

THE ROLE OF GOVERNMENT IN THE ECONOMY

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Introduction

The recent past has seen fundamental changes in the government's role in the economy. With the defeat of socialism and the worldwide onslaught of privatization, a new scenario is emerging. The direct role of government is shrinking and its indirect role is increasing. Arguably, privatization does not necessarily mean "no government," but rather "better government." As a result, the following new issues are emerging: What is the extent and nature of government regulation in the economy? How can government play an effective role in the redistribution of economic power and still keep the free market economy undisturbed? What structural changes are necessary to protect the public interest? How can government itself be regulated? How can we prevent government from becoming an instrument of injustice and tyranny? The present paper seeks to discuss these questions from the Islamic perspective.

Need for Government

We need government to provide the fundamental legal and social framework for a free market economy. This framework implies necessary laws that define the property and other rights, enforce contracts, and describe the status and form of various business organizations. We need government to define the rules of the game. Through legislation the government acts as a referee and forbids foul play. It prohibits cheating and the sale of adulterated foods and drugs; it establishes

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quality standards and defines the qualifications of those providing professional services such as lawyers and doctors. We need government to create conditions that ensure free competition. In the absence of a central agency with necessary coercive powers, private markets tend to operate in an indifferent and sometimes cruel manner. Business firms like to collude, if they can, in their self-interest and against the interest of the consumers, the poor, and the weak. Also, the reverse may happen. If the number of buyers is small and the sellers are many, the buyers may collude to coerce the sellers. Neither situation is desirable.

Implications of Government Intervention

Government intervention in the economy has far-reaching consequences. Before the government decides to intervene, it must understand what it will mean to different actors in the economy. In a free market economy, buyers and sellers interact. When a consumer goes to the market to buy something, he expresses his desire through his purchasing power. The desire to buy one thing rather than another means that the consumer is carrying a basket of exercisable options. These options are in preference to an infinite number of other combinations of goods that he can buy. The options expressed through his purchasing power represent a given pattern of income and wealth distribution in the society. This brings with it the prevalent set of property rights and institutions. When the government intervenes in the market by levying a tax, regulating a business, imposing restrictions on production or consumption, transferring income or goods to certain groups or persons, or granting rights to property, the government is effectively manipulating property rights. These property rights affect income distribution and through them the basket of options that each individual carries to the market. It is a complex situation, and government decisions to intervene or not to intervene, to regulate or not to regulate, have far-reaching effects. They affect the power relationships in the society. The issue of government intervention boils down to the redistribution of individual rights. The moot question in each situation is whose rights, whose welfare, whose ends, and whose wants the government is going to gratify? Whenever the government intervenes, it restricts one person's liberty to give liberty to someone else. How a government acts or fails to act depends upon the overall social framework. The free market capitalist economy, for example, answers the question according to the political or other pressures of the special interest groups. In an Islamic society, ideally, the answer to the question comes from the theory of *maslahah*.

Theory of *Maslahah*

Maslahah literally means “utility” or “welfare.” The jurists use it to denote public interest or general human good. The first important case in Islamic history using *maslahah* as a basis of public policy was the decision of Caliph ‘Umar for the land management of southern Iraq. ‘Umar decided, on the basis of public interest, not to distribute the conquered lands of southern Iraq among the soldiers of the Muslim army. He argued that if he did so it would create a class of feudal lords who would own large tracts of land resulting in the coming generations getting nothing. Therefore, he decided that the conquered lands would be made the property of the entire Muslim ummah and that the existing owners would cultivate these lands as before but would pay a tax known as *kharaj*. This decision became a precedent for later jurists to invoke public interest as a basis for public policies.

