

# "Duality of Sources in Islamic Economics, and its Methodological Consequences" (Position Paper)

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**Abstract.** Islamic economics as a discipline relies on two bases: traditional economics, and Islamic Shari'ah and its Fiqh. This duality in sources has methodological consequences that this paper addresses, such as: mistakes resulting from insufficiency of knowledge of either basis. Islamic economics should study, in Shari'ah framework, all available economic knowledge, human behavior and policies, even those not conforming to Shari'ah. Study in Shari'ah framework is achieved by explaining how each economic question relates to each element of an Islamic economic system, and what issues does each of these elements raise in economic theory or practice. Also addressed is the fact that economic knowledge is rarely certain, evolves over time, and is occasionally at variance with Shari'ah? The paper concretizes all issues with specific examples.

## 1- Introduction

The purpose of this paper is to convince both the economists and the specialists in *shari'ah* of the importance of benefiting from each other and from the suggested methodology in this paper: the duality of sources in Islamic economics, and its methodological consequences. The method of this paper is to give many specific examples showing the importance of this suggestion and the consequences of ignoring it.

I will touch only on major aspects of each question to make the paper equally available and understandable to both *shari'ah* people and economists. This is a position paper not a regular research paper. So I just present the view that I arrived at, after long considerations. But I do not present opposite views or discuss them. My main purpose is to be clear, so as the reader may decide to agree or disagree and challenge the ideas I am presenting.

## 2- Questions and Issues Addressed in this Paper

Islamic economics is an interdisciplinary branch of knowledge. It derives some of its basic ingredients from the human knowledge related to matters of living and falls under the science of traditional economics. Some other ingredients of Islamic economics are derived from Islamic *Shari'ah* and the *Fiqh* related to it. Thus, Islamic economics is distinct from both bases: traditional economics and *Fiqh*.

This duality of sources is a basic feature in Islamic economics. It gives rise to methodological matters that do not arise neither in *Fiqh* nor in traditional economics.

This paper addresses such issues.

Examples of such issues are:

- Why do we need Islamic economics?
- Is establishing Islamic economics a matter of intellectual refreshment or a religious or shari'ah duty?
- How does Islamic economics differ from *fiqh al-mu'amalat* (jurisprudence of transactions) and from traditional economics?
- What does it take from each branch of knowledge and what it keeps out?
- Is the scope of Islamic economics confined to only the study of economic behavior of Muslims? Or does it cover the study of the behavior of all human beings? How do we define Islamic economics?
- Can Islamic economics get meaningful contributions from non-Muslims, whether in theory or in applications? What do we mean precisely by connecting traditional economics with *Shari'ah*?
- Or what do we mean precisely by comprehending traditional economics within the framework of *Shari'ah*?
- How can this be acceptable while we acknowledge that sometimes economics contains assertions or statements or assumptions which are not compatible with *Shari'ah*?

### 3- Introductory Concepts and Definitions

Economics in general is a social science that studies matters of living and the social laws of cause-effects which prevail in economic life. Economics studies especially what relates to production of goods and services, their distribution and their consumption and other related matters.

An economic system is a set of goals, rules and institutions that a certain society prefers to abide by in its living conditions in making a living.

We may divide economics into several parts depending on the subject matter, such as public finance, international trade, but I prefer from a methodological point of view to note three components of economics:

- A) Economic Analysis** which is basically concerned with describing economic reality and discovering the causes and effects contained in it, as it exist in realty. This part of economics is known as the positive or descriptive part of it.
- B) Comparative Economic Systems** which is basically concerned with comparing the different systems as to their overall worldview and their objectives, methods and tools and policies which each system accepts in achieving its goals, and the consequences of these rules and conditions.
- C) Economic Policies** which is concerned with the different ways that we may follow in moving from one particular economic position to another position which is close to the economic goals of the society.

Economists who have studied carefully economic policies fully agree that preferring one policy over another in order to achieve a given goal, can never be based only on economic analysis. It must use also values or moral preferences which are

imported from outside economics. For Muslims, the source of importing such rules values is Islamic *Shari'ah*.

Economic Policies, even though they are tools in achieving goals, are more different among different economic systems than the goals being pursued.

### **3.1- What are the Objectives of an Islamic Economic system?**

We may by induction from Shari'ah text arrive through deduction and *ijtihad* at the following goals and similar other goals.

