The turbulence of the Stock Markets:

Their causes & the Shari'ah rule pertaining to these causes

Al-Khilafah Publications
Suite 298
56 Gloucester Road
London SW7 4UB

e-mail: info@khilafah.com
website: http://www.khilafah.com

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Translation of the Qur'an

It should be perfectly clear that the Qur'an is only authentic in its original language, Arabic. Since perfect translation of the Qur'an is impossible, we have used the translation of the meaning of the Qur'an' throughout the book, as the result is only a crude meaning of the Arabic text.

Qur'anic *Ayat* and transliterated words have been *italicised* in main part of the book.

Saying of the Messenger ﷺ appear in **bold**

ﷻ - subhanahu wa ta'ala
ﷺ - sallallahu 'alaihi wa sallam
RA - radhi allaho anha/anho

AH - After Hijrah
CE - Common Era

In the last week of October 1997, the major stock markets suffered a sharp fall in share prices. It started in Hong Kong, moved to Japan, then to Europe and then on to America. The fall moved in succession, from one country to another at the start of the day in each country. The sharp drop was coupled with a frenzied panic from a possible repeat of October 1987, when the Dow-Jones Index in New York dropped by 22% in one single day, or even worse, a possible repeat of what happened in 1929, when the collapse in the value of shares in America led to a major economic depression, which is referred to by historians as "The Great Depression". This depression lasted for ten years and resulted in widespread poverty, starvation and misery. This depression did not lift until Franklin Roosevelt decided that America should enter the 2nd World War and revitalise her economy through a huge military armament.

Prior to this latest crisis in Europe, a host of countries in South-East Asia, witnessed in the summer a decline in the exchange rate of their local currencies coupled with a drop in the share prices of their companies, and a near collapse of scores of banks and companies. This trend started in Thailand, then moved to the Philippines, Malaysia and Indonesia; the crisis then mushroomed like an epidemic to South Korea and Taiwan in North Asia until it reached the largest financial base of the West in Asia, which is Hong Kong. Only then did the stock markets in the West realise that the epidemic was serious, subsequently a collapse occurred in Europe and New York.

The causes of these two crises are down to a host of features within the capitalist system; they however are not of the same type, nor of the same calibre. The stock markets in South-East Asia are exiguous and frail. The dealers in these markets are few and inexperienced. Those who benefit from these markets are in fact corrupt rulers, as is the case in Thailand and Indonesia. It is the rulers who championed these markets and allowed Western investors to trade in them and make swift profits. America had twisted their arms to establish Western style markets in their countries and to enable Western capitalists to trade in them and transfer their capital in and out of the country easily and whenever they pleased. This they did under the pretext of encouraging "Foreign Investment" in their economies, which they claim is one of the New World economy's prerequisites.

However, this is not an investment in the country's economy, even though it is described as "Indirect Investment". This is so because real investment is similar to that undertaken by the Americans in the wake of the 2nd World War, when they acquired a host of major plants and companies in Europe and elsewhere and managed them directly by linking them to their mother companies; hence, a direct and real investment. As for indirect investment, this would take effect when an investor purchases a number of shares in established local companies, run by local people or by the government, and when some of these shares are floated in the local stock market. Hence, an investor would buy these shares from these markets, but not with the aim of acquiring or running that company, nor with the aim of sharing in its profits by waiting for dividends, but with the aim of making a huge and swift profit due to a sharp rise in the value of the shares he had purchased.

The most fertile markets for such an aim would be those of the developing countries (emerging markets), where investors can influence the prices. The markets of these countries are small and it is easy for such investors to contrive a price rise. Local investors are few and they lack the capital, the market shrewdness and the

boldness of the Western investors.

When Western speculators enter such a country, they most often come in the shape of an investment fund with a huge capital value estimated at hundreds of millions if not billions of dollars. These monies are either those of the wealthy Westerners or borrowed from banks. He would then buy local shares; but he would not act as a spectator waiting for the share prices to rise, rather they resort to a host of styles in order to promote the shares purchased. For instance, by leaking the news that he had invested heavily in a number of specific shares, or "hyping" the company whose shares he had just bought, with claims of a bright future. He may also resort to other styles whose reality could not be discerned by the Malaysian, the Thai or the Indonesian. Hence, the locals would rush to buy these shares resulting in either a sudden or a gradual rise in their value. Most of the time the investment fund's manager would not have to wait long for the prices to reach their predetermined profit target. They then sell their shares to the local investors in the local stock market, take their capital and quick profits, and look for shares of another company in the same country or in a different country. All this takes place before the local investors realise what has happened. In some cases, a number of investment funds act collectively as one group in the market, since their aim and their activity are similar. Hence, a general collapse in the market occurs when these investment funds decide to withdraw all at once, causing the collapse of the local currency and threatening the banks that gave credit to local investors with extinction.