The concept of *maṣlahah* remained in its rudimentary form in the writings of early jurists until Abu Hamid al-Ghazali (d. 505 A.H./1111 A.D.) developed it into a mature concept. Al-Ghazali stated, and this has been unanimously agreed upon since his time, that the ultimate purpose of the shari’ah is to further the *maṣlahah* of the ummah. The concept of *maṣlahah* was developed further by Abu Ishaq al-Shatibi (d. 790 A.H./1388 A.D.).¹ Both Ghazali and Shatibi divide the *maṣālih* (plural of *maṣlahah*) into the following three categories: essential (*darurīyah*), complementary (*ḥajīyah*), and desirable (*taḥsinīyah*). The essentials refer to those *maṣālih* that protect religion (*dīn*), life (*nafs*), offspring (*nasl*), reason (*‘aql*), and property (*māl*). The government’s primary duty is to safeguard these at any cost. The complementary and desirable *maṣālih* tend to vary according to social and economic conditions. The government protects them only when it has fulfilled its primary duty of protecting the essential interests. In the case of a trade off, the three categories of interests will be fulfilled in their hierarchical order. Generally, the jurists have agreed that the government should strive to protect the three categories of *maṣlahah* because they entail human needs. Anything beyond them is extravagance or prodigality.² These categories are interconnected and complementary and, therefore, should be protected. For the *maṣlahah* of the hereafter we must take into account the *maṣālih* of this world.³

Shatibi discussed the question of when one’s *maṣlahah* is harmful to others. Striving for *maṣlahah*, even when it may cause harm to some individuals, is allowed if the number of beneficiaries is more than those who suffer harm.⁴ There is no need to search for an absolute *maṣlahah*. Seeking self-benefit is forbidden only when the harm to others is actual and not just potential.⁵ The ultimate criterion of *maṣlahah* is that it provides good to a larger number of people than it harms.⁶ There is a

possibility that a shari'ah-oriented policy results in some form of collective harm. In such a situation the policy will be discarded in favor of a policy that is more beneficial to the society since the ultimate goal of the shari'ah is to be beneficial to the society.⁷

Creating an Islamic Society

All civilized societies have some built-in system of indoctrination to ensure that people behave in a socially acceptable manner.⁸ The Islamic society is no exception to this. The Islamic government cannot remain passive to the ethical conditions of the people since, to a large extent, it depends on the voluntary ethical behavior of its people. The Qur'an obliges the Islamic state to enforce proper behavior and to restrain people from improper behavior. An Islamic society is responsible for creating institutions that inculcate each citizen with Islamic norms. People should learn to sacrifice their short-term personal interests for the greater good of the society. The belief in the hereafter should be embedded in the minds of all so that everyone abides by the rules of social conduct. Society should also create a system of threats for those who try to violate the norms. Only in this way can the Islamic society perpetuate itself and be safe from external onslaught.

Regulatory Role of the Islamic State

The Institution of *al-Hisba*

We can take inspiration for the regulatory role of the government from an Islamic institution known as *al-hisba*. When the Islamic civilization was at its height, it regulated the market. *Al-hisba* was a state institution in all Muslim societies up to the colonial period. It had three functions. First, it enforced proper ethical behavior and restrained people from improper and unethical behavior. Second, it was responsible for providing some municipal services such as street lighting and street cleaning, preventing encroachments, and protecting the environment. Third, it regulated markets by checking weights and measures, enforced contracts, forced payment of debts by defaulters, and prohibited unlawful trade practices.

With the advent of Western colonialism, *al-hisba*, like most Muslim institutions underwent drastic modifications and decline: It either disintegrated into a number of departments or remained an ineffective appendage of the state. By the 19th century, Persia, Turkey, Egypt, and India had already transformed the *hisba* function into a number of secular departments, discarding its religious content as irrelevant.

The *hisba* department effectively regulated markets in Muslim lands. It performed several of the functions that a modern regulatory agency performs. For example, the *hisba* ensured that resources flowed into

the production of undesirable goods or services. The *muhtasib* (the head of the *hisba* department) kept a strict watch on the supply position of the essential commodities so that the public did not face hardship. The *muhtasib* guarded free competition and took action against business persons who tried to collude against the public. He would not seek to control prices unless they were being artificially inflated by traders. He ensured free entry into and exit from the market.

In this age, the role of government and its interface with the market has increased and become more complex. Instead of the *hisba*, the democratic state has several regulatory agencies. The Islamic *hisba*, which generally only regulated the markets, has been replaced by institutions that regulate the government as well; therefore, in this age any implementation of the *hisba* department through imitation is decidedly misguided. In addition, the old institution of *al-hisba* indicates that the Islamic state should not be oblivious to the moral conduct of its citizens; after all, marketplaces and government offices also require ethical behavior in the absence of which civilized living is not possible. Then what is the harm if some agency oversees this aspect of individual and organizational behavior? We shall have to make sure that such a regulatory body does not become a monster itself. A system of checks and balances are needed to implement this idea.