1. Guarantee of a minimum level of living to every member of the society.
2. Achieve economic power in the sense of ability to achieve goals and economic independence from the need to ask others for assistance and a reasonable independence of economic decisions.
3. Reduction of disparity in income and wealth among people.

### **3.2- What type of Institution the Islamic Economic System would like to Preserve and Support?**

We may mention among these institutions the following:

- Individual ownership with its corresponding social responsibility, Communal ownership and State ownership.
- Open competitive markets and observant of Sharia'ah rules.
- The family as a basic building block both economically and socially.
- The state or social authority which upholds justice, helps the weak and the poor, keeps security and interferes in order to, whenever necessary, make sure to achieve the social mandatory duties in Islam.

### **4- Examples of methodological Mistakes Committed as a Result of the Insufficient knowledge of the Researcher either in Shari'ah or Economics.**

I may give more examples by giving more detailed references but I am refraining from this because my objective is just to concretize the ideas rather than criticize researchers.

#### **4.1- Elimination of Interest on Loans**

One well known Arab economist expressed his great apprehension that the call for the elimination of interest on loans would undermine the efforts of development. Because, on one hand, it will discourage savings as it deprives them from getting a return on their savings. At the same time, in his view, eliminating interest would be a hurdle for investment because investment then would not have a price signal in order to allocate the investible funds. Also, at zero interest rate, the demand on investment funds will be infinitely large. We will also lose the use of interest rate as a tool for comparing various investment products.

**My comment:** this apprehension is baseless from an economic point of view and is also based on some mistakes and insufficient knowledge of *Shari'ah* (Please see 8.2. below).

## 4.2- Risk

One economist said that the repeated emphasis on the idea that the various types of *Shari'ah* compliant investments methods are all the time involved in some degree of risk, large or small has no basis in *Shari'ah* and that it is imported from conventional western economics and especially from the well known economist Frank Knight. I am using here risk and uncertainty interchangeably.

**My comment is:** if you really survey the *fiqhi* financial contracts used in investment, you will clearly see that this assertion is wrong. Add to this, the authentic *hadith* (saying) of the Prophet (pbuh) which stipulates: *Al-Kharaji bi Al-Dhaman* (profits is subject to loss).

## 4.3- *Fiqh al-Mu'amalat* (Jurisprudence of Transactions)

There is a common mistaken belief among present day *fuqaha'* that Islamic economics is, in fact, or it ought to be a branch of *fiqh al-mua'malat*. My view is that this is not correct. Because even if we take one subject and look at it from *fiqh* and from economic perspectives we find difference. Take monopoly for example, the primary objective of *fiqh* is to discover the related value judgment (whether *halal* or *haram*) while the primary objective of economics is to study the actual reality to discover the cause-effect law such as how does monopoly arise and what are its consequences. These two objectives are contradictory but rather complementary. Therefore the teaching requirements for both are different.

## 4.4- Economic Planning

A graduate student consulted me once about the outline of his Master dissertation on planning in an Islamic framework. I found that he has built his whole outline on what has been revealed in *Surah Yusuf* in the Holy Qur'an, without bothering himself at all to look into the modern economic literature on economic planning.

The Methodological mistake here is to consider that *Shari'ah* is a sufficient substitute for human reasoning and understanding reality that is concerned with cause-effects and results instead of being a guide that provides to these sciences the values, objectives and rules that such sciences cannot generate on their own.

## 4.5- Consumption

Another student consulted me about his outline for a dissertation on consumption from an Islamic perspective. As we know, *Shari'ah* contains many laws and values related to consumption. I advised him to add one or more chapters on studying real consumption in general or the consumption of a particular good or service in his own country. He objected that he does not feel that to be useful or even desirable, arguing that the behavior of people in consumption is not *Shari'ah* compliant. What should we study a reality which is tainted and not compatible with *Shari'ah*?

**My brief answer was:** A major objective of Islamic economics is to study the reality to repair it, improve it, or reform it, in order to make it closer to *Shari'ah*. So how can we reform a reality which we do not understand and we do not know?.

#### **4.6- Al-Kharaj**

I read a paper on *kharadj* written by a researcher who explains the *kharaj al-wazeefah* which is a specific sum of money imposed on each piece of cultivated land in conquered lands. Historically it was imposed by Umar ibn Al-Khattab the second Caliph after the death of the Prophet ( ) and used to constitute a major component of the Islamic public finance. The researcher was calling for reviving it and applying it.