This is the reality of indirect investment, which America has been promoting and imposing upon the developing countries ever since the collapse of the Soviet Union and the emergence of America as the unchallenged dominating force on the international scene, a situation allowing her to spread her hegemony over the world's economy. The reality of this type of investment, that has become far greater and far more dangerous than direct investment, is that it is no more than a desecration of the developing countries' riches and economy; it is also the main cause of the financial and economic setbacks that these countries have suffered, and of the humiliating impoverishment of their citizens, whether in Latin America, such as Mexico, Brazil and Argentina, or in the Middle-East, such as Turkey, Egypt and Jordan. It is also the cause of what happened and is still happening in the stock markets of South-East Asia, such as in Indonesia or Malaysia.

As for the stock markets in Europe and America, these differ radically from their counterparts in developing countries. These markets are firmly established and have existed for more than two centuries. The numbers dealing in some of these markets reaches hundreds of thousands and in the largest markets, London and New York, their number reaches millions. The capital invested in shares and bonds is huge; it is claimed that it exceeds the value of the existing assets in those countries, whether real estate, commercial centres, plant or commodities. It is also claimed that the activity of the bond and stock market, i.e. the value of what is bought and sold in terms of bonds and shares, exceeds the value of the sales of real goods and services. This means that the abundance of dealers in these markets and the availability of funds at their disposal, in addition to the fierce competition between them, prevents any of them from gaining unilateral control of the market or any part of it, thus allowing him to make a quick profit at the expense of other dealers from amongst the wealthiest capitalists.

Nevertheless, many dealers in these markets have managed to accumulate huge fortunes and devote all their time to dealing in these markets. They've innovated a host of styles, schemes and binding contracts, which allow them to influence the timing of the purchase and sale of shares, and affect the prices. All this has no direct connection whatsoever with the activities of the companies whose shares are being traded, nor with the markets of commodities and services they provide, nor with their profits. The techniques, styles and concoctions of trading contracts in the

stock markets have become a subject of study in most universities. However, all the stock markets, be it those trading in Public Limited Companies shares, in Exchequer Bills and in company bonds, are nothing but a spider's web; because their appeal is based on the confidence that their prices are constantly rising, and on people's cupidity or greed in making an easy gain from this constant rise. It is also based on the fact that people's greed, especially in the West, has no limit, for as long as the sun is rising, they rush into buying share certificates with the hope of making more money. This is exactly what the brokerage financial houses promote in these markets, for they undertake the buying and selling of shares on behalf of the common people, and they charge them exorbitant fees as commission.

However, as soon as this confidence is undermined, whether for expected or unexpected reasons, then the market starts to flounder, and many shareholders rush to sell their shares simultaneously in order to cash in upon what they think they have gained from the rise in the value of the shares; they all want to sell as soon as possible, thus the prices would start falling and this would consequently increase the number of shareholders wanting to sell. As a result, prices would continue to fall until they reach rock bottom, as was the case in 1929, and as almost happened in 1987 and as feared would happen by the end of 1997.

The aware Muslim does not feel sorry for what the West and its Capitalist system suffers in terms of shocks. He rather feels sadness by what befalls the Muslims in places such as Indonesia and Malaysia among others, due to their emulation of the West and its system and due to their fascination with its markets and their confidence in its claims that the only way towards economic progress is via "Free Market Policies" i.e. absolute economic freedom. What Muslims do not realise is that this would inevitably pave the way for Western investment, be it direct or indirect, and would imply joining the World Economy, i.e. allowing the establishment of industrial plants belonging to Western companies in the Islamic world, where cheap labour by the million would be exploited to produce consumer goods for their markets. The aware Muslim should also feel saddened to see the Western Capitalist thoughts, including those related to stock markets, embraced by the Muslims, thanks to the concentrated media campaigns which America has been launching ever since the collapse of Communism, in order to deceive people into believing that there is no alternative apart from the Capitalist thought, claiming that it is at present in its golden era.

