full discussion demands a detailed account; and it is this proportion which can be just or unjust. Discussion of its constituents, namely energy input, the number of spent hours, quality and quantity of the tools deployed and of the goods or services offered and one degree of their relationship, has been a focal point and an indispensable weight in an unbiased determination of their equitability or otherwise.

An individual, living in a progressive society with innumerable and complex wants, cannot unilaterally meet all his needs through Hiazat, productive activity or service. At the same time, consequent upon his specialized sphere of activities, a surplus of goods or services over and above his individual and family needs is inevitably generated.

Therefore, a spontaneous ground for barter is provided, and it is used by the members of the society. It is noteworthy to mention here that an individual should always be barred through Hiazat from excessive accumulation of a good, which is scarce in nature, and from its barter for goods and services needed by him. This is meant to preclude the possibility of exploitation of others, who are not exposed to that particular good as he is.

Under conditions of primitive barter system confined only to neighborhoods, the possibility of exploitation is precluded. For example, a villager may exchange his surplus eggs for a certain amount of meat with his neighbor. Or he may exchange a glass of superior cow milk for a glass of inferior cow milk plus two eggs with his neighbor. However, if barter becomes professional in nature and is placed in the category of "services", then it ceases to possess its simple characteristics to pose the threat of exploitation.

For example, a peddler may offer to his village folks two meters of cloth brought from t he city in return for 20 eggs, and thus a little profit is automatically earmarked for him. Now if he gets 2 1/4 meters of cloth for his 20 eggs from another cloth dealer, and exchanges the same for 25 eggs, then in the course of this barter, he has earned 5 extra eggs for consumption by himself and his family. Likewise, a provision store owner may get a

profit of 150 tomans after 8 hours of work in a day. But if he gets 3000 tomans in a day, then it is an indication of exploitation; and the rates and his business activities must, therefore be regulated.

Therefore, we have seen that contrary to its initial stage, the barter system can be transformed into an exploitative affair in subsequent stages after it enters the domain of "services".

A trader, a dairy product shop owner and their like perform a specific role in society, and because of that, they become entitled to remuneration; just like a laborer.[1] However, utmost care must be exercised to ensure a just and optimum rate of return rather than unduly exorbitant profits rampant under capitalistic conditions.

Today, all the countries invariably engage in bilateral trade with one another. The capability of a merchant, however, in concluding a useful deal with the outside world, does not justify his action of charging exploitative rates from the people just because he has such acquaintance. Meanwhile, he is entitled only to a modest rate of profit.

Relinquishment: Innate logic has also sanctioned relinquishment of the use of an object as a resultant yield of his labor in favor of another person. In such cases, transfer of ownership is voluntarily affected from one person to another.

Note

1. The scope of the term "labor" is large enough to accommodate terms like “physical” as well as “mental exertions”. The managerial skill of a manager or that to an accountant constitutes a specific type of labor and exertion. However, this differs from that of a construction laborer. An accountant or a manager applies his mental capacities in the form of knowledge of economics. Accountancy, etc., in identifying and determining the value. the opportunity cost and profitability of an investment. Therefore, he automatically qualifies for dividends against the labor put in by him. The pay scale allowed to him may be equal to or two or three times larger than that of a simple laborer, but not 10 or 100 times.

Inevitable Transfer of Ownership

Like Inheritance: As stated earlier, an individual may engage in using and transforming raw materials of nature into other objects of different utility with full entitlement to the same as long as the raw materials are not scarce. This kind of entitlement and ownership could have no limitation.

Likewise, through the instrument of Hiazat, an individual may acquire his and his family's share from the aggregate share in his surroundings. Throughout this process, his actions are prompted by consideration for his family and relatives' needs. Hence, after his death his aggregate wealth, in the form of diverse goods, accumulated by him through productive activities, services or Hiazat and receipt of goods, etc., is automatically transferred to his heirs who served as an inspiring factor for engaging in greater activity. Such practice is advocated and defended by innate logic.

The issue of inheritance, following a vicissitude of controversy, has explicitly been given its respective place in the Soviet and Chinese constitutions. Inheritance, so long as it has relevance to the immediate and rightful properties of the deceased, is acknowledged and tolerated. However, if the accumulated property so inherited is of dubious nature and origin, then all the legal enquiries into its origin can be made. We have another type of inevitable transfer, which is distinct from inheritance and in the form of partnership.

If you mix your 50 man (man is a measurement of weight in Iran equivalent to three kgs.) of wheat with your neighbor’s 25, on the basis of mutual consent, then you will get a two-thirds share of the aggregate, against the one-third share going to your neighbor. This situation will persist unless and until you and your neighbor separate previous shares of wheat; and if this is not done, then your respective shares in each seed would be 2/3 and 1/3 respectively. The above principle is perhaps consistent with common jurisprudence.

Thus, we have concluded introduction and discussion of the types of origin of ownership which are in absolute conformity with innate and natural logic.

Notes

Services cannot be bequeathed; but property or money engendered through services can be treated as inheritance.

Nafagheh comes under the category of Exchange of Value. It is the act of obligatory grant of something which is in rightful possession, and thus it is distinctly different from the voluntary donation of goods. It is also different from barter. Wills and infaga come under the head of bestowal and donation.

War booty is treated as a reward for service or Hiazat. The concept is, in fact, more appropriate in respect of services. It may be determined by the army commander, the government or society whether soldiers can partake in war booty as remuneration for their active service. (Islam prohibits possession of war booty in case of aggression). In Islamic countries where the army is paid a salary by the government, military men are not entitled to a share of war booty.

Islamic wills stipulate that only 1/3 of the wealth of the deceased could, according to his predetermined instructions, go to individuals other than his heirs. In other words, 2/3 of his wealth is automatically apportioned to his heirs, and only 1/3 of it falls within his discretion with regards to its allocation to others.

Effects Of Ownership

The First Effect: The right to own, exploit and use a share. A person, following possession of an article, has a right to use it, the sanction for which is extended (apart from Islamic provisions) by innate, natural and rightful logic.

The freedom and its degree in the use of an object owned by a person constitute the axis around which our discussion revolves. Suppose a person plants a tree, and gives it all the necessary care and attention until it reaches the stage of fruit bearing. Can he be considered to be entitled, without any limitations whatsoever, to the entire yield of the tree? Certain limitations emerge here to limit his claims. Do the limitations stem from natural needs or per capita consumption or the minimum level of consumption in the society?

The optimum intake capacity of the owner results from his natural needs with regard to the fruits of the tree. According to this criterion, he can embark upon consuming the fruits as long as the harmful effects arising out of over-consumption are precluded. The term "per capita consumption" implies the quotient obtained from the division of the prospective aggregate amount of the fruits of the tree by the number of people in his society. His share, according to this theory, can thus be calculated.

