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Riba, Share-tenancy and Agrarian Reforms

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Land tenureship may take the form of self-cultivation, contractual workers, leasing and partnership. This paper focuses on the last one known as *muzara`ah* or share-tenancy. After clarifying what riba stands for, it reviews the misgiving about share-tenancy as a case of riba. It also argues at length in favour of share-tenancy as a legitimate mode of land tenure in Shari`ah. Finally, it also draws attention to some reforms to ameliorate the negative aspects of share-tenancy arrangements currently in vogue.

Developing countries are predominantly agricultural economies. The main contractual relation between owners and tillers of land is not an employer-employee but a landlord-tenant bond. Notwithstanding some informal patronage by land-owners, the form of compensation is sharecropping in which tenants usually fare poorly. The control of landlords over lives of tillers grows through indebtedness of the latter to the former. This indebtedness is passed on from generation to generation. Thus practically many peasants become serfs.

Marxism championed the cause of workers over the past one hundred years or so. The battle cry was wresting away the ownership of land from landlords, supposedly a solution of the problem at its source. Logical consistency necessitated extension of the same principle to other sectors of economy, in particular, industry. The experience of the Eastern Europe, since the Bolshevik revolution in Russia, has effectively closed the chapter on the socialist remedies.

The exploitation theme in moral and social philosophy is rooted in the widely-held view that all rewards should be associated with work effort. In the case of riba (interest), owners of capital assets claim return without playing any active role in productive application of those assets. Thus riba is also treated as synonymous with exploitation. Of course, in the Islamic literature this view is also rationalised on the basis of interpretation of selected Ayat and A`hadith. Since a share-tenancy arrangement also involves a sleeping partner, it is not surprising that some Shari`ah scholars regard the share-tenancy arrangement a riba case [Tasin (1988)]. If this were indeed so, the case for share-tenancy closes without further ado: it has to be treated as a void contract neither negotiable nor enforceable. An immediate implication of this conclusion is narrowing the list of options for land cultivation in Muslim countries such as Pakistan.

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Less attractiveness of investment in farm land, and thereby agriculture in general, would be another. These factors call for a systematic review of the subject. Such a study is also warranted in view of the debate on riba triggered by the landmark judgement of the Federal Shariat Court of Pakistan given in 1991. The issues discussed in this paper may gain added significance when the Shariat Appellate Bench of the Supreme Court of Pakistan starts a review of the said judgement and gives its verdict on it.

The line of argument in this study is as follows. We first try to settle whether one is justified in equating share-tenancy with a riba arrangement, and then go on to look at some reforms necessitated by the A`hkam (edicts) on riba and zakah in order to eliminate exploitation from the existing land tenure system. The riba appraisal is divided into two parts: genesis of riba (section I) and the status of share-tenancy in this regard (section II). It is clarified that riba may lead to exploitation and injustice or *zulm* but *zulm* per se is not the *raison d'être* of riba. It is also argued that the edicts on riba are irrelevant for the Shari`ah legitimacy of the share-tenancy contract. Our analysis also helps us to sharpen the focus on policy measures for reforming production and other relations in agriculture (section III).

I. THE GENESIS OF RIBA

Riba is traditionally viewed as a predetermined and fixed return claimed by lenders on loans while they do not share in the concerns and/or efforts at the borrowers' end. Of course, at the time of the prohibition of riba fourteen centuries ago, one finds instances of borrowing for trade but loans were mostly sought by those in want and dire need. The final Qur'anic decree on riba (*al Baqarah* 2: 278-281) also states that neither creditors do *zulm* on debtors nor the latter do the same to the former. This has tempted many scholars to claim that the rationale behind the prohibition of riba is an end to exploitation of the weak and poor [Saeed (1995)].

If one reads "landlord", "tenant" and "land" in place of lender, borrower and the object of loan, respectively, in the foregoing description, the similarities tempt one to view the reward claimed by absentee landowners in all landlord-tenant arrangements as riba. This reward may be in the form of either land rent or a fixed share in crops. The former corresponds to a rental agreement and the latter to a share-tenancy contract. This paper focuses on share-tenancy arrangements, the dominant mode for landownership and cultivation. The case of renting land is also addressed but in passing.

While earlier jurists questioned share-tenancy arrangements (*muzara`ah* or *mokhabarah*) on the basis of the A`hadith on the subject, many scholars challenge them on grounds that they represent a case of riba. The views of Tasin (1988), as mentioned above, and Ziaul Haque (1977) are examples of this thinking. It is, therefore, desirable to start the argument with an analysis of what riba stands for and what it does not.