Another shock in the major stock markets in the West could reveal the frailty of its cobweb, expose the defects of the Capitalist economic system, and reveal that its shine is pure deception. The Capitalist economic thought is an expedient thought that leads man to the pits, because it is based on the lowest motives of man, and the reality of the societies that adopt this thought is that they gasp for their living, production and consumption, with the material values as their only concern. Its reality shows also that a small group of capitalists dominate the overwhelming majority who work hard and live in constant anxiety, with most of them living in extreme poverty, unable to make ends meet (fulfil their basic needs). However, it would be wrong to wait for a major economic setback in the Western stock markets for the Muslims to realise that they had been duped by the capitalist thoughts and the stock markets and that they really are nothing but cobwebs. It is imperative to outline their reality now, to expose their corruption and explain that Islam forbids these thoughts and practices.

The stock markets in the West could not have come into being had it not been for three basic systems in the Capitalist economy. These are:

- The public limited companies system.
- The usurious banking system.
- The inconvertible paper money standard.

These three systems have come together to split the Capitalist economy into two economies, or into two types of markets: the first represents the real economy where the production, marketing and real services take place, and the second is the financial economy, which some refer to as the parasite economy, where the contriving, buying and selling of various financial papers takes place. These are considered as binding contracts, or cheques or securities, representing a transferable right by one party that can be bought and sold, whether in a company property, its debts, government bonds or real estate or in many other (rights) certified by financial papers that are transferable, and considered as a temporary option to buy or sell another specific right at a price that differs from the current market price (e.g. options contracts). All this has no direct connection whatsoever with the real economy. This parasite financial economy has grown to the point where the value of its transactions have exceeded those transactions undertaken in the real economy by manifolds.

As for the public limited company' system, it is set up in the first instance to enable businessmen and their businesses to protect their huge capital against the creditors and others who have interests in the business, in the event that some of these business ventures fail. It also enables them to control the ordinary shareholders who invest in these businesses. The distinguishing characteristic of the public company is that it has limited liability; hence if its business fails and losses are incurred, those who have rights upon the company would not be able to claim anything back from the investors, regardless of the amount of their capital (shareholding). They would only be able to claim back what is left in the company in terms of its capital.

It is an established convention in the West that the public limited company is established and declared by the state, not its founders. It is the state that issues the memorandum of association, specifies the nature of its business and the number of its shares. It is also the state that publishes the main articles of association. Hence, the public limited company has a corporeal personality that is totally independent of its investors. It gives the people who have a vested interest in the company the right to account it alone and not the investors. Thus the company's liability is limited to what is left in the company itself and does not extend to what the investors have in terms of money.

When the state issues the memorandum of association for a public limited company, it appoints an interim board of directors from among the founders, i.e. those who have applied for the company to be established. The board would appoint a chairman and the company would start selling shares in the form of transferable certificates. The holder of such shares has a host of specific and limited rights. These would include his dividend from what the company decides to distribute in terms of profits or his share from the company's capital if it decided to wind up its business. They also have the right to vote yearly to elect a new board of directors. However, all these rights are in relation to the shares they hold and not in relation to the investors. For instance, when voting for the board of directors, the votes would be according to the number of shares held and not according to the number of persons. Hence, if one person owned half of the shares plus one and if the number of the other shareholders who own the remaining shares were 100,000, that single shareholder with the majority shares would have the decisive vote in electing the board of directors, and the votes of the other shareholders would have no value whatsoever.

Businessmen do not usually need half the number of shares in a company in order to control it, sometimes 5% or 10% is sufficient. This could either be due to the fact that most of the small shareholders are dispersed, or due to co-operation between a group of major shareholders to elect a board of directors, thus controlling the capital of all the shareholders and managing all the company's affairs. This is a tangible reality percby all people, and before such a reality, most of the shareholders would have no power to have any say over the capital they invested in the company, save for the trading in the shares of the company in the

stock market. This in fact does not make them partners in the company, but mere owners of company share certificates, which they buy and sell in the stock market, without the need of permission from either the company or its shareholders.

Furthermore, the stock markets enable the controlling shareholders to sell their shares without seeking anyone's permission and without having to inform anyone. Hence, they could in fact wash their hands of any liability pertaining to the activities of the company which they controlled and for which they run its affairs. Also, when they wish to buy more shares, be it of the same company or another company, they need not consult anyone. What prompts them to buy some yet sell other shares is the motive for instant profit; thus, if the value of the shares of a company that they control increased, they would sell all or part of their shares, then if the value decreased they would buy their shares back. Therefore, they have no loyalty to the company or to other shareholders, or to the business of the company or its staff. The capitalists' aim from controlling a certain company through its board of directors is merely to influence its activity in a manner leading to the rise in the value of its shares.