The criterion of minimum consumption level of the fruits of the tree in the society determines his share to stand at a minimum level of the same.

Here, in this context, no such limitations are however made. His sole proprietary right to the tree overshadows all the above criteria and considerations. It is only his moral obligations which intervene effectively in the matter, thereby determining his due share to be at par with the per capital consumption criterion. If the person uses the fruits of his tree for personal consumption, at a level beyond what is warranted by the per capita level, can he be adjudged to have violated the proprietary right allowed to him? The answer is no. He has not committed any property usurpation. However, he has transgressed the bounds of his moral "principles" in this context. Likewise, if he has a surplus of the fruits of his tree, in defiance of the conditions prevalent in his society, his act is tantamount to breach of his moral duty in economic terms. In the same manner, if you observe that a person standing beside you is naked due to his acute economic condition, while you are wearing fancy clothes over and above your requirements, then you are bound to be moved by your moral obligations to offer your rather redundant clothes to him. However, failure to comply with such an obligation does not entail any prosecution against you.

The delicate point to remember here, is that Islam and the current jurisprudence have assigned watertight compartments to violation of religious and moral obligations on one hand, and "legal and canonical" violations on the other hand.

To elucidate the above difference between the two kinds of violations consider; a person with surplus accumulated wealth and property and another person in his vicinity needing some of what he has in surplus. It is one thing to say that the needy man is legally a partner of the wealthy in his wealth, and if the latter takes any kind of possession in the property he has

legally committed usurpation; while it is another thing to say that the property legally belongs to its previous owner; nevertheless, if he neglects the needy man, he has ignored his social duty and is liable to ethical penalties.

Legislation enacted in the Soviet Union in 1977, has explicitly recognized an individual's right to possess a house commensurate with his and his family's needs, and treated the same with all the valuables in it as his personal property. Now supposing that in the U.S.S.R., Mr. A and his family own, according to the Soviet standards, a decent three-room house. In the meantime, a Soviet citizen, along with his family, shifts to the new city from some other part of the Soviet Union. Should Mr. A and his family occupy only two rooms and therefore allow temporary use of the third room to tis countryman and his family until they manage to construct their own house? No doubt the Soviet rules and regulations have failed to accommodate such cases, but under such circumstances, Islam considers it a moral duty of Mr. A and his family to allow use of the third room by the second family. Nevertheless the ownership of Mr. A on his third room is not disputable in any case. This forms an integral part of innate, natural logic.

Suppose, under identical conditions, with regard to the construction of a house, out of Mr. A and Mr. B, the former quickly builds his house, whereas, the latter, due to indolence and Jack of personal enthusiasm, fails to do the same. Now, is Mr. A, under a moral obligation, required to accommodate Mr. B in his house or is he basically faced with a limitation in his ownership rights?

In the discussion of Infagh (donation) two interpretations can be made:

1. Even though a person has acquired his property through legitimate Islamic means, with an indisputable claim to it, the practice of infagh is incumbent upon him. This is the current interpretation of the term by both Shia and Sunni sects.

The property belongs to him. However, he performs infagh in God's way and the very act does not release the property or object from his possession. Infagh, in spite of being an obligation, does not alter the nature of ownership. If he abrogates this obligatory infagh, his relationship with the thing will not cease, rather he will be judged to have violated a religious duty.

2. The second interpretation, however, states that where the act of infagh becomes incumbent upon an individual, his ownership link with the object of infagh undergoes instability and alteration. For example, if, through a productive activity, I produce, and therefore own an object, I am to be treated as the rightful and sole owner so long as the necessity for an obligatory infagh, with respect to the kind of property owned by me, has not arisen. However, once such necessity emerges in the society, I am to be adjudged as the owner of the portion not required to be dispensed with through infagh.

In the case if Khums and Zakat too, the above-mentioned views hold true. One view holds that the amount, equivalent to Khums and Zakat, cannot at all be treated as personal property, and it is meant to be irretrievably channeled into the usages prescribed by the principles

governing Khums and Zakat. The other view, on the contrary, admits the indisputable position of the owner with respect to his entire earnings, and interprets the failure to dispense Khums and Zakat as an offense against an obligation. (In Islamic jurisprudence, we have the two explicit terms of legal and prescriptive decrees respectively for the above mentioned concepts.)

The noteworthy point here is that our jurists hold divergent views with regard to Khums and Zakat. A majority of our jurists hold that with regard to the category of properties with a proportion of taxes levied on them by sharia (Islamic law), the person cannot treat that portion as his personal property from the beginning, and it is channeled into Khums and Zakat automatically. While in the case of donations other than Khums and Zakat , which do not have a fixed proportion in a person's property, the situation is not the same, and the person owns, defacto, what he has to give away.

Hence, in the case of properties subjected to Khums and Zakat, the person at the outset of attaining the property (crystallized result of his labor) is assigned only 4/5 of the total asset. And if he ventures into an investment employing the entire asset, the profit and augmentations accrued to the remaining 1/5 part do not belong to him and he cannot have any claim to it.

However in the case of donations with no fixed proportion, none of our jurists has expressed a conditional ownership status for the owner. In other words, a non-fixed proportion donation, despite being obligatory, does not act to break the ownership link of the person with his property, as soon as the conditions for donation have emerged.

Or, if you like, a person can exercise discretion despite a prescriptive decree, i.e. he can, by defying the decree, commit a sin and disobedience, and at the same time has his legal links with his property assured. More clearly, his defiance of the prescriptive obligation does not sever his legal connection with his property.

Of course, he may be penalized for his wrong performance, but having punishment is one thing and denial of a legal right on a property is another. He may be told that he will be imprisoned if he does not surrender his property. However, that will not act to deter him from the ownership of the same property.

It is most important to see which one of these concepts is more logical and plausible since it plays an important role in the economic arena. It may be deemed fit to have a glimpse of the legal, moral or prescriptive decrees, and establish a difference among them if any. In other words, an attempt is made to determine whether a moral financial obligation is accompanied by relevant legal decrees or not.

Is defying an ethical "must", in a financial decree, tantamount to losing legal ownership or is there no relationship between the two and a person performing his moral obligations through observance of, for example, Khums, Zakat and infagh, is invariably adjudged as a pious person? However, there is no legal legislation to detract from his property values if he fails to adhere to his religious obligations.

Both the science of economics, as well as the schools of economic thought, discuss legal rights and duties with all their respective dimensions. The only difference is that the economic schools of thought discuss what

ought to be there, and their general principles. While the science of economics carries out the task of analyzing the persisting economic norms and the methods to be deployed in bringing about appropriate modifications.