Monopolies

In an Islamic state, one of the cornerstones of public policy is to discourage monopolies, since the government is committed to an equitable distribution of income and wealth. But how do we determine the existence of a monopoly? In addition, it is not fair to eliminate all monopolies. We should try to discriminate only against “bad” monopolies. By this we mean those monopolies that form barriers against market entry by their policies of pricing and output. Several situations can exist in which a firm happens to have a “just” and “innocent” monopoly. For example, a firm may be a product innovator and for a period of time it could be the only producer. Similarly, at times it may be wasteful to create competition: A single firm may be in a position to produce a product more economically than two or more competing firms.

However, state regulation is often necessary to protect the consumer from the abuses of monopoly. The economic regulation of monopoly may involve state control of

- the price of the product or the seller’s rate of return;
- the combination of products that a seller may offer; and
- the entry and exit conditions from a particular market.

The Islamic government should not create monopolies by granting exclusive licenses. It should encourage entry of competitors into the market, even though it may mean some duplication or waste. The market

will generate its own efficiencies. Even within the public sector, the Islamic government should encourage competition.

Price Control

Normally, the Islamic government does not interfere in the market and allows prices to establish freely. This is based on the policy of the Prophet himself. Once, during his lifetime, prices in the Madinah market rose abnormally and people requested the Prophet to fix prices. However, he refused to do so with the explanation that such an action may be unjust for some. But some scholars, most prominent of them being Ibn Taymiya, think that if the circumstances are abnormal, the government must intervene to promote *maṣlahah*. Examples of abnormal circumstances are collusion, hoarding, artificial restriction of output, and restriction on entry of new firms into the market. The nature of government intervention depends upon the specific situation prevailing in the market. Some of the intervention methods are direct, such as price fixing; others are indirect, such as threatening to withdraw government orders, maintaining buffer stocks, providing tax concessions to increase output, direct government importing, forcing production by the private sector, and controlling dumping.

Wage Control

The primary concern of the Islamic state is the well-being of its people. In view of this, some scholars have proposed that to prevent the exploitation of labor the Islamic state should enact laws for a minimum wage. Although this proposal is humanitarian and seems like a plausible means of preventing the exploitation of labor, it ignores the fact that the Islamic government has an equal responsibility to maintain the free market. Fixing the minimum wage ignores the questions of productivity and demand for labor. Such laws could restrict competition and force some producers to close their businesses, which would lead to unemployment. Thus, to our mind, the Islamic government should not legislate a minimum wage. Instead, it should provide income support to the needy from other sources, such as zakah and taxes. The market should determine the wage rates.

Nationalization

Can an Islamic government expropriate private property? Normally, the Islamic government does not have this authority. Private property is inviolable. No one, including the state, can take it forcibly. However, as an exception to this rule, the Islamic government can nationalize private property if the *maṣlahah* of the ummah so requires. This can be done only after giving the owners proper compensation⁹ and carrying out due process of *shūrā* (consultation). But the more important question is this: Should an Islamic government nationalize private property, especially when nationalization has not been very fruitful in the past?

The general answer is that it depends on the *maṣlahah* of the ummah. The state is obligated to nationalize some types of businesses if it is convinced that the public interest is being injured or that it is not being protected by the private sector.¹⁰

Foreign Exchange Control

The primary sources of the shari'ah provide no direct guidance on the question of exchange control by the government. In the seventh century, Makkah and Madinah were international trading centers where currencies of various countries were exchanged freely. The Prophet did not regulate the exchange rates. He allowed currency exchange at the prevailing market rate of the day. From this we see that the Prophet accepted the free exchange market. But it is not conclusive evidence for the assertion that the Islamic government must uphold free-floating exchange rates. This question has to be decided within the overall context of the business law of the shari'ah. For example, the shari'ah does not allow speculative transactions in foreign exchange. Presently, the equivalent of about US\$ 1 trillion worth of foreign currencies cross borders around the world every day, and the bulk of these transactions is speculative and not trade-related.¹¹ The shari'ah does not allow the earning of interest on money. Implementation of shari'ah law will limit speculation. In such a scenario, it will be decided whether the Islamic government should intervene in the foreign exchange market or not. But one thing is obvious: The shari'ah discourages the Islamic government from creating privileged groups by giving them preferential treatment in exchange quotas. Such a policy distorts the society's income distribution and thus violates one of the primary principles of economy given in the Qur'an itself (59:7).