All this has led to a split between the stock markets and other securities, and the real economy, i.e. the reality of the companies whose shares are traded. What confirms this fact is the ratio (price/earnings ratio) that traders constantly monitor in the stock market, using it as a standard to gauge the increase and decrease in the value of shares of a specific company. It is the rate of the current price of a share compared with the annual dividend paid by the company for each single share. For instance if the annual profit of a single share were 2 dollars and the price of the share in the stock market were 40 dollars, the price/earnings ratio would be 20. In other words the profit of the company per share would be 5% of the price of that share. Newspapers publish these ratios daily, for all companies whose shares are traded in the stock markets. By reviewing these ratios, we note that they diverge from each other a great deal. The rate for some companies could in some cases reach 100, while for others it could be as low as 5. This indicates the split in the relationship between the securities and stock markets, and the real economy and the reality of companies. It also indicates that the stock market has turned into a big casino. Speculation dominates the stock markets with sharp and repeated fluctuations becoming a feature of the market.

This is as far as the system of public limited companies is concerned. As for the usurious banking system, it is considered as the chief calamity of the Capitalist economy. This is so because thanks to it, the banks managed to collect people's monies under the name of deposits and to dispose of their monies, as if they were the monies of the banks and not the monies of the depositors. They also managed to legitimise what they had collected in terms of funds from depositors by lending these funds to capitalists and businessmen, including traders in the stock markets, and also by lending money to the depositors themselves in some cases, then charging a guaranteed rate of interest for each loan.

However, this legitimising process is only partial. This is so because the banks' owners, most of whom happen to be capitalists and their companies, are given priority in acquiring loans, and these loans are at a reduced rate of interest. Other capitalists and businessmen are second on the list under the pretext that the default risks are minimal. Finally come the small businessmen and consumers from among the common people. This bias is clearly reflected in the disparity of the interest rates applied to each. In America for instance, the rate ranges from 5.8% on loans given to capitalists and major companies, to 20% on loans given to purchase a car. In conclusion, the interest system leads naturally to making people's monies circulated among very few people.

The role of the banks in the stock markets is more dangerous than their role in the real economy. This is so because they lend the dealers of shares loans which exceed what they have in cash

by manifolds. For instance, a share whose price in the stock market is $100.00 can be bought with $5.00 from the buyer's own cash and $95.00 with money borrowed from the bank, or borrowed from brokerage houses who in turn borrow it from the bank. This means that this person who deals in the stock market can buy a number of shares whose price is twenty times more than his cash can buy. However, the bank does not lend this sort of money to anyone except the very wealthy capitalists, this means that only those persons would be able to multiply their purchasing power in the market, thanks to the banks, and consequently increase their influence over these markets and increase their wealth at the expense of the common people from among the depositors or the traders.

Since most of what is bought in terms of shares is financed by loans that hugely exceed their values, a sharp fall in share prices is often followed by a further fall. For instance, if a bank were to agree to lend one of the traders 90% of the value of shares which he wants to purchase, and this trader were to buy shares for $1,000,000 his loan from the bank would be $900,000. Then if we were to assume that the value of his shares fell by 20%, i.e. it became $800,000, the authorised loan would become $720,000, i.e. 90% of $800.000. In this case he would have to repay the bank immediately the sum of $180,000 of his loan, in order to maintain the percentage of the loan at 90% of the value of shares. If he had the money he would not be forced to sell any of his shares whereas if he did not have it, he would be forced to sell his shares immediately to pay off his outstanding debt to the bank. This would increase the supply of shares and would lead to a further decrease in prices. If a host of traders were put in the same situation, this would lead to a constant fall in prices and perhaps to an agitation in the market.

Therefore, the role of the usurious banking system in the stock market shifts between inflating and deflating trading and prices. Hence, when the prices of some specific shares increase, banks tend to offer large amounts of money in terms of loans to those who trade in those specific shares, thus multiplying the amount of cash they have at their disposal. Those traders would in turn rush to buy more shares and the prices would continue increasing to an exaggerated level. However, the situation could change overnight. The prices of some specific shares could fall for any reason, such as a rumour or the failure of a project. The banks in this case would reduce their lending due to the decrease in the value of the shares which acted as securities against the loans they had issued to the traders. Those traders would in turn resort to either selling some or all of the shares and this would precipitate a fall in prices to an exaggerated level. This would consequently lead the banks towards reducing further their lending due to the constant fall in share prices.