In the Qur'an, the decrees on riba primarily call for the execution of all loan

transactions on a one-to-one and equal basis in terms of the units of the thing given and taken back [Tahir (1996a)]. This being the case, it is pertinent to form any opinion about riba in the light of the nature of a loan transaction. A loan is a legal contract between a lender and a borrower. It has three distinguishing features:

1. Both the ownership and usufruct of the object of loan, are transferred to the borrower during the pendency of loan.
2. A loan involves exchange, i.e., give and take back, of items of the same kind. For example, if rupees were lent, rupees would be taken back.
3. The lender is not a party to use of the object of loan until it remains in the possession of the borrower.

The above points apply to all loans, whether in money or commodity form. The first feature signifies what a loan transaction helps to achieve. The second and third features are generic properties of a loan transactions. Keeping in view these two properties and the basic edict on riba, it may be defined as follows:

> *Riba is a discrepancy which results from the contractual obligations of a party in the context of a direct exchange of items of the same general kind between two parties.*
>
> [Tahir (1994, p.3)]

In our definition, the words "discrepancy", "contractual obligations" and "direct exchange of items of the same general kind" are noteworthy. The notion of "direct exchange" stems from homogeneous character of the exchange involved in a loan transaction. The emphasis on "direct exchange" and also the idea of "items of the same general kind" are best explained in a well-known `Hadith according to which the Prophet (*SAAWS* - *_allAllaho `alaihay wasallam*) advised Sayyidena Bilal as follows. If the latter wanted to trade poor quality dates directly with good quality dates, he ought to have exchanged them in equal amount (by measure) while, of course, ignoring the qualitative differences between the two types of dates. However, if the said arrangement was not practicable, he should have sold poor quality dates for something else and buy good quality dates with the sale proceeds, i.e., acquire good quality dates on unequal terms but indirectly.

The idea of "contractual obligations" may be verified by noting that a lender can accept something over and above the principal of a loan provided it is given by the borrower voluntarily after discharging his debt obligations.

The concept of "discrepancy" is slightly at variance with the traditional view of riba as an excess. While "discrepancy" covers the case of an excess, it also applies to such cases in which debtors seek early settlement of debts on concessional terms. That is, in principle, Shari`ah recognises the principal of a loan (or, debt in a credit sale) as contractual obligation of the indebted party; but while the lender cannot *claim* an

excess over and above his principal, the debtor too cannot *claim* a reduction while retiring it. Last but not least, it can be said that the above definition also covers other types of "discrepancy" as well, including that due to time factor.

The above definition also implies some adjunct guidelines for transactions. This point may be seen as follows. While the lender in a loan transaction is restricted to his principal, practically he is called upon to concede his lending costs, the costs in terms of income foregone and loan recovery costs. If these costs are taken into account, the Qur'anic prohibition of riba may be seen to contain two auxiliary decrees for those who choose to enter into a loan transaction [Tahir (1995), pp.5-6].

(a) The lender must concede his lending costs.
(b) The qualitative differences between the sum lent and that taken back must be conceded.

These points can be generalised to see that the edicts on riba in `Hadith bring the trading practices into line with the Qur'anic A`hkam. A modern-day equivalent of such cases is trading of new currency notes for old ones by money changers, for example. The said A`hadith also imply, for example, that exchange of old jewellery for new by a jeweller must be without the latter applying a cut. To sum up, the edicts on riba regulate lending as well as all other exchanges that are generically comparable to loan transactions.

Before we appraise share-tenancy from the riba angle, it is also worthwhile to see if there is any link between riba and exploitation or not. More specifically, we would like to establish whether or not "exploitation" is an overriding consideration in order to determine the existence of riba. The relevant questions in this regard are as follows. (1) Does the prohibition of riba have a moral and ethical context, namely an end to exploitation? (2) Can one interpret the last Qur'anic decree on riba to conclude that indeed the aim of the prohibition of is an end to exploitation of the poor and the needy? While detailed argument on these issues is available elsewhere [Tahir (1996a)], a few directly relevant points are as follows.

No doubt Islam places the greatest emphasis on moral ethos of an Islamic economy, nevertheless the prohibition of riba is a part of the parameters set by Allah (*SWT - Sub`hanahu wa Ta`aala*) for this life as a test for man. Its status is like that of *salah* (prayer), *saum* (fasting), *zakah* (a religious levy) and *`hajj* (pilgrimage), for example. Each of these is beneficial for mankind. But the A`hkam of Allah *SWT* are primarily based on His Discretion, not the welfare of mankind.