Trade Tariffs

Can the Islamic government implement tariff and nontariff trade barriers? Again, the primary sources of Islam give no direct guidance except that trade used to be free till the time of the Caliph 'Umar. When he learned that Muslim traders were being subjected to import duties in other countries, he levied a reciprocal duty on the traders of those countries who brought their goods into the Islamic state. This is known as *'ushur* (the 10 percent tax on imports). In this age, when almost all countries are levying various tariffs and quotas, it would be naive to suggest that the Islamic government should open its economy to all goods and services. The question will be decided according to the global situation and after an analysis of the needs of the Muslim ummah.

Pollution

Without doubt, the Islamic government should treat pollution as harmful to society. It does not treat pollution as a question of property rights that can be settled by compensating the injured party by the

polluter. The Islamic position is that the one who causes an injury must pay for it. Therefore, the Islamic economy can adopt either of the following solutions:

- Compel the polluter to adopt improved technology in order to reduce the pollution at the source. In this way, the polluter will pay for his pollution directly; or
- Levy a pollution tax if the level of pollution is beyond a certain tolerable limit.

Regulating Advertising

One of the distinct features of the Islamic economy is that it is a low cost economy where simple living is a virtue. Spending beyond one's means is a vice, and it is condemned. This is almost the reverse of the capitalist society in which consumption per se has become a virtue. Partly, this is because of the myopic vision of the society that does not see beyond the life of this world, but more so because of the demands that modern corporations have placed on creation. In modern society, demand is created through advertising. Sometimes advertising creates consumer demand by appealing to baser motives such as sex, ostentation, emulation, and hypocrisy. It aims at manipulating a gullible public into buying products at inflated prices. Advertising is often justified by saying that it provides information to the consumer and as a result enables him to decide rationally about the most cost-effective option. At the microlevel this may be partly true. But from the macroeconomic point of view, advertising creates demand and prodigality, which is against the norms of Islam. Advertising is supported by the availability of interest-based credit in the form of credit cards and corporations feel compelled to create demand to keep the system going. But the whole mechanism of creating demand for goods that are unnecessary is repugnant to Islam. It adds unnecessary costs to the price structure and results in a dead weight cost upon the society. Islamic governments should adopt the following policies to control and regulate advertising:

- Set up a standing commission to oversee and monitor its contents, appeal, and format to ensure that it does not violate Islamic values;
- Fix the expenditure ceiling on advertising for any product to a specified percentage of the cost of production (providing the dual advantage of keeping prices low as well restraining the economically powerful corporations from creating market entry barriers); and
- Levy a tax on advertising expenditure beyond a certain limit; alternatively, disallow such expenses beyond a certain limit as a business expense for tax purposes.

Patents

The patent system refers to the protection of an exclusive right to produce a product. Governments often give such rights to innovators;

however, this system could discourage competition. What is the Islamic position on it? The question of patent is closely linked with intellectual property rights. Although this question has not been discussed explicitly in the primary sources of Islam, generally Islamic law considers intellectual property rights as sacred as private property rights. The person who has an idea and invested effort and money into developing it has the right to get benefit from it. If we do not protect his right, in the long run it discourages innovation in society. As a result, society will become deficient intellectually. Nonprotection of patent rights can also encourage freeloaders. Therefore, it seems perfectly in accordance with the shari'ah to grant patent rights. However, some patent rights can be misused; for example, the patent holder might use the system to handicap rivals, create a monopoly in another market, or otherwise conspire against the consumer. Knowing this, how can we reduce the restraining effects of this regulation? Some proposals are the following:

- The process of checking originality of the proposed patent should be made quite rigorous so that only genuine addition to knowledge and techniques are protected;
- The life of the patent should be kept short so that the benefits of knowledge spread to others;
- Freeloaders and imitators should be punished so that genuine innovators are encouraged and new products come into the market quicker;
- The patent holder should be made to get the patent renewed at a fee that can be made progressive for each subsequent renewal. This would discourage sleeping patents; and
- The government may allocate higher funds for research and development in the public sector and give incentives to innovators. These innovations need not be patented.