The main methodological shortcoming of this paper is that it ignores very important and pressing current questions related to this matter. All such questions arise from the great difference between our present economic reality and the past. Specifically, the relative importance of the agricultural sector has diminished greatly, as compared to the services and products of industrial economic sector. It means any taxes imposed based on *kharaj* at any rates which are not excessively high will never be sufficient to support the present demand of the treasury or *Bayt ul Mal*. This means that we have to impose some other types of financial taxes which were not practiced before and had no precedence in *Fiqh*. In fact, most of the *Fuqaha'* find any taxes beyond what is needed for absolutely urgent matters like stopping an invading enemy, they do not find it acceptable. They have not considered imposing taxes to provide public services that the people expect from their countries today. Such issues had to be raised, instead of just repeating what we know about the old *kharaj*.

#### **4.7- Interests on Bank Deposits**

A fatwa was given recently that says it is entirely alright from a *Shari'ah* point of view to invest deposits in conventional banks and get the resulting interest. The justification was a modern bank does not specify the interest it is going to pay, until after it has conducted expensive feasibility studies to make sure that the proposed project will generate specific profits.

**My comment is:** if it were true that we know beforehand that by investing say 1,000 Dinars we are going to generate a profit of 200 dinars. If we are sure of that, it then becomes entirely equivalent to: (A) You lend me 500 Dinars with the condition that I must return it with an extra 100 Dinars or (B) you give me 500 Dinars as participation in this investment with the condition that I give you half the resulting profit.

*Fuqaha'* throughout history understood *Shari'ah* to clearly prohibit (A) because it is *riba* and permit (B) because it is participation. They have asserted that *Shari'ah* which has been revealed by Allah ( ) the All-Knowing, the All-Wise, to people who think would not give two opposite rulings to two matters which are identical.

Uncertainty about the future in economics is a major reality and a fact of economic life that has been known from all time by intelligent people and by merchants. We ask: "did modern feasibility studies change this fact by using statistics, computers and

mathematical models?" The answer, as all economists agree, and they seldom agree, is that no, the reality of uncertainty has never been eliminated by such modern methods. Modern feasibility studies do not claim that they can see the future and they never guarantee that their predictions will hold true. The only thing is that good feasibility studies use well available information in technically consistent methods which improve the chances of choosing more promising projects and eliminating unpromising and weak projects.

#### **4.8- A paper on *Musaqah***

*Musaqah* is one form of classical method of financing a productive activity. In *Musaqah* the *Musaqi* or the worker provides labor inputs such as seeds and fertilizer and water to apply this to an orchid which is owned by someone else. Now, he does that to obtain a share in the output of the orchid. The owner gets the remaining share, and the share is agreeable between both.

A recent researcher said this is how to develop a *Musaqah* for a modern application. He said that the worker or the *Musaqi* keeps account of his expenditure and then when they reap the fruits they sell it and they deduct from the revenue the costs to arrive at the resulting accounting profit, which they divide between the two according to the ratio agreed. The researcher by this development has by his suggested development has made *musaqah* to be partnership in profit just like *Mudarabah*, whereas *Musaqah* has in its classical form in classical tradition. It was participation in output like sharecropping.

The suggested change by the researcher in itself is acceptable from the *Shari'ah* point view. But it eliminates unintentionally the major advantage of *Musaqah* and sharecropping and other types of contracts which are based on sharing output rather than sharing profit. That advantage eliminated by this suggested development is that the *Musaqah* and similar contracts have very low monitoring costs. The owner of the orchid doesn't have to watch over the *Musaqi* and his expenditure and dishonesty. The owner simply needs to come at the time the fruits are ripe or shortly before that. Then take his share from the output or selling the output and taking his share from the proceeds without ever looking at the costs of production.

Islamic financial industry has been rightly criticized for not paying sufficient attention in going or in using participatory form of financing. They have instead preferred to use sale based financing as in *Murabahah*. The basic criticism is that participatory mode of financing are more just and also more desirable by reducing economic fluctuations or not causing economic fluctuations compared to interest based and sale based financing. A question arises here: why the industry was not enthusiastic about going into partnership forms of financing. The main reason is the much higher monitoring costs on the manager or the *Mudharib* or *Shareek* (partner). Now, *Musaqah* and similar methods overcome this main disadvantage and still they are participatory in nature. So, this is their main advantage that should not be given up easily.