As mentioned earlier, the end-of-exploitation rationale behind the prohibition of riba is often traced to *al Baqarah* 2:279. This Ayah is part of the text *al Baqarah* 2:278-281 revealed sometime in 9 or 10 A.H. (After Hijrah). While the then lenders were restricted to their principals in *al Baqarah* 2:279, both the lenders and the borrowers were directed to avoid *zulm*. According to Shari`ah, *zulm* occurs when any

party to a transaction is denied its rights recognised by Shari`ah. Thus when in 9 or 10 A.H. both the creditors and their debtors were called upon to avoid *zulm*, it only meant adherence to the edicts in force at that time. Those A`k_m are undoubtedly in *Aale `Imran* 3:130 and *al Baqarah* 2:275 which read as follows.

> *O Believers! Don't eat riba on top of riba*[1] *And be afraid of Allah so that you may be successful.* (*Aale `Imran* 3:130)
>
> *Riba-eaters will get up on the Day of Judgement like a person driven to madness by the Shaitaan (Devil) with his evil touch. This will happen because of their claim that (profit on) bay` or trading is the same as riba whereas Allah has permitted bay` but prohibited riba.*
>
> *As to riba charged in the past, whoever received the advice from his Rabb (as per Aale `Imran 3:130), his matter is with Allah. That subject should be treated as closed in this world. However, all those who continue to charge riba in lieu of the outstanding debts, they belong to Jahannam (Hell) where they will stay for good.* (*al Baqarah* 2:275)

The first Ayah decreed in late 3 A.H. that the believers ought to avoid riba. The second Ayah, revealed soon after the first, clarified that the then existing riba-based contracts were to be honoured after deleting the riba clauses in them. On both occasions, the A`k_m are without the so-called `no *zulm*' proviso or its equivalent.

That attributing the end-of-exploitation rationale to the prohibition of riba is unwarranted may also be seen as follows. First, like all other exchanges, loan transactions are voluntary. The A`hkam on riba simply state how a person is required to act if he chooses to enter into the framework of loan transactions. Second, as noted above, lenders are invariably exposed to many costs. In other words, if indeed end-of-exploitation were the rationale behind the prohibition of riba, then lenders would have been allowed some sort of compensation in the framework of loans as in other transactions. Finally, as noted earlier, loans are essentially a legal contract which involves temporary transfer of property rights, ownership and usufruct, from one party to another; the A`hkam of riba just signify the terms for executing such exchanges and nothing more. In this background, we can now review the status of the share-tenancy arrangement from the point of view of riba.

II. RIBA AND SHARE-TENANCY

According to Tasin (1988, pp.76-8), the matter of *muzara`ah* or share-tenancy is

[1]The literal translation would be: "Don't feast on riba—doubled and quadrupled." In either case, the order is to stay away from riba irrespective of whether it is simple or compound.

quite similar to that of riba on account of its nature and implications. Thus, in his view, the Qur'anic decrees on riba apply to *muzara`ah* as well. To support his point of view, he cites the A`hadith of Jabir Ibn Abdullah in *al Mustadrak* of Imam `Hakim, Raf`ay Ibn Khudaij in *Sunnan Abu Dawood* and Miswar Ibn Makhramah in *Mo'jamm al Aoust* of Imam Tibrani. He also draws support for his view from commentaries on the Qur'an by Ibn Katheer and Qurtubi, two great exegetes of all time. While we look into likely explanations of the aforementioned A`hadith later on, it is pertinent to start the argument on the following note.

According to a `Hadith of Fudalah Ibn `Obaid reported in both *Sahih Muslim* and *Sunan Abu Dawood*, the Muslims were trading an *ouqiyyah*, a weight measure, of gold for two or three dinars, pure gold coins, with the Jews after the conquest of Khyber. The Prophet (*SAAWS*) directed them to carry out the said exchanges on the basis of equality in terms of weight. Several A`hadith on riba confirm that the practice in question was in conflict with the A`hkam on riba and, therefore, corrected by the Prophet (*SAAWS*). This `Hadith makes it abundantly clear that riba dealings with the Jews were non-permissible at the time. This point is important for correctly appraising the land cultivation arrangement made with the Jews about the lands of Khyber.[2] With the conquest of Khyber, its lands became property of the Muslims. The Prophet (*SAAWS*) permitted the Jews to till those lands on the condition that the crops and fruits would be shared with the Muslims on a 50:50 basis, a share-tenancy arrangement for all practical purposes. Given the forbiddance of riba dealings with the Jews, had the said tenancy arrangement been a case of riba, there was no question of the Prophet (*SAAWS*) sanctioning it. In other words, treating share-tenancy as a riba-based transaction is putting the argument on a wrong footing. In fact, edicts on riba are not relevant for Shari`ah appraisal of share-tenancy.