The following examples are furnished in order to provide further insight into the concepts. Suppose the schools of thought advocate provision of equal opportunities to everything which would, in turn, be conducive to at least a minimum living standard and spiritual attainment.

The ideal has not materialized yet. Therefore, at this juncture, science can effectively intercede by prescribing certain guidelines to render our ideals feasible. Thus, the science of economics furnishes us with the necessary tools to achieve the ideal propounded by the relevant schools of thought.

If you say, 'I want my child to become active and moving', it has to do with the school side of the issue. However, the methodologies adopted by you in rendering your child active, have to do with the science side of the issue. In the process you may apply directly and thus be benefitted by the methods in vogue or used by your predecessors. For example, would it be appropriate to tell your child to get up and move, or instead create in him the motive to move and therefore get him motivated to move? Can school or science respond to such a necessity?

On the whole, we can say that in the economic context, legal and moral rights and duties may have their respective distinct domains. Many regard moderation- oriented economic measures as moral obligations only without any legal repercussions.

Therefore, the scope and limits of consumption, as an indication of ownership, constitute an important part of our discussion here. Is the effect of owning an object, the right to its unconditional consumption or are there some limits to this right; and if the second holds good, should it be according to the natural needs of the owner, or the society's per capita consumption level or the does the right persist even if its wastage and destruction are brought about?

A person plants a pear sapling. After intensive care, it comes to the yielding stage and automatically the planter of the tree becomes the rightful owner of its fruits. Will his probable action of leaving the fruits to decay have any justification while his ownership continues? Surely, from an ethical point of view, he is not liable for such a misdeed, but the question here is: Does this moral obligation entail any legal limitation concerning his ownership rights; and generally, to what extent, should moral obligations be enforced by legal sanctions?

The approach to such a delicate issue is two-pronged:

1. The pears belong to the person who has planted the tree and it, therefore, falls within his discretion to let the fruits decay without being used. Such an attitude, though considered to be a sin of extravagance, does not provide the ground for a trespass into the orchard to avail of the fruits, because his ownership link with the pears persists indisputably.

2. Ownership of the pears does not bestow upon the owner the right to let the fruits decay, and therefore if people learn about his intentions, they can effectively intervene and consume the yield. In other words, his ownership right is annulled.

The patronage, extended by innate logic, to consumption as an effect and reflection of ownership, explicitly precludes the concept of wastage and destruction. No tolerance is displayed towards a prospective owner who may resort to squander his procreated produce, and his ownership would accordingly cease.

In the meantime, if his intention become manifest to others, they are granted every justification to effectively intervene and consume the yield to their advantage. The right bestowed upon him by God to benefit from the fruits does not stretch to the extent of effecting any abuse or their destruction.

As another example, suppose that a person deliberately dropped a glass from the top floor of a building, another person on the floor below makes an effort and catches the glass in the air. This offence is dealt with in the domains of both legal legislations and moral obligations. The link of the person with his property stands broken. At the same time, the person on the floor below, who was caught the glass in the air emerges as the rightful owner of the object. The offence is dichotomous. He violated his legal and moral duties: innate logic clearly states that remorsefulness does not alter his new position, and the expropriated commodity cannot be returned to him.

Sometimes, countries, with a strong production mechanism, may find it an economic experience to destroy a large quantity of an agricultural product in a bid to prevent a market glut, and therefore maintain price equilibrium. In America, for instance, in one year peach trees yielded fruits in excess of the optimum quantity. The farmers, in an attempt to prevent a market surplus and a consequent price fall, reached consensus to partially pick the fruits and allow the rest to decay and to be turned into fertilizer.

It was also determined that any departure from the consensus would amount to an aggression against the farmers' moral conscience. So the problem could acquire such far-stretched dimensions owing to the entirely different attitude held in this field. Exploitation of one's products through the enumerated approved methods, i.e., the capital, constitutes a fundamental issue which has to be treated with utmost care and precision.

Definition of Capital

Capital can be described as a package of attained consuming values, which could be utilized to obtain some more of such values.

A farmer, engaged in cotton production, reaps 500 kgs. of cotton from his field. In winter season, which is an idle period for him, he manually converts some of the cotton into thread that sells at a higher price.

For example, through his manual exertion, he gets 50 kgs. of thread in addition to the remaining 450 kgs. of cotton. However, enthused by the motive to convert his next year's entire cotton crop into thread and thus earn higher income, he uses his talents and ingenious mind, and succeeds in inventing a cotton spinner which boosts his thread possession from 50 kgs. in the preceding year to 500 kgs. in the current year. The farmer, through his own sheer efforts, has cultivated the land and reaped cotton, and again with his own efforts and ingenious mind has invented a spinner which has boosted his thread output. Concerning ownership, has he committed any offence against the constitution or Islamic ethics? The answer is certainly no.

The Role of Capital

Capital in the form of production tools; the role of capital in boosting production output (generation of new added values) was illustrated in our previous example. The spinning tool, the cotton and the farmer's current labor are responsible for the 500 kgs. of thread production. However, the role played by the spinning tool overshadows the one played by the cotton, and it bags the bigger portion of the total credit. The table below sheds light on the above illustration:

Cotton Thread Production

INPUT	WORK MEDIUM	WORK HOURS	OUTPUT	INCOME Rials
500 kgs.	Manual	200	450 kgs. Cotton 50 kgs. Thread	5,500
500 kgs.	Spinning Tool	200	500 Kgs Thread	10,000

New Added Value: 450 kgs. cotton = 450 kgs. thread Selling Price: Cotton X 10 Rials/kg ; Thread X 20 Rials/kg.

Note: Work Hours are constant and Output is variable.

450 kgs. Cotton + 50 kgs. Thread = 5,500 Rials (Price of Output in the first case)

500 kgs. Thread = 10,000 Rials (Price of Output in the second case)

10,000 Rials - 5,500 Rials = 4,500 Rials (New Added Value)

Thus, we have observed that the elements of producer, the cotton and the number of hours involved have remained the same. Therefore we concluded that the credit for the enhanced production level goes to the cotton spinner.

What would happen if, in the above illustration, the owners had been different and more than one.

We have discussed capital and its importance in determining sources of ownership. Now we proceed to make further deliberations on this point. Capital exists in three forms:

1. Capital may exist in the garb of production tools, thereby contributing to the creation of some new consumption value. (10 hours of work on a fixed quantity of cotton + spinning tool = 100 kgs. of thread. 10 hours of work on the same quantity of cotton -spinning tool = 1 kg. of thread.)