## 5- Why Islamic Economics? Is Establishing it an Intellectual Refinement Or is it a Required Shari'ah Objective?

The logical and the *Fiqh* rules say that if something mandatory needs some other matters to be achieved, then these matters become mandatory also.

For instance, eliminating interest is a religious duty which cannot be carried out in modern economic life by those who do not know the causes-effects and the alternatives to interest based financing and how to set up a monetary banking and international trade without interest. So, if only economists know this, then definitely, knowing economics becomes necessary.

Another example, monopoly has been prohibited by the *Shari'ah*. If a modern Minister of trade and industry wants to apply it, he will need to know not only the *Fiqh* rules about monopoly but he needs to know where monopoly appears in modern economic life? What are its various forms? Why did it arise in the first place in each form? and what are the alternatives and the hurdles or difficulties in eliminating monopoly?. All these are another study by economists.

We take a third example, widespread poverty definitely hurts the objective of achieving economic power and being independent from asking others for help and to achieve independence in economic decision making. So, widespread poverty will be a major hurdle preventing achievement of this second economic objective. Now, if we want to address poverty, we want to address this or reduce poverty, we definitely a widespread poverty can only be reduced by economic development. The rules and ways of carrying out economic development is something economists study.

These are three examples of religiously required economic objectives that cannot be, today, applied or achieved for someone who knows no economics. What is required is someone who knows not only economics but also good knowledge of relevant *Shari'ah* rules; that is someone who specializes in Islamic economics.

There is another type of need for Islamic economics which becomes clear when we consider the assertion that modern economics clearly indicates that current prosperous economics life and efficiency in the use of resources cannot be done without the institution of interest on loans. This assertion goes on to say that, if we eliminate interest (*Riba*) which include then we are undermining economic development. So, this particular assertion is basically that there is a clear injunction in the Qur'an which is incompatible with modern economics. Who can study examine the validity of this position. Only specialists in economics who know well the related *Shari'ah* rules can do so. This is quite similar to the situation in the Middle ages when the various questions raised by philosophers and caused concern in economic minds were addressed and replied to, by Muslim scholars, who were not only knowledgeable in *Shari'ah* but also knowledgeable in the philosophy of their times. Something similar by Allah's grace has been taking place in the field of Islamic economics in the last thirty years.

Add to above needs of studying economics, we have the importance of economics to understand the *hikmah* (the common sense or wisdom) of many economic rules of

*Shari'ah*. I hope the examples given in this paper or at least some of them will indicate reasonable explanation.

## **6- An Objection and an Answer**

One may object that if establishing or doing the Islamic economic duties requires learning modern economics, does that not, by implication, means that earlier generations, including the generation of the companions of the Holy Prophet ( ) could never have applied Islamic economic duties well, because they will not be versed in modern economics. My answer is no, as there is no logical connection between these two. This objection is not valid because each generation is required by *Shari'ah* to do its best within the means available to achieve *Shari'ah* rules and objectives. What we mentioned above is the duty of our current generation because it is something we can do. It is not a valid basis to stop criticizing earlier generations.

## **7- How do we Define Islamic Economics?**

There are two approaches. One says that the scope of Islamic economics is to study the economic life of society which abides by the rules of the *Shari'ah*. Thus, according to this definition, Islamic economics in its scope does not cover non-Muslim societies. The second approach says that Islamic economics is economics, which is guided by *Shari'ah*. So, it covers in its form all human beings (Muslims and non-Muslims) in their economic behavior, in their institutions and policies related to economic life, even when such behavior or policies are not *Shari'ah* compatible. Briefly, Islamic economics is economics interacting with *Shari'ah*. My preference is to choose the second definition. The main reasons for this is that the universality of Islam leads to this definition requirement and then inviting other people to Islam requires again this more comprehensive definition. Also, if we look in the Qur'an with its clear and repeated order that we should take note and derive lessons and Morales from the stories and the events of others. All these orders indicate that in order to invite others to Islamic economics, we need to know their economic reality. And if you are to draw lessons from an event, as the Qur'an dictates, you need to study it. Otherwise, how can you draw *ibrah* (lesson) from if you do not study it?.

Consequently, if we accept the second definition, as I am suggesting, it means that we must learn and examine carefully all accumulated human knowledge in the area of economic life in its various schools, philosophies and branches, so that we can put each part in its right place within the framework of *Shari'ah*. We have to define very carefully what do we mean by putting it within the framework of *Shari'ah* or establishing an interface between economics and *Shari'ah*.