All transactions may be seen as controlling ownership rights and/or access to usufruct of the object(s) of exchange. For example, trading represents a case of irrevocable reciprocal exchange of all property rights, both ownership and usufruct, between the trading parties. Leasing is a case in which ownership is not transferred but only usufruct rights go to the lessee, and those too for the duration of contract. In this perspective, share-tenancy represents an arrangement whereby ownership rights and usufruct of land are not transferred but shared with another party for the duration of contract. On the other hand, as explained above, riba arises when property rights of an asset are fully transferred from the owner to another party during the pendency of contract. Thus there is no point in appraising share-tenancy on riba grounds.

If the riba factor is not relevant, then, apart from the issue of exploitation of tenants to which we shall return later on, is there anything fundamentally wrong with the share-tenancy contract? No. It addresses genuine needs and concerns of landowners

[2]The details on this subject may be found in Usmani (1413 A.H., pp.171-72).

when they may not be able to till the land themselves and they may also not have a recourse to an alternative arrangement. For example, hiring and managing workers may be difficult, and renting land too may be infeasible. Its relevance can be seen in two simple examples. A minor or a widow may inherit a piece of land which may be their sole asset. Obviously they may not be able to manage "their" lands themselves. Does Shari`ah close all options for them to benefit from their assets? Likewise, imagine a landowner going for *`hajj* several centuries ago. The travel to Makkah and back home required good part of a year or even more in the case of far-off places. Was this person to leave his land fallow? Given that the Qur'an permits pilgrims to seek economic bounties on the way to *`hajj* (*al Baqarah* 2:198), is he denied the chance to make a gainful arrangement in respect of land left behind? These are just two instances to establish that in principle there is nothing wrong with the share-tenancy contract as such. It is a perfectly legal contract provided, of course, that the stipulated conditions meet all relevant Shari`ah rules.

The available contracts against which one can put share-tenancy and derive the necessary A`hkam may be either renting/leasing (*ijarah*) or partnership (*modarabah* or *musharakah*). As mentioned above, in a leasing contract only usufruct is transferred; the ownership is neither transferred nor shared. This leaves us with the option of viewing share-tenancy as a partnership. Two possibilities in this regard are as follows.

(a) If the arrangement involves the landowner providing land, seeds, tools and other inputs and the tenant just his labour, this would be the pure case of *modarabah*.

(b) If the contract is such that the tenant assumes the responsibility for arranging seeds, tools and some other inputs, this would be *musharakah*, of course, with zero effort on part of the landowner. The quantum of landowner's effort in actual farming is not critical for the nature of contract because there is no Shari`ah constraint of minimum effort by a partner to be met.

Of course, one can imagine another case, still a *musharakah*, in which the tenant may have his own implements but provision of *fungible* inputs (such as seeds and fertilisers) may be responsibility of the landowner. Given that all material losses in a partnership are to be shared in proportion to a party's capital and that there is little or no chance of loss in land per se, perhaps this arrangement would be more in line with not only the letter but also the spirit of Shari`ah.

The degree of responsibility and thereby costs incurred by both a landlord and his tenant are to be reflected in crop sharing arrangements. The principal Shari`ah requirement in this regard is that the crop-sharing ratio must be specified before both parties enter into their contractual obligations. If the contract were for one crop, the settlement at harvest time is to be as follows. First, *ushr* (zakah on agricultural produce) has to be deducted. Next, the capital is to be returned. That is, land is to revert to the

landlord, implements to their respective owners and costs of fungible inputs to whoever happens to be responsible for them in the first place. And, finally, any remaining produce is to be distributed in the pre-agreed ratios. If the contract is for one year or more, accounting for fixed capital assets (land and implements) may be deferred till the end of the contract.