In answer to the question of where the banks get these funds from and where do they take them when they reduce their lending, the answer is that these funds belong to the depositors in the first place. Banks in the usurious banking system rely on people keeping their savings in the banks. They also rely on the fact that most of what is withdrawn from one account ends up in another account in the same bank or in another bank, and most of the monies remain in the banks. What the banks lend to borrowers is not in fact money in kind that goes out of the banks' deposits, but rather a money in an account, that the bank creates by opening two accounts for the borrower, one for the loan that he owes and another as a account holding the sum generated from the loan, for the borrower to withdraw what he needs. If most of the depositors and borrowers were to withdraw their deposits in cash all at once, they would not be able to do so, because most of those deposits are turned into loans which may be losses or may be in other banks, and thus they cannot be cashed in instantly. In such a case, the bank would often have to be shut down and liquidated.

The usurious banking system is based on trust in the banks and based on the fact that people's deposits are safe, i.e. that they can withdraw all of their deposits whenever they wished. However,

this statement is deceptive and different from the reality of the banks. This deception has been exposed several times in the West and in other parts of the world, when depositors could not withdraw their deposits and lost huge sums of money as a result, and the banks were shut or declared bankrupt. Therefore, the West invented the inconvertible paper money, also known as Compulsory Bills. The supervision of this inconvertible money is assigned by the government to a central bank. And all this is merely to cover up the flaws of the usurious banking system, and to cover up the fact that it is based on deception, to prevent it from collapsing and to maintain people's confidence in the Capitalist system.

The inconvertible paper money system gives powers to the Central Bank to issue a currency to be circulated throughout the country in the shape of printed papers that have no intrinsic value whatsoever. The government forces people in the country to accept this currency in fulfiling their financial commitments. If any of the citizens were to refuse this paper as a settlement to a debt they were owed, the law and the courts would force him to accept it; otherwise he would lose his claim and his rights.

This means that the Central Bank reserves the right to issue money that it deems necessary to implement the government's policy. For instance, when the treasury runs out of monies that the government had levied in taxes or other, it resorts to the Central Bank and borrows from it. A loan is recorded against what it borrows and a deposit account is opened so that the treasury could withdraw what it needs to cover its expenditures. This would be considered as new money. Also, if the Central Bank deemed that there was a need for more money in the country, to lend to borrowers, it would purchase a host of exchequer bills or company securities, and it would record the value of these bills in the accounts of those who sell them, either at the Central Bank itself or in the commercial banks. This would also be new money.

An example of this is what took place in October 1987 when the share prices in New York fell by 22% in one single day. The U.S. Central Bank issued at once huge amounts of money and put it at the disposal of the banks in order to redress the effects of the shock. The Central Bank bought billions of dollars worth of bills (securities) and put these amounts at the disposal of the banks, to lend to the dealers in the stock market and ease their hardship; the system succeeded for a while in riding the storm and covering up the flaws of the usurious banking system despite rumours circulating that Citibank, one of the leading banks in New York, was about to shut down.

Issuing money by printing paper money and placing it in the government's or in people's accounts is also very costly, and the burden of this cost is laid upon the common people who most of the time fail to perceive its causes. This is so because the increase of the money in circulation leads to a decrease in the value of the currency; hence, one of the flaws of this system is that it always suffers from an increase in the cost of goods and services. The reality of this increase which some refer to as inflation, is that it is a reduction in the value of people's monies and a reduction in the value of their wages and their standard of living. However, the main flaw in this system is that it is based on a confidence trick, i.e. on the deception that the paper money has a value, whereas it has no intrinsic value; however, the law of the land has imposed it by force and made it a legal tender in the eyes of the judiciary. This is why we note that when the political situation in a weak country is easily undermined and when the State's reverence is shaken, its paper money becomes very weak and its rulers often resort to reducing the value of the currency vis-à-vis other currencies (devaluing), hoping to start afresh the confidence trick and to deceive people with regard to the value of the currency.

This is the reality of the stock markets in the West and in every country that follows and emulates the West. The stock markets are the hotbeds of the businessmen, for they do not produce any commodity that could be useful to people and there is no other

incentive for the traders except a quick and easy profit. Stock markets are more like casinos than anything else. They are like cobwebs that can easily be shaken. They represent the symbol of the capitalist greed and gasping for material values. Had it not been for the Capitalist economic systems, such as the public limited companies, the usurious banking system and the inconvertible paper money, these parasitic markets would not have existed and would not have been able to survive. This is the reality of the stock markets in the West and in every country that follows and emulates the West.