## **8- How Do We Put Economics within the *Shari'ah* Framework? Or How do We Achieve Islamization of Economics?**

I feel this can be achieved when: (a) We discover the connections between each issue at risk in conventional economics with each element of the Islamic economics system. Once we do this, then the relative importance of each economic issue will become clear in the light of this comparison and in the light of reality of practical issues.

As I earlier said the elements of any Islamic economics system are objectives, rules, including *Shari'ah* rules and institutions. (b) When we take every component or element of an Islamic economic system and examine ways in which it relates to economic analysis, economic reality, policies and human experiences. When we do this and in also the hurdles or the difficulties in applying it and in the potential consequences of economic life. When we do that then it becomes clear which policies are most suitable to establish in a particular time and place that particular element of an Islamic economic system. Let me give in the next two paragraphs examples of how to do this putting economics in the context of *Shari'ah*.

### **8.1- Consumption**

We know that private consumption is discussed in microeconomics and aggregate consumption is discussed in macroeconomics. Let us look at this two from the point of view of how each one of them relates to elements of an Islamic economic system. About private consumption (individual consumption) we notice most *Shari'ah* texts are related to this type of consumption. These *Shari'ah* texts in general give the following sort of guidance. First, consumption up to the level which is required to achieve personal, family and public interest is mandatory on the individual not only permissible. After this level there is a high level of consumption which is wide in scope which is left to individual himself to decide how much. Beyond that wide scope of permissible consumption, we start reaching excessive consumption which is *Israf* (extravagance) and we enter into a prohibited level of extreme wastefulness.

It is a duty of each individual to earn this minimum level of consumption for himself and his dependents. If he is unable to do so, then his potential wealthy heirs have to help him. If they are not available, then Zakat fund, then the public treasury. If the public treasury is not sufficient then the government social authority must impose taxes of some kind from the well-off sufficient to cover the needs of the poor. When we come to aggregate consumption, we find that economic analysis helps us uncover this relationship to other wealth of the system, such as economic development. We notice that economic development requires savings and investment and increasing savings will require directly reducing consumption.

Since economic development is one major way to achieve economic power and achieve independence from asking others for help and in combating widespread poverty then clearly, we must search and construct economic policies that balance the needs for more consumption which is a goal compared to the need to reduce consumption to achieve other more urgent wants.

We notice also that the public authority in Islam has more authority, more leeway in regulating consumption in order to achieve a very important goal such as getting minimum level of the consumption of every member of the society compared to another goal which is less urgent like reducing disparities.

## 8.2- The Prohibition of Interest (Riba) on Loans

This is a well known *Shari'ah* rule that became very much in the public mind because some people assert that it contradicts a well known fact in economics (see example mentioned in 4.1 above). I will outline how *Shari'ah* rule can be viewed from an economic point of view. In other words explain it with conventional economics that does not know *Shari'ah*.

Eliminating interest (*riba*) on loans technically means imposing a ceiling of zero percent on the rate of interest. When you impose this ceiling it means any funds advanced as loans can only be in the form of Qard Hassan (benevolent loan). There can be no commercial or profit earning motive for providing such funds. Only non profit motives such as religious or humanitarian will be a motive for supplying such funds on the basis of loans. Besides, it would be expected that the demand for such benevolent loans will be very large. In his case, there should be a way or a means (not a price such as the characteristics of the person needing the loan or his poverty) in allocating the loans to the large demands as is the case in all situations where a price ceiling lower than the market equilibrium price.

The conventional economist will also enquire on the possibility of using other commercial modes of finance (seeking profit) for allocating funds for investment and the demand for it. If we survey the *fiqh* literature related to the matter we find several formula for providing such funds commercially. We have the overall approach for participatory finance such as: *Musharakah*, *Mudharabah*, etc.. and we have deferred sales whereby one of the price counterparts is delayed (deferred payment as in *Bay' Mu'ajjal* or deferred commodity as in *Bay' Al-Salam*).

A new economic question arises here. Will these commercial *Shari'ah* compliant modes generate price signals that can be used to allocate investible funds to different users and among various projects. Or should there be another mechanism that provides commercial funds on the basis of non price central authority?

My answer, is based on the result of what became more and more clear in the last quarter century through the researches of many scholars. The answer is that yes, an Islamic economy has a price mechanism to allocate investible funds on commercial basis. These various bases connect intimately between real economic activities in production, including sales, and investments including participatory forms of projects.