2. Capital may exist in the form of accumulated labor with the potential to be used. A person may build a house consisting of three rooms, through his own labor. Hence, he can partially use the house for his own person and family, and lease another room or rooms against receipt of a rent. The house is a conglomeration of his labor in the form of bricklaying, etc., and therefore, a discretional and purposeful use of the house is morally and legally sanctioned to him.

3. The third form of capital is trade capital. This kind of capital acts neither to create a new consumption value, nor boost productivity. From a production point of view it is defunct and the benefits accruing in case of the previous two types of capital, cannot be accorded to it.

The following example will provide further illustration on this subject: A trader purchases 100 tons of rice at the cost of one million tomans1 and stores the same in the basement of his shop. His investment of 1 million tomans does not provide him with any justification to expect, for example, 20,000 tomans in return. This capital has not contributed, in the least, to the general production line, and therefore no profit accrual should be tolerated. But in the former cases, contribution was tangible and therefore profit allotment allowed.

How can we justify this profit? Here we may say that the 20,000 tomans difference is not profit of the supposed capital rather it is considered as the labor charges arising out of the transaction of the rice. But undoubtedly it far exceeds the legitimate, ethical labor charges, for example, of 200 tomans. The right amount of reward in the form of labor charges accrued to the trader could be, for instance, 200 tomans, and the remaining 19,800 tomans are unwarranted. The important point which should be noticed is that no profit is assigned to the capital here, and the said profit is justified only in return for the labor put in.

Therefore, we conclude that only productive capital or fixed assets, which are a manifestation of approved crystallized labor, fetch profit, and the same is not applicable to circulating trade capital.

Even the profit, commissioned to productive capital or fixed assets, will have to include depreciation allowances (just and not arbitrarily huge). Meanwhile, according to what we have established so far, the so--called profit gained through trade capital, stands in defiance of logical axioms concerning the origin of ownership.

The trader's profit above a certain limit is unjust, and implication of superficial elements like credit purchases of goods, time factor, etc., will not act to cover up the undue gain, be it fixed or variable, small or large. Likewise, in our illustration about the thread spinning tool, no profit allowance too was made to the cotton, and the entire profit was attributed to the spinning tool and the spinning work.

Certainly, various types of trade tasks ought to be allowed to commensurate remunerations according to the service they supply to the society. A grocer performs a work or what is aptly called a service at par with that of a wholesale trader, and subsequently the magnitude of rewards allowed to them must be the same. The wholesale trader cannot, under any circumstances, claim an annual profit of 10,000,000 tomans.

In our former example also, out of 200,000 Rials profit, only 2,000 Rials of it was just and therefore the trader's claim to the remaining 198,000 Rials was illegitimate, and a gross manifestation of the exploitation imposed on the society.

In our example of thread spinning, if out of the 10 kgs. of thread produced, 1kg. is taken by the owner of the spinning tool (which is invented or innovated through his labor) and the remaining 9 kgs. are given to the laborers engaged in the production work, no exploitation has occurred. The laborer, in the absence of the spinning tool, would have produced only I kg. of thread, whereas, through employment of the tool, a 10 fold increase has occurred.

Likewise, the lease of the extra rooms in a house by the owner, as illustrated before, not only has not caused any exploitation but has also produced a salutary effect on the general well-being of the economy.

Through addition of two rooms to the mainstream of available accommodation, and leasing them at a moderate rent to different strata of productive citizens, the overall enjoyment in society is enhanced.

Thus a reasonable profit rate in the first two examples, will not culminate in any exploitation, and the question of surplus value would not emerge. On the contrary, it helps to foster the productivity of the laborer and consequently a bigger remuneration to them. Lease of the assets also by the rightful owner will not engender any exploitation, if he is not in a position to use his tools himself. The remuneration paid to him in return is just and, as a matter of fact, would encourage greater productivity in him and his ingenious mind will be further activated in the service of mankind.

The leasing of the house, and also guaranteeing a just rent over and above the depreciation rate incurred, will encourage a housing investment process entailing greater productivity in the society.

On the other hand, those categories of capital which tend to create a basis for overt or covert exploitation of the physical and mental activities of individuals with ultimate concentration of wealth in the hands of a few are

not allowed any profit. No doubt a certain amount of remuneration against the commercial activities, after deduction of all the proper expenditures, is allowed and considered to be indispensable. But if a person with a fixed amount of labor claims more profit for a bigger amount of capital we have no way but to consider it as unacceptable.

Islam, has explicitly spoken against usury and/or promoting it in the Qur'an.

"•••and Allah has allowed trading and forbidden usury..." (2:275)

The usurers asked what difference lay between usury and the profit earned through transactions.

In the case of a transaction, a person buys 10 tons of rice and sells it, thus earning a profit. Now if instead, he lends this amount for a period of two months at a specific usury rate, again an additional amount would be added to his principal sum. Therefore what difference could exist between the two types of activities? The Holy Qur'an in this respect says:

"Those who swallow down usury cannot arise except as one whom Shaitan has prostrated by (his) touch does rise. That is because they say, trading is only like usury..." (2:275)

The practice of usury differs from a legitimate commercial transaction. In the case of the latter, a purposeful service is performed, while the former activity is devoid of and negates any useful contribution to the society. A legitimate commercial transaction is set upon the goods distribution task. By the instrument of Bai, the goods produced are made available to the interested prospective consumers.

In contrast to this, lending effects a temporary shift of money from the owner to another person who would engage in certain constructive economic activities. But even though according to the Qur'anic verse under which transactions are permitted, what kind of profit is legitimized?

Obviously the verse does not imply the permission of anything more than a reasonable profit in proportion to the services performed by the dealer. Therefore while referring to our previous example we observe that a gain of 19,800 tomans out of 2000 tomans is unjustifiable and it is tantamount to usury as compared to the 200 tomans which are allowed in a legitimate way.

Inflation

The pertinent question to be raised here is: How to counter the inflation rate or a decline in purchasing power? Supposing a trader purchases 100 tons of rice at a cost of 1 million tomans and sells the same for 1,000,200 tomans, thereby earmarking a legitimate and just profit of 200 tomans, so as to prove himself worthy of the narration quoted from the holy Prophet which says: Traders are God's beloved.

However in his successive attempts to purchase another 100 tons of rice, he discovers that one million tomans fetched him only 99 tons of rice, indicating a one ton decline in his purchasing power. How should this decline be compensated for? Should it not be considered in the rate of profit?

In response, we may say that the problem may exist in the case of money lending as well. An individual may approach his relative to borrow a sum of 100,000 tomans, which was to be allocated by the latter for the purchase of a

house. The latter obliges the former thereby postponing his own purchase. But on refund of those 100,000 tomans, it is found out that the price of the very same house or houses, in general, has increased and the amount is thus rendered inadequate.

