وفاقی شرعی عدالت کے

14 سوال اور ان کے جوابات

فیڈرل شریعت کورٹ نے معاملے کی ازسرنو سماعت کے لیے چودہ سوالات پر مشتمل ایک سوالنامہ جاری کیا ہے جس کا جواب حافظ عاطف وحید‘ انچارج شعبہ تحقیق نے تیار کر کے کورٹ میں submitکروا دیا ہے۔ معاملے کی اہمیت کے پیش نظر اور ابلاغ کی غرض سے یہ چودہ سوال اور ان کے جواب پیش خدمت ہیں:

Question 1:

What is the authoritative definition of the term Riba, in the light of commentaries of the Holy Quran Is there any difference between Riba, Usury and Interest? Can the term Riba be also applied to commercial and productive loans given by the banks and financial institutions on the basis of Interest?

Question 2:

What is the definition of the term Qarz? Whether the term Qarz is synonymous to the term "Loan"? In what meaning the term Qarz has been used in the Holy Quran?

Question 3:

Whether the expression 'Bai' بیع or "sale" which has been permissible in the Holy Quran has any relevancy with the present interest banking transactions? Whether these transactions are covered by the term "Bai" بیع.?

Question 4:

Explain "Riba-ul-Fadl" with specific reference to its applicability in present day banking transactions?

Question 5:

What is the "Illat" علت or legal cause of the prohibition of Riba? What is the moral and legal aspects of its prohibition in the light of Quran, Sunnah of the Holy Prophet and the views of Jurists of various schools of thought? Whether the legal maxim ‘‘ ’’الحکم یدورمع العلۃ وجوبًا وعدمًا can be applied in the case of Riba?

Question 6:

The criteria set by the Constitution for the Federal Shariat Court to declare any law repugnant to Islamic injunctions, is the Holy Quran and Sunnah of the Holy Prophet; in the presence of the clear injunctions of the Holy Quran and Sunnah of the Holy Prophet what is the value of the views of contemporary Ulema regarding the legality or illegality of any issue?

Question 7:

Can the prohibition of Riba be applied on non Muslims citizens of Islamic State also? Can the prohibition of Riba be extended to the loans obtained from non Muslim States while the fact is that the laws of foreign countries, their national policies and international monetary laws are beyond the control of Pakistan?

Question 8:

What is your opinion regarding the permissibility or otherwise of indexation keeping in view the devaluation and inflation during the period of borrowing with specific reference to the juristic views of contemporary jurists.

Question 9:

What is meant by "Ra'as-ul-Mal" as appeared in the Holy Quran? It is fact that the value of the paper currency has a trend of decrease in the inflationary situation. If a debtor who has borrowed a particular amount of paper currency repays the same amount to his creditor after a lapse of substantial time, the creditor can suffer the effects of inflation. If he demands his debtor to pay more in order to compensate him for loss of value, he has suffered, can this demand be treated as a demand of Riba?

Question 10:

Are the current fixed return modes like Murabaha diminishing Musharaka etc as used/practiced by the contemporary Islamic banks in line with the higher purposes of Shariah? Whether these modes can be termed as real alternatives of Interest?

Question 11:

What are the objectives of Islamic finance? Does the modern Islamic finance fulfill these objectives?

Question 12:

What is the Islamic alternative to the present discounting of bills? Are the modes used/practiced by the Islamic banks for discounting are in line with the spirit of Shariah?

Question 13:

Are the priority banking services given to current account holders in conformity with the principles of Shariah?

Question 14:

If all transactions based on Interest are declared prohibited to Islamic injunctions. What procedure will be adopted with regard to previous foreign loans, past transactions and agreements with non Muslims and Muslims countries?

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