The Shari'ah rule pertaining to this is as follows:

The public limited company system gives the public company a distinct quality of limited liability, aimed at protecting major capitalists and businessmen in case the company fails and incurs losses, in which case, those who have claims against it would not be able to demand from its investors any compensation no matter how large the personal assets of the investors are. The financial claims are only confined to what is left in the company in terms of assets. This system is contradictory to *Shari'ah* in every aspect. The *Shari'ah* rule obliges all to repay debts in full to the rightful owners, and it is forbidden to cut anything from them.

Al-Bukhari reported on the authority of Abu Hurayrah that the Messenger of Allah ﷺ said:

(مَنْ أَخَذَ مِنْ أَمْوَالِ النَّاسِ يُرِيْدُ أَدَاءَهَا
أَدَّى اللهُ عَنْهُ ، وَمَنْ أَخَذَ يُرِيْدُ إِتْلاَفَهَا
أَتْلَفَهُ اللهُ) رواه البخاري

"He who takes money from people with the intention of paying it back Allah will pay on his behalf, and he who takes it with the intention to waste it Allah will waste him."

Ahmed also reported on the authority of Abu Hurayrah who said: The Messenger of Allah ﷺ said:

(لَتُؤَدُّنَّ الْحُقُوقَ إِلى أَهْلِهَا يَوْمَ الْقِيَامَةِ
حَتَّى يُقْتَصَّ لِلشَّاةِ الجماءِ مِنْ القَرْنَاءِ
تَنْطَحُهَا) رواه أحمد

"You shall return the rights to their rightful owners on the Day of Judgement, even the ewe with no horns will get even with the ewe with horns by butting it back."

Hence, the Messenger of Allah ﷺ has confirmed the obligation of fulfiling one's rights in full in temporal life, and if one does not he will do so on the Day of Judgement. This serves as a warning for those who devour people's rights.

Shari'ah has made it an unjust act for the rich to delay the settlement of their debts. Al-Bukhari reported on the authority of Abu Hurayrah who said: The Messenger of Allah ﷺ said:

(مَطْلُ الْغَنِيِّ ظُلْمٌ) رواه البخاري

"The delay by the rich is unjust."

If the delay in settling the debt is unjust, what would the devouring of the rights and the non settlement of the debts be? Indeed it would be a greater injustice and would entail a graver punishment. The Messenger of Allah ﷺ has taught us that the best people are those who are best when it comes to settling their debts, for Al-Bukhari reported that the Messenger of Allah ﷺ said:

(... فَإِنَّ خَيْرَكُمْ أَحْسَنُكُمْ قَضَاءً)
رواه البخاري

"Truly the best from amongst you are those who are best in settling debts."

Therefore to restrict the settlement of debts to those who have claims against the company, only after clearance of the public company's losses, is forbidden. Rather they should be given all that is owed to them in terms of rights or debts in full from the assets of the investors.

This is as far as granting the public companies a limited liability. As for the public limited companies themselves, they contradict the rules of companies in Islam. This is so because the public company according to their definition : "A contract in which two or more persons undertake that each one of them participate in a financial project, by tendering a sum of money, thus sharing what this project yields in terms of profit or loss." According to this definition and according to the reality pertaining to the founding of the public company or the Joint-Stock Company, it becomes clear that it is not a contract between two people or more according to the Islamic *Shari'ah* rules, because the contract according to *Shari'ah* is based on offer and acceptance between two parties. In other words it means that there should be two parties in the contract. One party assumes the offer, i.e. he initiates the offer of the contract by saying: "I enter into partnership with you" or words to this effect; and the other party expresses acceptance by saying: "I accept" or "I consent" or words to this effect. If the contract is lacking the presence of two parties and the presence of offer and acceptance, nothing can be contracted and nothing can be called a legitimate contract.

Taking part in a public company can take effect by merely buying its shares, either from the company itself or from someone who had already bought some of its shares. The partnership of the shareholder does not entail any negotiations or any agreement with the company, or with any other shareholder. What brings the public company into being from the onset and what gives it its corporeal personality, which is independent from its shareholders, is the government. It is the government who issues the "Memorandum of Association". As for the founders, the only agreement between them is the application they filed with the government to establish the company. When the "Memorandum of Association" is issued, the company becomes effectively in charge of its own affairs, thus it sells shares to the founders and to other people.