Hence the problem of compensation is brought up here; and if something can be done about the inflation rate it should be done in both fields.

Under such circumstances, a compensation, so long as it is guaranteed not to lead to aggravation of the prevailing inflationary pressures and concentration of wealth in the hands of a few, is prescribed. In other words, so long as the compensation to offset the engendered inflationary rate with its concomitant loss in purchasing power is considered to be indispensable, it is tolerated.

However, if it is deemed that the inflation rate tends to cause further economic disequilibrium its roots must be detected and effectively tackled.

Causes of inflationary pressures are many with that of profit accruing from circulating capital ranking highest. Therefore, if we eliminate this category of profit which tends to breed other inflationary elements, the economy would automatically be propelled to a sound path. This type of profit, which is neither in the nature of that of production tools, nor in the form of that accruable to house and building assets which are capable of utilization, performs no useful function. On the contrary, it goes on accumulating to the advantage of its initiator.

Therefore, the right policy for its elimination as the mainspring of various types of inflationary causes is advocated. However, if other indispensable short-term factors are operational, then after proper estimation of the loss suffered, the same should be paid to the sufferers. And, if you like, we can name this compensation as a kind of profit. This compensation of inflation rate could be something like amortization compensation of the assets.

In a wider perspective, the problem of inflation can be epitomized in the wrong value allotment to various economic functions performed, and that constitutes the most important problem in an economy.

A necessitous worker may perform IO hours of work over and above his routine working hours and be paid extra money for the same. But this extra payment will lag behind and fail to remain abreast of his augmented contribution to the aggregate goods and services available in the economy. The difference, of course, dwells with the owner of the capital. Inflation always rises because the produced services are more than the people's buying power.

Through the medium of the 10 hours of extra work, the idle capital profit already carved by the capitalist is further activated thereby leading to an augmentation to it at a rate much higher than the extra remuneration condescendingly paid to the laborer.

The aftermath of the situation, namely the inordinately enhanced money supply consequent upon the large capital profit so generated, exerts an overall spiraling effect on the general price indices, and the bargain causes an erosion in the real value of wages of the laborers.

Likewise, a farm worker would boost production of a certain item, say cucumbers, from 8 kgs. to 12 kgs., owing to his extra working hours. But the dividend paid to him is not commensurate with his effected level of production and thus in the ultimate analysis, it would tend to alienate him from his production.

Extra working hours are basically low-paid as compared with the routine working hours and therefore in such cases workers sub serve the capitalist by receiving wages much less than the rate of profit accumulation attained by the latter and therefore an inevitable inflationary situation entails.

On the whole, we can maintain that all the above- mentioned ugly problems originate from trade capital in a capitalist economy. In the cases of production tools, etc., explained earlier, such manifestations are precluded. (Goodwill is also similar to circulating capital).

The amount of services supplied by a wholesale trader is larger as compared to those of a retail trader and to that extent, he can justifiably be apportioned a larger profit. At the same time, a considerable portion of the profit bears the stigma of trade capital profit, and therefore its elimination is recommended which must inescapably lead to a downward pressure on the prices of the retail trader.

Imam Khomeini' s decree has negated an inventor's monopolistic claim to his invention. It will be noteworthy here to discuss the problem in the context of innate logic. If, in a public place, like a park, which is not lit at night, a person provides electricity for his own reading needs; can he bar others from the benefit of such a light?

Likewise, if you invent a certain machinery and lease it to another who succeeds in creating a replica of your own machinery, can you accuse 'him of an offense? The answer in both the cases is "No", in accordance with innate logic. Such claims of monopoly are tantamount to usury and are equally despicable.

Anyhow, the net profit of trade capital does in no way contribute to an increase of output and also by its very nature; it is devoid of the potential to add to the aggregate consumption value. In other words, capital is neither a production tool nor a productive asset like land and buildings and assigning any profit to it is unjust, irrespective of whether it is gained by a merchant or a capitalist.

In determining his profit volume, a capitalist is invariably tempted to consider all the wide ranging elements geared in the production process. For example, he would assess, as his initial capital, the cost of buildings and the machinery at 2 and 8 million tomans respectively, and count another 90 million tomans, say as cash capital, for providing raw materials, workers' wages, etc. Consequently estimating the production process would come to gestation in 6 months. He would calculate and allow for himself a profit on the basis of 100 million tomans as initial capital instead of the 10 million tomans in terms of land, buildings and machinery. In our opinion, the only reasonable and legitimate profits can be traced to the first two items of buildings, land and machinery. The remaining calculated profit, pertaining to 90 million tomans, is, in fact, commercial profit and therefore unreasonable. The trader's profit can be justified only in terms of the

remuneration for his service added by the indispensable inflation rate. The remaining portion, however, is usury and not justifiable.

It is the capitalist system which tolerates and encourages such methods of money generation for capital.

A merchant trader who invests his money in the purchase of 100 tons of rice has no right to claim any profit on his capital. Similarly, if Mr. A lends his money he cannot, in any way whatsoever, claim any interest.

Do the inflationary pressures pervading the socialist economies emanate from their trade ties with the capitalist bloc also, or is the imbalance inherent in the system itself?

One can say that in both the U.S. and the Soviet Union profit is expected out of capital. However, in the U.S. it is the capitalist who demands profit, while in the Soviet Union it is the government which secures profit from the capital. In other words, in the U.S. economy, it is the capitalist class that exploits the masses, while in the U.S.S.R, it is the government which does the job.

In the Soviet Union inflation is more subtle and camouflaged, expressed in restricted levels of items of mass consumption, which, in turn, mirrors a diversion of resources from actual priorities to purposeless fields such as production and maintenance of satellites, etc.

Inflation divulges the traces of circulating capital profit in terms of unjust profit or the unduly levied taxes. Levied taxes may be rational, i.e., they are followed by an offer of meritorious services by the government; or they may be unjust and motivated by hyperbolic issues like unwarranted armament production which does not bestow any real security upon the masses.

Under conditions of inflation devoid of the profit associated with trade capital, the loss arising out of other elements of inflation must be indemnified through proper calculation!

In the absence of trade capital profit, what accrues to the trader is specified as remuneration for his service only. Based upon that, although Islam has expounded and acknowledged different types of ownership and prescribed a non-interventionist policy in certain cases, it has made obligatory, through sharia, to refrain from the practice of excessive profit apportionment.

Leasing also imposes no dangers of imbalances on the economy because it induces people to greater activity, promotes house construction and, consequently, the overall picture of rents improves.

The mechanism of rate determination is indeed involute and wields far-reaching influences in characterizing an economy as just or otherwise. The relentless effort for its achievement has not yielded any praiseworthy success either in capitalist, socialist systems or even in Islam.