Restrictions on Private Property

In an Islamic economy, individuals do not have an unrestricted freedom to use, manipulate, transfer, or destroy property. The right to own comes with obligations. One of the obligations is that no owner may waste his property. The jurists have inferred from the Qur'an (4:3) that a person who wastes his property through extravagance should be restrained from doing so. This is known as the law of *hajr*. If the government determines that the owner of a property does not have the ability to use it prudently or intends to waste it knowingly, the government may restrain the owner from using or transferring it. The Islamic government could, for example, put a limit on his withdrawals from his bank account or his right to sell some property. This type of discretion is not available to capitalist governments where the individual's right to property is completely inviolable.¹²

Direct Public Investment

One of the significant public policies of the Islamic government is to make direct public investment where there is a market failure. This could be in an area of social welfare such as health and education as well as in a commercial area. No specific shari'ah injunction may be cited for or against this policy except the general principle of *maṣlahah* that guides all public policies. A situation may arise in which the private sector may be reluctant to invest in a certain area although people need investment in it. The Islamic government could take the initiative to invest in this area. The converse of this is true as well. In a business opportunity in which the required investment is low, risks are negligible, and profits high, such as a mineral deposit on the surface of land, the government could decide not to allow such a resource to any individual as it would lead to extravagant profits for very few people and thus cause the unfair distribution of income.

Privatization

There is a worldwide movement in favor of privatization and against public enterprises. Of course, the record of public enterprises is not enviable. But a blind rush to adopt privatization is also not justified. The public sector may be inefficient, but the private sector can fail. Privatization needs to be considered in the overall context of the *maṣlahah* of the ummah. Some of the considerations are as follows:

- Privatization should not lead to monopolies in the private sector;
- The transfer of ownership should encourage a wider ownership base and preferably involve the workers in the takeover;
- If the *maṣlahah* of the ummah so requires, the government should conceive some system of regulating the output and price structure in the private sector;
- After privatization, a mechanism should be set up to monitor and evaluate the performance of the private sector to see that the objectives of change have been realized to a reasonable extent;
- The private sector should undertake development of human resources after the takeover so that the society as a whole does not suffer from a shortage of technically qualified staff; and
- Private companies that take over public enterprises should commit themselves to the moral and spiritual development of their working people.

Income Redistribution Program of the Islamic State

Guarantee of a Minimum Standard of Living

The Islamic government guarantees a minimum standard of living to all of its citizens irrespective of age, sex, race, color, language, caste, or religion. The only criterion for receiving assistance is need.

However, the primary responsibility for meeting the need lies with the person himself, then with his family and community, and then with the government. Thus, the government provides a guarantee and acts as the provider of last resort. The primary sources of Islam provide extensive support for this obligation of the government.¹³ Some jurists are of the opinion that the provision of basic needs to a needy individual is such an important obligation of the government that an individual may even go to court and claim it as a right.¹⁴ The needs to be fulfilled are food, clothing, shelter, health, and, in large cities, transportation. Some jurists have also included marriage allowance and redeeming of past debts incurred as legitimate needs.¹⁵ The standard at which these needs will be provided depends on the economic conditions of a particular society in each age.

Subsidies

Generally, Muslim scholars have not supported subsidies on goods and services because they tend to distort income distribution. Subsidies are usually availed of by the rich, and the poor remain deprived. A better scheme to help the poor is to transfer payments and income supplements from zakah. Then the poor will be able to buy the required goods and services from the market according to their need.¹⁶

Empowering the Poor

One of the mandates of the Islamic government is to empower poor. This is possible either by programs of income redistribution or by giving economic power to the poor. We shall just mention some of the programs for empowering the poor by restructuring the economy.