It is evident here that there is no contract taking place between two parties and that there is no offer and acceptance, because any person buying even a single share becomes a partner. Hence, the public company is not an agreement between two parties. It is rather a unilateral decision taken by an individual to become a partner in a company. Hence, he becomes a partner by merely buying a share in the company. Law experts in the West have interpreted this type of action as being an abidance by a contract, even if it were unilateral. According to them, it is one way of disposing of one's will, where a person commits himself to a matter vis-à-vis another person or vis-à-vis the public, regardless of the acceptance or the refusal of the other person or that of the public. Therefore, the contract of the public company is unlawful according to *Shari'ah*. This is so because the contract according to the *Shari'ah* rules necessitates the presence of a link between the offer made by one of the contractors and the acceptance made by the other party, in a manner that bears a direct effect on what is contracted. This is not the case in the public company contract.

The reality of the public company contradicts the reality of the company in Islam. The company in Islam is: "A contract between two or more parties, who agree to undertake a financial venture with the aim of making a profit." It is therefore a contract between two or more parties; thus it could not be unilateral. An agreement should rather take place between two or more parties. The contract itself should be based on the undertaking of a financial transaction with the aim of making a profit. It is not fitting for the contract to be based on the mere payment of money. It is also not fitting for the aim to be just for the sake of entering into a partnership. Hence, undertaking the financial venture is the basis in the company contract.

This action should either be undertaken by all the contracting parties or at least by one of them, or by some of them on one part, with the capital of the others on the other part. The undertaking of the financial venture by the contractors or at least by one of them leads inevitably to the presence of at least one physical partner who should be party to the contract. Therefore, in every type of company in Islam, the presence of at least one physical partner is a prerequisite. It is also a fundamental element in the company's contract. If the physical partner is present, the partnership is contracted, otherwise the partnership cannot be contracted.

This demonstrates that the public company lacks the conditions necessary for the partnership to be contracted, because those who find themselves partners in the public company are merely partners in capital and there is no physical partner; though the presence of a physical partner is essential in the contract of the company. In the public companies, partnership is concluded by the mere presence of partners in capital only. The public company assumes its activities without the presence of a physical partner. According to *Shari'ah*, the partner in capital, has no right to run the company, nor does he have the right to work in the company as a partner. The running of the company and working in the company is confined to the physical partner only. Partnership in the public company, it is based on the partnership of the capital only not on the partnership of persons. Hence, whoever owns more shares, has more votes and whoever has fewer shares, has fewer votes. Besides, according to Westerners, the public company has a corporeal personality that has the power of disposal. Again, according to *Shari'ah*, disposal can only be given to a person that has the competence of disposal. Any disposal not conducted in this manner will be considered invalid according to *Shari'ah*.

Hence, assigning the right of disposal for a company's affairs to a corporeal personality is forbidden. It should rather be assigned to he who has the competence of disposal. Any disposal that is not conducted in this manner is considered invalid according to

Shari'ah. Hence, assigning the disposal of a company to a corporeal personality is forbidden. It should rather be assigned to he who has the competence of disposal, and this must be a real person. Therefore, the public company is invalid according to *Shari'ah*. This is as far as a public limited company is concerned.

As for the shares of such companies, these are financial papers representing a share in the company at the time of purchase or at the time of evaluation. They do not represent the capital of the company at the time of establishment. The share is an integral part of the company's entity and it is not part of its capital. The value of the shares is not unique nor is it stable. It rather varies according to the profits and losses of the company. They are not unique and fixed at all times, but they are constantly fluctuating. As for the *Shari'ah* rule pertaining to the dealing in these shares and in securities, whether buying or selling, it is forbidden. This is because these shares are those of a company that is unlawful according to *Shari'ah*. They are in fact certificates of bills which contain mixed sums from a lawful capital and unlawful profits made from an unlawful transaction. Each bill represents the value of a share, and this share represents part of the assets that belong to the unlawful company. These assets have been mixed with an unlawful transaction which *Shari'ah* has prohibited. Thus, it is illicit money, whose buying and selling becomes unlawful, and dealing in such money is also illicit. This is also the case for bonds, in which money is invested with interest, and so is the case for bank shares and similar, since they all contain sums of illicit money; thus their buying and selling is unlawful, because the money contained in them is illicit.

This is as far as public companies, their systems and their shares is concerned. As for usury, which is the main calamity in the Capitalist economy and other economies, Islam has forbidden it categorically regardless of the rate. The usurious money is unlawful without any shade of a doubt, and no person has the right to own such money and it should be returned to its rightful

owners if they are know. Due to the atrocity of usury, Allah ﷻ described those who devour it as those whom *Shaitan* has driven to madness by his touch.