Although the pivotal role performed by morality in hammering out a just rate-determination framework is acknowledged here, the contribution made by economics is not to be overlooked.

Second Summary

Profit allotment to production tools, machinery, and the real estates, because of their contribution to the production process, is accepted and tolerated in accordance with innate logic. Meanwhile, profit generated over

and above the ethical remunerations allowed to trade capital of a trader for his services is treated as usury. In the same manner, the illegitimate profit mobilized and employed by a capitalist in the production process and acting to swell his overall profit is considered to be impotent, and the new profit thus obtained and traceable to it is also illegitimate.

Our discussion has hitherto come to the point whereby insulated crystallized work can have three distinct manifestations:

First, production tools such as the spinning tool, which is the aftermath of work and ingeniousness of a person, annexed to the existing production means at his disposal and therefore helping enhance his productivity is apt here. The registered increase in the output is partly attributable to the newly introduced tool and partly to the accompanied labor in its utilization.

Secondly, work can be manifested as assets. An individual may manufacture a bicycle to facilitate greater mobility. Another individual may be interested in using the bicycle for a specified period of time for his needs. Therefore, the two may enter into an agreement according to which Mr. A, would lease his cycle to Mr. B. In another example, Mr. A may, through his own initiative and practicality, build a hut with a number of rooms more than enough to satisfy his personal needs. Given the above condition, he may lease the rooms to those who may be interested. In the last two examples, the bicycle and the hut, although by themselves, are not the origin of new consumption value, yet can act in that spirit and offer their own unique services.

Thirdly, trade capital neither helps to increase production, nor offers any consumption potential. It is injurious and its circulation sets in motion a cumulative process of capital accumulation for the capitalist; and therefore it is regarded to be impotent and barren.

In simpler words, profits stemming from the first and second types of capital, i.e., the productive and real estate capital, are acceptable explicitly and implicitly respectively. However, in the third type, i.e, trading capital, no such resultant profit is defended logically and economically.

Forms Of Capital In Islamic Contracts

Now we proceed to consider some Islamic economic contracts as compared with the three aforementioned situations so as to provide greater comprehension of their legitimacy or otherwise.

1. Lease: This tallies with the second condition. A person who is in possession of a house, car or cycle may temporarily lease the same. The practice is free from any economic exploitation, and the terms are mutually negotiable by the parties. To counteract the mistaken notion that the practice may leave the tenant at the mercy of the landlord, we can state that in any socio-economic set-up, one of the primary objectives must be to overcome shortcomings.

Allowance of a free scope for the above mentioned practice would grant dynamism to construction activities, and the overall accommodation picture would improve and stabilize. At the same time, due response is extended to the accommodation needs of those who already possess their own private accommodation, but due to certain reasons are compelled to sojourn elsewhere. Of course the necessity of an apparatus to control the rents

cannot be ignored. Likewise a person may develop a temporary need for using a car. He may, due to the nature of his life, need a car for only 10 days in a year. His individual exigencies, as well as those of the society, express themselves more favorable to availability of a car for him on a temporary basis, rather than purchasing it.

Therefore, we conclude that to overcome economic bottlenecks, the principle of controlled rates compounded with greater production of scarce economic items would not only violate economic justice but it would, on the contrary, also usher in an era of greater dynamism to the economy. By these two methods the probable misuses of legitimation of the lease which in turn leads to distanced incomes may also be encountered.

2. Muzareeh (cultivation contract): Suppose that Mr. A carries out all the preliminaries such as construction of canals for irrigation and cleaning of a piece of land, etc., for cultivation. If he however, falls ill or goes on an unavoidable journey, he may enter into a contract with another individual called Mr. B for the completion of the work against a mutually agreed portion of the yield. Such contracts enjoy an essential justification and sanction. No doubt a mechanism to regulate the ratio of yields apportionment is necessary, but it cannot, in any manner, counter or eclipse the morality of the practice. Because Mr. B. in the absence of exertions made by Mr. A prior to the commencement of his own work, could claim only a prospective yield of lesser magnitude. Supposing Mr. B puts in an approximate 3,000 hours in agricultural work. Naturally, under conditions of an already tended land, his yield would turn out to be more. e.g.. 30 tons instead of 10 tons. Therefore a sharing of the yield in a just proportion between Mr. A and Mr. B, who have committed a division of labor, becomes both spontaneous and legitimate.

Hence, we can observe that the principle is innately logical. This condition precludes the possibility of exploitation of a farmer lacking arable land, seeds and machinery by another who enjoys greater advantages. This is enshrined in Article 43 of the Islamic Republic of Iran's Constitution.

The article acts to prevent the former farmer from being obliged to dispose of his labor cheaply and that, too, for a particular period. On the contrary, he can thoroughly examine the pros and cons of his venture, and if he finds it suitable, he can proceed with the deal.

Needless to say that for the smooth functioning of this principle, the condition of plentitude must be introduced in advance by the government. That is, plentitude of production facilities and better subsistence conveniences. Thus, it becomes perceptible here, the twin dimensions of economic liberty and non-exploitation, peculiar to Islam, are advocated and pursued.

3. Musaghat (plantation contract): Musaghat relates mainly to irrigation, and has more relevance to orchards and their like. Ifa person possessed an orchard and he has to go on a journey, prior to his departure, he can strike a deal with another person to tend the trees and irrigate them on the condition of sharing the year's fruits. Here, the question of cultivation does not arise as in the case of muzareeh.

4. Muzarebeh (trading contracts): Trading contracts imply a merger of production and distribution processes. It existed, along with ejareh, musaghat and muzareeh, and formed an indefectible part of human life even prior to the emergence of Islam. In a countryside, village-folks are engaged in specialized economic activities of diverse nature. One may be breeding cattle, another raising chickens, etc. As such, it becomes uneconomical for them to leave their work in the village in order to go to the city for purchasing those requirements not available locally. For example, it would not be economical for the cattleman to go to the city every now and then for the purchase of pots or sugar cubes. Therefore, the need for a middleman who could procure his required objects from the city would be conspicuously felt. Here. a peddler can perform the task by striking exchange deals between the city dwellers and the rural folks either in cash or in kind. In the case of Muzarebeh, the peddler does not pay any money to the first party, e.g. the potter, because he lacks money. He takes the pots from him, stipulates to dispose of them, and then on the basis of mutual consent, take a just share from the profit obtained.

Thus, here, the production work of the potter is combined with the service of the peddler to dispose of the goods, and a commensurate reward is allotted to the peddler. Here, unlike the trade capital profit, the reward thus gained by the peddler is a crystallization of concrete labor put in by the potter plus the service rendered by the peddler; and this is completely different from gaining profit by means of barren and unproductive capital.