Land reforms: The Islamic government should undertake land reforms to enable landless laborers in the rural areas to obtain some assets for their sustenance. For this purpose it can put a limit on the size of land holdings for individuals and their families. It can take over surplus land after paying compensation to the owners. The government can also decide to sell state land among the rural poor for a fair price to be realized over a period of time. Land reforms should also accompany support programs that provide machinery, seed, pesticides, and fertilizer on interest-free credit.¹⁷

Terms of tenancy: The Islamic government has the primary responsibility of enforcing justice. In most of the Muslim countries, the existing land tenancy arrangements leave much to be desired. The Islamic government should review the tenancy practices and reform them according to principles of justice and fair play.

Labor reforms: Chief reforms in this area are the education, training, and moral upliftment of the working class. The government should encourage skills-training programs in the private as well as in the public sector. Other reforms include providing the legal framework for

worker profit sharing and enabling workers to obtain stocks of the companies in which they are working. Gradually, they should move from being mere workers to being owners of the industrial and commercial concerns.

Encouraging small and micro-enterprises: The government should encourage the establishment of small-scale private enterprises. For this purpose it needs to remove all barriers to market entry, provide interest-free financing to small entrepreneurs, give fiscal incentives to small firms, and provide market information and other supplementary services to them at subsidized rates.

Wider ownership of corporations: The Islamic government should break the control that a few families have on large corporations. This can be done by encouraging worker ownership of part of the capital stock, not making available interest-bearing capital, limiting the size of capital held by an individual in one corporation, and limiting the number of companies someone may serve as director of. The Islamic government may also legislate to buy a certain percentage of shares out of zakah funds in the name of specified beneficiaries of zakah. These individuals can be made the owners of these shares through zakah trusts that manage the zakah funds on behalf of the poor beneficiaries. Gradually, these beneficiaries would start earning dividends and also have an asset base in their own name. Also, the government may legislate that, in the future, a certain percentage of shares of all public corporations be reserved for people of low means, such as workers or government servants.

Making education and training accessible to the poor: It is the responsibility of the government to devise educational and training programs that benefit the poor, especially those living in far-off rural areas. In the absence of such a policy, education serves to enrich the already rich.

Allocate resources to fulfill needs: The Islamic government is responsible for the flow of resources into the production process and then for the distribution of those goods and services in order to fulfill needs. Needs refer to the three categories—*daruriyat*, *hajiyat*, or *tahsiniyat*—that were discussed above.

The government should discourage the production, importation and distribution of goods and services that do not relate to the fulfillment of needs. In addition, the government should adjust its tax structure so that the lowest taxes are levied on *daruriyat* goods, higher taxes are levied on *hajiyat* goods, and the highest taxes are levied on *tahsiniyat* goods. It will be necessary to liberalize the resources tied up in the production of luxury and status goods. Of course, this cannot be done by mere legal action. The government will need to strengthen the moral and spiritual dimension of its people. The government will need to

launch a campaign that encourages simple living and demonstrates, through the lives of its leaders, its willingness to live according to the social and cultural values of Islam.

Financial Restructuring

Islam prohibits interest on all types of loans. Once interest is banned, Islamic government has to undertake a complete restructuring of the financial sector. Here is not the place to discuss the alternative basis for the banking industry; however, suffice it to say that the Islamic government needs to take the following steps in this direction:

- Create a mechanism that enables those households that can use capital productively to get it on an interest-free basis. This will save lost household productivity. Presently, no economy is measuring this loss.
- Promulgate the suitable legal framework for the prohibition of interest on all financial transactions.
- Provide the legal basis for the creation of an alternative system of banking and credit.
- Ensure the prohibition of interest through appropriate legal and institutional treasures.
- Demonstrate its will to abolish interest by organizing its own transactions, internal as well as external, on an interest-free basis.
- Convert all existing debts into appropriate interest-free debts.
- Create the framework that will facilitate the conversion of all outstanding debts in the private sector into interest-free debts.
- Empower the courts and the department of *hisba*, or any alternative department with similar functions, to intervene in any transactions in which interest is suspected.
- Create a standing commission with suitable authority, composed of economists, *ulamā*, and financiers, that interprets and postulates standards for the interest-free financial system.
- Provide support and assistance to other economies in creating an interest-free system in their respective economies.
- Launch a campaign to popularize Islamic modes of finance and educate the people about the disadvantages of interest-based finance.
- Invite all of its worldwide trading partners to deal with it on an interest-free basis.