The above arrangements are fairly simple and straightforward. Where are then the seeds of malpractice in a share-tenancy arrangement? While lack of institutions to protect the poor and mostly illiterate tenants can be held responsible for the unfortunate status quo in developing countries, in our opinion, the root cause of the initiation and perpetuation of all this is rural indebtedness. The tenants often require economic support to meet their personal needs between two crops. Here lies the primary source of widespread dissatisfaction with share-tenancy.

The question that needs to be first answered is: can there be a debt contract between a landlords and his tenant in addition to a share-tenancy agreement. The answer from Shari`ah point of view is "yes". What needs to be ensured is that riba does not enter into this contract. While claiming an excess over and above the principal would be outright riba, there may be hidden riba in the form of landlords benefiting from services of their tenants at no or low costs. According to several A`hadith, creditors are called upon to avoid drawing any benefits from their debtors.[3] It is not difficult to see that many existing problems may be traced to non-compliance with Shari`ah in general rather than the share-cropping contract.

Notwithstanding the above points, in passing, it is useful to answer some general objections on the Shari`ah legitimacy of *muzara`ah* or *mukhabarah* and also *kiraa'* (renting agricultural land). The A`hadith on these subjects are attributed to the following Companions of the Prophet (*SAAWS*): Jabir Ibn Abdullah, Zaid Ibn Thabit, Abi Horairah, Ummul Mo'mineen Sayyidah `Aaishah, Sayyidena Ali, Sa'd Ibn Waqqas, Abdullah Ibn `Omar, Abdullah Ibn `Abbas, Osayd Ibn Zohair and Raf'ay Ibn Khudaij. Their narrations are reported in all classical works on `Hadith. Tasin (1988, pp.83-133) also draws on the same sources. His approach to interpretation is to treat the prohibition stated in `Hadith texts as primary and to reject any permission implied by the texts in favour of the prohibition. Without going into the details of Tasin's argument, one may also look at the matter as follows.

Some *general* conclusions that may be drawn from the immediate texts of the various A`hadith are as follows:

(1) If someone has agricultural land, he should either cultivate it himself, give it to another Muslim for cultivation at no charge or leave the land fallow.

(2) While some A`hadith directly mention that agricultural land should not be

[3]Usually such A`hadith are treated as a part of moral teachings of Islam. But there is no bar on drawing inferences of a juridical nature.

rented, some others restrict the prohibition to renting for a fraction of the produce, and yet some others allow its leasing against gold and silver.

(3) A share-cropping is either condemned or prohibited.

However, if one puts together the texts of all A`hadith together, the following points also reveal themselves. When the Prophet (*SAAWS*) prohibited share-cropping, it referred to the following arrangement. Either the landlord gave his land to a tenant on the basis of a fixed quantity of grain or he reserved for himself a part of land whose produce went to him while harvest from the rest belonged to the tenant. It is not too difficult to see the problems with such arrangements. While the principle was that, in view of the nature of share-tenancy contract, the landowner might claim a fraction of the produce, the return to him in the form of a fixed quantity of the harvest or from a fixed tract of land could exceed what might be due to him under a regular crop-sharing arranging: the difference between "recognised" right and "realised" right had the semblance of riba. This seems to explain the reasons for the prohibition of *muzara`ah* as per the A`hadith under reference. Incidentally, this also seems to be the explanation for the permissibility of renting land for gold or silver but not the land produce.

That, according to some A`hadith, a landowner could keep the land unused also signifies something. This option effectively meant that a prospective tenant could be denied a means of earning. Given this extreme possibility, it is difficult to see how share-tenancy was to be outrightly unlawful even though it was a potential medium for increasing income earning possibilities for the poor.

As discussed above, *muzara`ah* is akin to *modarabah*. Of course, one may ask: what kind of *modarabah* is this in which the owner of capital (land) is not exposed to any loss? This question may be answered in three ways. First, it is not necessary that the provider of capital assets in *modarabah* must be exposed to a loss. That is, what is critical is the legal aspect(s) of the exchange involved. And, there is no problem with share-tenancy on this count. Second, land is also exposed to some depreciation. There are also examples of erosion of land through land slides in hilly areas and washing away of tracts of land in river deltas. These possibilities imply that the likelihood of material loss to the landlord is not entirely ruled out under all circumstances. Third, the nature of contract may be suitably modified to bring it into line with not only the letter but also spirit of an ordinary *modarabah*. For example, as noted above, this may be done by requiring landlords to bear the costs of fungible inputs, such as seed, fertiliser and water.