The potter gives 10 of his pots to the peddler to sell for him in the village. The peddler sells the pots at a total price of 11 pots, and accordingly keeps the money for one pot, refunding the money for 10 pots to the potter.

Here, the potter has received money for his 10 pots and therefore no profit peculiar to trade capital has accrued to him. So, in the light of what we have just said about some special cases of economic contrasts in Islamic jurisprudence, we can only claim that what has been sanctioned in Islam as attainment of profit on capital is either through production capital or the real estate capital which proved to be acceptable. It is not profit attainment by capital at all, rather it is the combination of productive and service labor.

But unfortunately up till now the absence of abundant investment opportunities and oppressive and unjust economic relations have led to the usurpation of surplus value which is a kind of invisible exploitation.

1. Rial is Iranian currency. Ten Rials equal 1 Toman.

Invisible Exploitation

1. Profit attainment from barren trade capital can be explained in the following manner: The peddler takes 10 pots from the potter and sells them at an overall price of 13 pots. He retains the cost of 2 pots for himself and gives the cost of 11 pots to the potter.

This malpractice would lead to a chain effect and constitute an invisible exploitation. To avoid such a phenomenon, introduction of price control machinery, which is one of the most complicated economic issues, is needed.

2. Scarcity of investment opportunities in production and service domains deprives the individuals, possessing the requisite skills and qualifications of engaging in such fields on one hand, and forces them to accept whatever unjust work formula and conditions are put forward by people engaged in these fields on the other. The second sub-paragraph of the Article 43 of the constitution therefore assigned the task to remove such lacuna.

Therefore, in keeping with the principle, we provided the agricultural land legislation and recommended a 3 billion Tomans loan for service work and reinforcement. The reconstruction organ, upon taking the loan to the rural areas, stated that the allocation of the loan among the enterprising people of the rural areas would fetch each household a sum not more than 15,000 Tomans.

We believe that small agricultural loans can indeed perform miracles in opening up a diversity of investment channels for the rural masses. The loans could be spent on purchase of clothes, chickens, seeds, plowing tools, irrigational facilities, land, etc.

The rationale underlying such an attempt is infusion of new working spirit and healthy competition which in turn is conducive to self-sufficiency. If a farmer feels ineffectual or senses the threat of partial or complete failure, as he deems suitable, can coalesce with a colleague and carry out the work jointly.

Such circumstances ensure to break the nucleus of the unjust economic relations peculiar to serfdom. On the other hand, through provision of congenial work conditions an unprecedented fertile ground is prepared for his full growth beneficial to his own person as well as the society.

Judging his own caliber and the production possibilities in small or big groups, he will be geared to boost the production scale to an extent hitherto inexperienced in the country. This is what the sec.ond sub-paragraph of Article 43 in the Constitution has envisioned.

Another guiding principle must be encouragement of mobility of farmers from a more densely populated area to sparsely populated areas. The idea behind this is to ensure adequate allocation of arable land to each farmer. For example, if in a rural area, the farming population is 3,000 and the arable land is 300 hectares, it is rather incorrect to allot 0.3 hectares to each farmer. On the other hand, care must be exercised to ensure a minimum of 20-30 hectares allotment to each individual farmer. The remaining farmers should be induced to migrate to other places where similar conditions as per government undertaking for farming purposes are provided to them. Land

and all the farming facilities would be made available to them on a temporary basis and so far as they fulfill the condition of conscientious farming only.

It is, indeed, tragic to witness dissipation of time, energy and talents in useless debates. Such energy and capabilities should be constructively diverted to the immediate implementation of these works. Now that the principles are accepted as being in full conformity with innate logic, it is high time to embark on their enforcement. In the process, however, we may face two enforcement hurdles, that is, production and distribution.

Firstly, the production phase must ensure extension of production tools, capital and the allied services to households with the essential rapacity, skill and zeal, be it in individual form or joint partnership firm or cooperative farming.

A successful initiation and completion of the projects are irrefutably aligned to experience; desire to achieve breakthroughs, creativity and even healthy competition.

Secondly, elimination of profit peculiar to trade capital (impotent and unproductive capital) must be set as another goal towards its fulfillment. We must consistently strive to achieve this goal. The only type of remuneration or profit allowed and encouraged in the course of distribution, must necessarily mirror a commensurate task thus performed. In the meantime, due account of the prevailing inflationary rate must be taken.

Such measures merit great attention and their implementation must be done with utmost care. That constitutes the crux of our problem here.

It was indeed disappointing to discover the individuals supposed to possess the essential expertise in this field ignoring the pivot and the core, and instead sticking to the trivialities or crust of the problem.

We have had enough of such superfluous inordinate formulas. It is high time a formula approved by our constitution is considered and enforced, and without additional expenditure of time on acquainting you with the Islamic economic principles, I, can assure you that extending due weightage to the two above-mentioned issues not only does not infringe upon Islamic rules in the domains of commerce, economics and ethics, but on the other hand is in full consonance with the same.

As stated earlier, profit associated with productive capital and productive assets have logical support and, at the same time, Muzareeh and Musaghat, which are in the same nature, enjoy equal sanction. Meanwhile, lease takes the form of either production or productive asset, and Muzarebeh, is an offshoot of production and distribution service.

Thus they do not only violate Islamic principles, but also constitute effective leverage in our economy based on accommodating only individual citizens with concrete and useful contribution to the production stream. Moreover in a social system, not yet having fully developed insurance systems for unemployment, retirement etc., these mechanisms can act as provisional insurance systems.

The problem of superannuation invariably exists under various institutions of Capitalism, Marxism or even Islamic economy. The aged stratum of the society cannot possibly be liquidated. The aged are

unproductive consumers drawing from the resources of the productive citizens. Likewise infants and children, prior to their growth, are inevitably parasitic on the available production stream. Thus, human beings, at the two extreme points of their life span, necessarily have to be fed and maintained. Satisfaction of an individual's needs upon his superannuation can be effected through drawing on his crystallized accumulated savings of past labor in his possession or from that collected, preserved and maintained by the government on his behalf.

The aftermath of a 60 year old farmer's surplus labor could be in the form of a tractor and a piece of tended land with all its accessories such as irrigation facilities, etc., which, due to his getting aged, could no longer be attended to by him and could consequently be leased to a younger farmer, on the condition that a share of the product is assigned to the former.

The same task could also be devolved upon and accomplished by the government on behalf of the farmer. However, in view of the enormous financial expertise and time element difficulties involved that entail such a proposition the idea is shelved. Besides, there is no guarantee that the socio-economic cost of this affair would not out weight its benefits.