Creating a Share in the National Wealth

The Islamic government should try to create a share in the national wealth of the country. For those countries that can afford to levy taxes and create a surplus budget, it is simple. For others, it is possible through the sale of minerals, the leasing of arable public land, or the sale of some fixed assets. The funds thus created should be invested through the stock exchange in the private sector on the basis of any permissible mode of finance. The government should try to generate

income through dividends, rents, or the sale of minerals. This income can then be used to even out existing income inequalities by making transfer payments in favor of the poor and the weak. The distinct feature of this proposal is that the government does not manage its own wealth. It only intermingles its resources with the savings and wealth of the private sector. Since the private sector has a stake, it strives hard to generate more wealth. The government takes a share in the profit or loss. This idea is based on the policy of Caliph 'Umar, who allowed the conquered lands to remain with the existing tillers of the land but made them share the output with the government. It is inverted nationalization. In nationalization, the government promises to pay compensation to the owners; thus, it creates a liability for itself and also undertakes to manage the nationalized units. In this case, the government creates an asset, receives a share in the output and productivity, and is not responsible for asset management. Thus, it can overcome all the criticism leveled at nationalization.

What If the Government Fails?

So far we have been talking only about market failure. The government should intervene if the market fails, but what if the government fails to keep the *maṣlahah* of the society in view? There is a possibility that though the government intervenes in the economy, it acts suboptimally so that the *maṣlahah* of the general public is not served. Thus, we acknowledge the possibility that the regulators may need regulation.

Need for an Ethically Motivated Civil Service

The Islamic government must create an ethically motivated civil service. A change in recruitment procedures and civil servant selection criteria is required. Training of civil servants at all levels should include a high content of ethics based on the precepts of the shari'ah. Civil servants should be paid well so that they are able to lead honorable lives. This will help reduce corruption and the misuse of public resources by civil servants. It will also cut down the cost of monitoring their conduct. Even from a purely materialistic standpoint, it is desirable to have a culture of honesty. Islamic society's primary concern is to create an environment in which public servants are motivated by their desire to serve people for the sake of God. In such a society the relevant question is not, What is the role of ethical norms in the economy? but rather, What are the roles of market and government in a society that is based on ethics, trust, and cooperation?

Transparency and Accountability

Transparency is a key concept of public administration. The government has a moral and sometimes a legal responsibility to publicly

disclose its performance. For this purpose government business should be transparent. Although the concept of transparency in public administration has become popular only recently, we find its roots in early Islamic history. The most prominent example is Caliph 'Umar's insistence that all provincial governors and other senior civil servants lead an open life in which their decisions are made available for public scrutiny. He took severe action against those who were found guilty of misconduct. The early caliphs of Islam led transparent lives. They offered themselves for open scrutiny. They also held their officers accountable.

In this age, to safeguard the public against the deception and arbitrary decisions of government officials, the following policy suggestions are relevant:

- The wealth and assets of government officials holding key positions should be made transparent.
- The decision-making process carried out by important government functionaries should be made transparent, thus leading to a reduction in the domain of the secrecy laws.
- Public servants should not be allowed to acquire public property when a conflict of interest may be involved. For example, government servants responsible for the privatization of public enterprises should not be allowed to purchase the assets of those corporations in their own name or in the names of their family members.
- Discretionary powers of the bureaucracy will have to be reduced to a minimum.
- The public should have the right to complain against the behavior of government servants and also the right to receive a reply to their complaints. Therefore, every government department should have a complaint-handling mechanism in place.
- Government accountability must be institutionalized. The supreme audit institutions of the country should be made more independent and strengthened.
- In the final analysis, nothing can restrain the bureaucracy from misusing and abusing public resources except a civil society that acts as a moral conscience and a countervailing force.