Allah ﷻ says

الَّذِينَ يَأْكُلُونَ الرِّبَا لاَ يَقُومُونَ إِلاَّ كَمَا
يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ
ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا
وَأَحَلَّ اللهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ
مَوْعِظَةٌ مِن رَّبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ
وَأَمْرُهُ إِلَى اللهِ وَمَنْ عَادَ فَأُوْلَئِكَ أَصْحَابُ
النَّارِ هُمْ فِيهَا خَالِدُونَ

"Those who devour usury will not stand except as stands one whom Shaitan by his touch has driven to madness. That is because they say: Trade is like usury. But Allah has permitted trade and forbidden usury. Those who after receiving direction from their God desist shall be pardoned for the past their case is for Allah to judge; but those who repeat the offence are companions of the fire. They will abide therein forever."
[TMQ Al-Baqarah: 275]

Also, due to the severity of the prohibition of usury, Allah ﷻ declared war against those who devour it.

Allah ﷻ says

يَا أَيُّهَا الَّذِينَ آمَنُواْ اتَّقُواْ اللّهَ وَذَرُواْ مَا بَقِيَ
مِنَ الرِّبَا إِن كُنتُم مُّؤْمِنِينَ ، فَإِن لَّمْ تَفْعَلُواْ
فَأْذَنُواْ بِحَرْبٍ مِّنَ اللّهِ وَرَسُولِهِ وَإِن تُبْتُمْ فَلَكُمْ
رُؤُوسُ أَمْوَالِكُمْ لاَ تَظْلِمُونَ وَلاَ تُظْلَمُونَ

"O you who believe fear Allah and give up what remains of your demand for usury, if you are indeed believers. If you do not, take notice of war from Allah and His Messenger; but if you turn back you shall have your capital sums, deal not unjustly and you shall not be dealt with unjustly."
[TMQ Al-Baqarah: 278-279]

As for the inconvertible paper money standard: money is described as the medium which people agreed to have represent the value of goods and services, whether this was metallic or otherwise. It is the standard by which all the goods and services are measured. The metallic standard was widely used and prevalent long before Islam. When Islam came, the Messenger of Allah ﷺ adopted the use of the *Dinar* and *Dirham* as currencies, i.e. he adopted the metallic monetary standard. He made them the exclusive currencies measure by which all the goods and services were measured.

The world continued to adopt gold and silver as currency until just before the First World War when dealing in gold and silver was suspended. Then in the wake of the First World War dealing in gold and silver partially resumed. Then dealing started to diminish and eventually it was officially abolished on 15th July 1971, when the Bretton Woods standard stipulating that the dollar should be covered by gold and linked to a fixed price was cancelled. Hence, paper money became inconvertible (compulsory) and without any gold or silver cover. It also no longer acted as substitute for gold and silver and had no intrinsic value. The value of paper

money was rather derived from the law that imposed it as a legal tender. The colonial powers used it as one of the means of colonialism and they set about tampering with the world's currencies to serve their interests. Hence, they occasioned financial upsets and caused economic havoc. They also increased the issuing of inconvertible paper money which led to a soaring of inflation and to a deterioration in the purchasing power of currencies. This was one of the factors that contributed to the shocks in the money markets.

The occurrence of these shocks in the Western world highlights the corruption of the Capitalist economic system, the public companies' system, the usurious banking system and the inconvertible paper money standard. It also highlights the fact that the world cannot be salvaged from the malaise of the Capitalist economic system and the shocks in the money markets as long as these systems exist. The only thing which will save the world from the corruption of this Capitalist economic system, the public company system, the usurious banking system and the inconvertible paper money standard is the abolishment of this corrupt Capitalist economic system including the abolishment of the public companies system or the transformation of these companies into Islamic companies. To save the world from this malaise, the usurious banking system and the inconvertible paper money standard must be abolished and a return to the gold and silver standard initiated.

This will put an end to the horrific monetary inflation and the usurious bank loans. It will also put an end to the speculations that have caused these shocks in the money markets. The need for usurious banks will also come to an end. Therefore, the economic situation in the world will be stabilised and the financial crisis will disappear. The pretext for having money markets will also disappear and with it the economic crisis.

May Allah's mercy and peace be upon our Master the Messenger of Allah ﷺ, his family, companions and those who follow them with goodness till the Day of Judgement.

Hizb ut-Tahrir
Rajab 1st 1418 AH, 16th November 1997 CE.