These various mechanisms permitted by the *Shari'ah* are all based on real activities whether production or investment. They generate rate of profit in the various activities and they also generate price differential between a good change for cash versus the same good change on a deferred basis. All these indicators are price signals that can be used to allocate funds among various uses and various degrees of risk connected with each use. Savers will definitely get a return from the type of activities they are willing to finance.

All these price signals are not subject to price ceilings that is unlike *Qard Hassan* but they go up and down helping the demand and supply of commercial finance to meet, as discount factors allow, in order to differentiate between various investments.

This way, we see that the prohibition of interest on loans means providing some funds on charitable basis to the needy and allocating them among them according to non price social criteria, without affecting the commercial financing of investment, production and consumption on non needy people where price signals are used.

### **8.3- Economic History of *Salam* Contract**

The permissibility of this contract is confirmed in the authentic Prophetic tradition (*Sunnah*) whereby the buyer advances the full price for a well determined quantity of a commodity that has determined specifications (dates or barley for example) and the seller promises to deliver it at a certain date. Usually, the buyer gets the commodity at a lower price from its expected market price at the time of delivery. The seller benefits from the advanced price in financing his production and consumption needs. This is well established in early Jurisprudence books.

However, one can conclude from some historical facts in Syria and Sudan (and probably other countries) that there was some exploitation and hardship imposed on the growers by giving them advanced low prices. In Sudan *Salam* is known as *Shayl* which become a bad example of exploiting poor farmers. In Syria, the well-known *Hanafi* scholar Ibn Abidin mentioned that many villages were destroyed because of *salam*.

From this we learn a lesson that when shari'ah allows a contract or gives an order that does not mean that it will not be abused and used in the exploitation of others. To prevent this, there should be an authority that control the situation and interfere when needed in order to establish justice and prevent aggression. So, is it still possible today to use *salam* contract in financing agricultural production in countries where there are poor farmers?

### **8.4- Theory of Agency and *Mudharabah* Contract**

A number of studies appeared in the last quarter of the last century, analyzing the contracts where a party act on behalf of another party (an agent on behalf of the owner or the partner on behalf of his partner, or the executive management on behalf of shareholders) and the consequent possible acts that do not serve the owner or hiding information from him.

These studies also look at the costs of control on the conduct of the agents in different contracts, which make some contracts not desirable. Since we may find such behavioral conducts in modes of finance generally and in the Islamic ones especially, the economics of agency is useful for whoever studies or applies contracts in Islamic framework. I will start with *Mudharabah*.

## ***Mudharabah* as an Alternative to Productive Interest Based Loans**

We notice that the Mudharib (manager) act as an agent for the capital owner. Dr. Waqar Masud Khan compared in his PhD thesis in early 1980s at Boston University, both Mudharabah and interest based loans from economics efficiency perspective. He opened the eyes on the possibility of using the analytical tools of the Agency Theory on an Islamic contract and the benefit of using such methodology. The main result was the control cost on the Mudharib is the significant factor. If it is low (in case of the trustworthy Mudharib) the Mudharabah contract would be more efficient than interest based loans and vice versa.

Many studies followed after that in many conferences and journal articles that revised and amended the result obtained by Dr. Waqar. But he remains the first to point out the importance of taking into consideration the cost of control in comparing between different contracts.

### **8.5- *Ju'ala* Contract and the Wisdom behind its Permissibility**

The form in which this contract takes shape is as allowed in the Prophetic tradition can be summarized in the following statement: "Whoever finds my camel will be given such amount". This is part of what the canonists call: "contract to realize an objective". Its counterpart is: "contract to exert effort" which is summarized in the following statement: "find my camel and I will give you such an amount". This last form is a normal work contract and not a *Ju'ala* contract.

The *Fuqaha'* observed earlier that the *Ju'ala* contract has some important exceptional features than the rules of contract in *Shari'ah*, such as *Gharar* (uncertainty). In *Ju'ala* contract there is a great *Gharar* (uncertainty) in the amount of work necessary to realize the objective. The laborer might find the camel after one work search and get the full amount or he might spend few days without finding it and get nothing. Whereas the work contract mentioned above is free from *Gharar* and there is no exception in it from the contractual rules. So why did the *Shari'ah* allow *Ju'ala* contract in addition to the normal work contract (known in *Fiqh* as: hiring human)?