Regulating Rent Seeking

In an Islamic society, government policies that create privileged groups are undesirable. This is obvious from the following example. The Prophet took back land from his companion Abyad b. Hammal when he came to know that it contained a salt mine and its private ownership might cause hardship to the general public. Similarly, we find that the Prophet donated land to some of his companions with the hope that they would develop it. Later, when it was learned that the donee did not develop the land, it was taken back from him. From these

examples, we can derive some general principles. First, the Islamic concept of rights accompanies obligations. There are no rights that do not entail obligations. Therefore, the government should not create any right that does not specify the obligations of the beneficiaries. Second, to protect the interest of the general public, government donations should not be for the purpose of creating monopolies. Third, donations should not allow some individuals to reap vast profits without the investment of labor or capital. In the example above, the salt mine on the land given to Abyad b. Hammal was on the surface and would not have required any development effort to extract salt from it. Fourth, in an Islamic society, the discretion to donate property to individuals does not lie with any person even though he is the head of state. It is to be decided by the society collectively on the principle of *shūrā* (consultation).¹⁸ The rights of the government and its leaders, including the president or prime minister, are the same as an ordinary citizen. As part of the government, government officials are only trustees of public resources.¹⁹ Fifth, the state may create some rents where the creation of these rents is an incentive for a higher social objective like industrialization or technology development. Rent seeking becomes objectionable when the vast profits generated in this process are not deployed productively.²⁰ Sixth, despite the above-mentioned training, people will still tend to seek benefits from the government. The government must enforce a code of conduct on public servants, politicians, and businessmen, restraining them from seeking to influence the government for any such benefits.

Should we say there will be no special interest groups in today's Islamic society? It would be overly simplistic to make such a presumption. There will remain special interest groups in society. However, it is not necessary that these groups act against social interests in each case. In some cases, they may play a positive role by providing information on specific problems. In the absence of these groups, perhaps, the onus on the government is too large. It will need to know everything about everyone before taking a decision. This is obviously too much to expect from the government of fallible human beings. These interest groups could play a positive role. The government should accommodate them on the basis of the general principle of *maṣlahah*. Of course, some groups will be able to obtain certain benefits, while others will lag behind. In an imperfect world there is no possibility of arriving at ideal solutions. The point is that the government should explicitly take *maṣlahah* into account and should not be merely guided by special interest groups. To what extent this general direction of public policy will be different from a capitalist society depends to a large extent on the conscience of the society, responsiveness of the government to the *maṣlahah*, the competence of the government to

take proper decisions, and the quality of information on which decisions are made.

Notes

1. Muhammad Khalid Masud, *Islamic Legal Philosophy* (Islamabad: Islamic Research Institute, 1984), p. 225.
2. M. Umer Chapra, *Islam and the Economic Challenge*. (Leicester: The Islamic Foundation, 1992), p. 284.
3. Masud, *Islamic Legal Philosophy*, p. 236.
4. *Ibid.*, p.281.
5. *Ibid.*
6. *Ibid.*, p.282.
7. Hashim Kamali, "Fundamental Rights of the Individual: An Analysis of Haqq (Right) in Islamic Law," *The American Journal of Islamic Social Sciences*, 10 no. 3 (Fall 1993): 346.
8. Hugh Stretton and Lionel Orchard, *Public Goods, Public Enterprise, and Public Choice: Theoretical Foundations of the Contemporary Attack on Government* (London: Macmillan Press, 1994), p. 30.
9. M. N. Siddiqi, *Islamic Theory of Ownership*, Vol. 2 (Lahore: Islamic Publications, 1968), p. 240.
10. *Ibid.*, p. 242.
11. James Tobin, "A Tax On International Currency Transactions," Human Development Report (New Delhi: Oxford University Press, 1994), p. 70.
12. Siddiqi, *Islamic Theory of Ownership*, p. 166.
13. *Ibid.*, p. 256.
14. Ziauddin Ahmad, *Islam, Poverty and Income Distribution*, (Leicester: The Islamic Foundation, 1991), p.82.
15. Siddiqi, *Islamic Theory of Ownership*, p. 261.
16. Chapra, *Islam and the Economic Challenge*, p. 292.
17. For a detailed blueprint, see my *Rural Development through Islamic Banks* (Leicester: The Islamic Foundation, 1994).
18. Siddiqi, *Islamic Theory of Ownership*, p. 86.
19. *Ibid.*, pp. 87-88.
20. K. S. Jomo, "Economics of Power: Changing Horizons," *The Pakistan Banker* (July 1994): 104.