Conclusion

What we have discussed and arrived at under the whole discussion is as follows:

1. Ownership inborn in human nature.

2. Work in the forms of production, service or Hiazat constitutes the sources from which ownership sprouts.

Note that production, service and Hiazat works make only the origin of primary ownership.

3. Ownership is of two types: primary and transferred.

4. Exchange and donation constitute the origin of voluntary transfer. While inheritance (legacy) is the basis of involuntary transfer.

Hence the origin of primary ownership is work (production, service and Hiazat). Transferred ownership consists of exchange, donation and inheritance. The other types of origin of ownership are mere derivatives of these types.

5. Ownership is either personal, private, public or governmental. Collective ownership can be regarded as a derivative of one of the four types already mentioned. Personal property implies ownership claim of a person to an object or part of it on the condition that the object is not a production tool. Private property denotes ownership claim of an individual to the whole or a part of a production tool.

Governmental property is, in reality, another manifestation of public property with the two having the same root and origin.

6. Private property, irrespective of its form (individual holding, joint or cooperative venture), is fully permitted and has all economic justification.

7. Capital is nothing but crystallized labor.

8. Crystallized labor (capital), if combined with the current productive labor to boast production, is called productive capital. Allocation of a portion of the surplus value (augmented production level) attained through the joint operation of labor and productive capital, to the productive capital under the label of productive capital profit, enjoys all economic sanctions.

9. Capital, implying crystallized labor, could have its manifestations in the form of assets with a potential to be utilized. The examples of a house, a shop, and a car, ready to be leased, are apt in such a case. If they earn modest dividends they are also economically justifiable.

10. Trade capital, which may be crystallized and accumulated, due to its inherent impotency and uselessness, is considered to be unproductive. Therefore, all economic justification in earning a profit is withheld from it, and it is equated to usury.

11. Services, performed by grocers, provision sellers, cloth sellers, etc., can earn remuneration commensurate to their services alone. Their sale prices should exceed their purchase prices only nominally without reflecting any profit on their activated capital. Miscellaneous, moderate, reasonable expenditures, associated with shop maintenance, etc., should also be compensated for. Such trade activities are, in fact, either Muzarerbeh or qua'si- Muzarebeh.

12. The magnitude of labor, expended in the form of distribution service, must be minimum. This is meant to eliminate the middlemen and intermediaries with superfluous work.

13. Muzarebeh, in fact, implies combination of production work with distribution (service work) relating to goods. The resultant yield is not, in any way, in the form of profit peculiar to trade capital. The gain is divided between the producer of the goods and the distributor, and does not add an unwarranted profit to any barren capital, while at the same time, not extending any undue excessive remuneration to the peddler. The example of the bread seller, making home delivery of bread, is pertinent here.

14. Muzareeh and Musaghat imply a combination of production activities of one individual producer with those of another. Both the parties venture into production in successive phases, and the gains are reaped proportionally by them.

15. Thus, lease, Muzareeh, Musaghat and Muzarebeh expounded and analyzed as warranted contracts in Islam, and are in absolute concordance with innate logic and fully acceptable.

16. None of the above mentioned transactions can be judged to be injurious and exploitative in their pristine nature. The roots of oppressive exploitation of the low- income group leading to wealth concentration by a few are to be traced elsewhere, and then remedial measures adopted.

17. The causes and factors of exploitation can be summarized in two main elements:

a. An oppressive rate-determination apparatus, reflecting an arbitrary and unjust wage scale, goods indices, rent and ratio of rewards division between parties involved in Musaghat , Muzareeh and their like; and,

b. Weak bargaining power of the working class which drives it to surrender its labor against unjust payments, to the owners of production tools and capital.

18. It therefore becomes incumbent upon government to devise and implement fundamental redressive measures by providing the necessary tools and capital to individuals evincing the prerequisite capabilities and willingness to engage in production or service spheres, be it on an individual basis or in the form of joint or cooperative ventures. Effective governmental interference through machinery for regulation and coordination of the prevailing rates would also produce far-reaching desirable effects in this direction.

19. The operation of the following factors, in the economic set-up, must be facilitated and adhered to:

a. The quality and quantity of the working hours, to a large extent, must fall within the discretion of the individual worker's management with a grass-root representation. Choice of the production and factory sites must, as much as possible, reflect the sagacious, impartial judgement and interest of the worker.

b. Creation of the motive for more extensive production. The urge to spur production activities through greater involvement and devotion must enjoy a paramount position in the production growth strategy (this point has much dependence on part of the issue).

c. Sanction of investment opportunities and the provision of a fertile production ground constitute one of the basic means of achieving the objectives laid down in A and B.

20. Thus, the conglomeration of profuse production resources compounded with increased consumption values, spurred level of personal involvement of the working masses, and adequate choice with regard to production items make up the most fundamental economic guiding principle for us.

21. Another noteworthy point here is delivery of the finished goods to ultimate consumers in the minimum possible time and minimum number of agents (middlemen).

22. Obligation of society, government and individuals towards those members of society who are either totally or partially incapable (due to superannuation or other unavoidable factors) of adding to the aggregate production level. Such individuals, in spite of their zero or negligible contribution, will have to be guaranteed a materially secure life.

23. A practical system of taxation, especially direct taxes such as Khums which could be levied on both net and gross incomes. Zakat (tithe) is also another type of tax levied on gross income and constitutes a type of direct tax.

24. An integration and cohesion of the thoroughly discussed principles in the foregoing are bound to procreate a unique economic set-up devoid of the maladies associated with capitalism and socialism. Under the auspices of this new system, the chances of perpetual entrapment of the working class by the capitalist class, on one hand, and the ubiquitous government control and intervention which infringe or counter an individual's economic liberties in the form of huge bureaucratic machinery, on the other hand, are precluded.

25. The issues of public properties, Anfal, and the scope and extent of Hiazat and exploitation of natural resources are indeed meritorious and while dealing with the problem involved, they must be strictly adhered to.

26. Does land become the property of the person rehabilitating it? How long could the duration of such a relationship between the person and the rehabilitated land persist? Does it remain the property of the person as long as he cultivates it, or as long as it shows signs of survival? Would it remain the property of the rehabilitator even if he fails to attend to it so that the signs of previous rehabilitation fade out altogether? This is an issue with an intricate and delicate nature, and due attention must be attached to it from an Islamic viewpoint.

In view of the fact that the issue plays an important role in determining the scope and type of land transactions, and at the same time, land constitutes an important part of our economy, a separate area of discussion has been carved for it.

The preceding discussions are a compendium of what we have hitherto said or would say in pursuit of a survey on the issue of ownership in Islam.

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