The economic analysis of contracts and agency on behalf of others show the wisdom of allowing *ju'ala* because the cost of controlling a normal worker in the circumstances of the *Ju'ala* contract is very high (you need to go with him, or send someone after him to follow him wherever he goes!).

There is another wisdom which can be seen in the *Ju'ala* contract such as in the case someone comes to you claiming he has skills in digging wells and reaching water in your garden. He might either be genuine or a liar, you cannot be sure.

This form of information asymmetry between the parties of the contract is found in many other contracts and the economists have given it a great importance. In our garden example, the owner would prefer *Ju'ala* over normal job contract whereby each digged meter would cost a specific amount.

**The Result:** It seems that the higher cost of controlling execution of contracts and also the large gap between the information available to the parties of the contracts are two clear cut explanation of the wisdom of allowing *Ju'ala*, its justification and by analogy allowing many similar other cases.

Anyway, *Ju'ala* is one of the strongest evidence that the shari'ah allows some *Gharar* in contracts if it is used to fulfill a human need (This is according to *Madhab* Imam Malik and Ibn Taimiyah leans towards it as well).

The previous points in section 8 of this paper give examples on how to achieve communication between Economics and Islamic Shari'ah in order to establish the discipline of Islamic economics. I wished I had more time to add more examples.

## **9- The Presumption of Economics and Some of its Issues**

How can we call for the discipline of Islamic economics to include all human economic knowledge, some of which are wrong and some of which are presumptive or contradictory to Islamic Shari'ah. This is in addition to the fact that they are all subject to change and correction even by those who believe in it?

**The answer:** Its comprehensiveness means its examination and study no matter what it is, then scrutinize it to remove what appears to be mistaken and revise what is inadequate.

As for the presumption of this knowledge. This is true in the case of economics and in many other sciences to which the scholars do not hesitate to rely on in applying Shari'ah on reality such as medicine.

There is no disagreement among the senior jurists that following the most probable presumption is not only permissible but is compulsory in practical matters.

As for the saying that some economic statements might contradict the rules of the Shari'ah and its worldview, this is another reason for the necessity to study such knowledge in order to separate the right from the wrong and dispel confusion. We have seen the issue of the prohibition of usury as a good example.

What about the changing of the views of economists who would have considered something as right yesterday and today they see it as a mistake. They may even change their views after sometime. This does not deny its incidence as this is the case with all human sciences, and Shari'ah has accepted that we strive in knowledge and application according to the most probable when taking decisions.

## **10 - Recommendations**

Islamic economics will not be complete theoretically in research and teaching, nor in application on the ground through appropriate policies, but with the help of Allah the Almighty and then relying on those who know economics in addition to the knowledge of Shari'ah, jurisprudence and economic reality.

Until a sufficient number of such people are available, it is unavoidable to depend on the optimal available, one person who knows only one side of knowledge while keeping in touch with and taking advice from the those who know the other side of knowledge.

The need is not for a great number of such people but for distinguished qualities. This way it is possible for those who know only one side of knowledge to participate in the development of Islamic economics, even if they are non Muslim scholars by choosing the right subject, determining its foundations and assumptions while consulting those who know the other part of the knowledge.

## ثنائية مصادر المعرفة في علم الاقتصاد الإسلامي ونتائجها المنهجية" (ورقة موقف)

أ.د. محمد أنس بن مصطفى الزرقا

**المستخلص:** يقوم علم الاقتصاد الإسلامي على ركيزتين هما الاقتصاد التقليدي والشريعة الإسلامية وفقها. ولهذه الثنائية نتائج تبينها هذه الورقة، منها الأخطاء الناجمة عن نقص المعرفة بالشريعة أو بالاقتصاد، وكون ذلك النقص عقبة أمام تقدم هذا العلم. يجب أن يدرس الاقتصاد الإسلامي، في إطار الشريعة، وجميع المعارف، والسلوك البشري، والسياسات الاقتصادية، حتى ما كان مخالفاً للشريعة. ويكون ذلك بدراسة كل قضية اقتصادية من جهة اتصالها بعناصر النظام الاقتصادي الإسلامي، ودراسة كل عنصر من النظام من جهة ما يثيره من قضايا اقتصادية تحليلية أو تطبيقية. وتناقش الورقة مسألة ظنية المقولات الاقتصادية، وتطورها مع الزمن، ومخالفة بعضها لنصوص شرعية، وتشخيص كل ما سبق بأمثلة محددة.