Objection against *muzara`ah* can be answered in another way too. Can a landlord hire the services of his tenant on a wage basis? The answer is obviously yes. If he can, then another question arises. Given that there is no Shari`ah limit on minimum wage [Tahir (1994)], is it not possible that the tenant may be materially as well of or as worse off as he might be under *muzara`ah*? The ordinary wage contract is infeasible in

agriculture, apart from some seasonal jobs, because the time involved in sowing and harvesting the crop is very long and workers may not wait for payment of wages. Moreover, one or both of the following two things may also happen. Either the workers would be unemployed due to seasonal nature of employment or they would be forced into accepting low wages. In other words, economically workers may come to the same point as in the case of a share-tenancy contract. Given these points, it is difficult to see why *muzara`ah* should be singled out as prohibited but not *ijarah*, the wage arrangement?

Given that Islam provides maximum leeway for land tenureship, including share-tenancy, we may now turn to malpractices in agriculture and their Shari`ah remedy.

III. AGRARIAN REFORMS

The existing plight of tenants in Pakistan and other predominantly agricultural economies is truly despicable. Every now and then, there are calls for putting limits on land holdings and even outright nationalisation of land along with its free distribution among peasants. But these surgical cures are at best stop-gap measures. The problem is bound to resurface if it is not addressed at its source, namely (1) the contractual relations between landowners and tenants, (2) the weak bargaining position of tenants and (3) intergenerational transfer of debts. Piecemeal solutions are unlikely to give the desired results. What is needed, in the end, is to address all three factors at the same time and also to take additional remedial measures such as zakah and *ushr* reforms.

The most important component of the environment for share-tenancy contracts is the general legal framework in which landowners and tenants operate. Key elements of a share-tenancy contract are (a) the extent of input contributions by landowners and tenants and (b) the crop-sharing ratio. As mentioned earlier, the provision of fungible inputs may be made the responsibility of landowners. Such parameters for contracts may be prescribed by the state as part of regulating the environment for negotiating contracts. However, no hard and fast rules can be mandated in respect of crop-sharing ratios, because that would infringe upon the rate at which landowners may agree to share their property rights. This point stems from the famous `Hadith about price controls according to which the owner of a thing cannot be denied his desired compensation for parting with it. Of course, any lacuna in this regard can be addressed through strengthening the bargaining position of tenants.

The bargaining power of tenants can be increased by taking steps (1) to make tenants fully know their rights, (2) to make wider occupational choices available to them, (3) to take care of their short-term personal needs and (4) to give tenants legal protection in favourably seeking any contractual rights. Education and training hold the key in the first and second respects. Knowledge and skills would give the tenants and their children a fair chance to escape the traps set up by landlords. Obviously what

matters in this respect is Shari`ah education along with general education and training in skills which would make occupational shifts possible. While the creditors may have the first claim on the income and assets of debtors (over and above their basic needs), they cannot restrict occupational choices by and mobility of the debtors.

Landlords get a leverage on the lives of their tenants through debt, especially that which transfers from one generation to the next. Thus, any strategy for improving the lot of tenants must give a pivotal role to eradication of rural indebtedness. Tenants are bound to make a recourse to borrowing because of the time lag between productive efforts and their results. Three points are noteworthy in this respect. Firstly, tenants may borrow from their landlords. That is, there is no Shari`ah problem in combining a debt contract with a sharing contract between two parties. But the general A`hkam of riba and principles for settling debts have to be observed. Secondly, as mentioned earlier, in principle, creditors cannot seek any benefits from tenants beyond those stipulated in the share-tenancy contract governing the tilling of land. This applies to all petty services and other productive work that landlords take from their tenants at present. The problem may be solved, albeit partially, by requiring the landowners to separately compensate the tenants for such work. Thirdly, the debts of fathers or forefathers cannot be transferred to the next generation: the claims of creditors are restricted at best to the assets left behind by the deceased. The necessary action in these respects is obvious. What is needed is some fresh legislation and enforcement of the same.

It is also possible to address the problem of rural indebtedness through proper enforcement of the Islamic system of zakah and *ushr*. In principle, *ushr* is to be deducted from the produce at harvest time. Thus, the initial incidence of zakah would be on both parties to a share-cropping arrangement, namely landlord and tenant. However, after zakah is separated and both landlord and tenant(s) get their respective shares, the first claim on zakah may be given to the immediate *ghaarimeen*, the indebted tenants. This would be perfectly legitimate on the analogy of a wife giving her zakah to her zakah-worthy husband. Zakah proceeds handled in this way can go a long way toward clearing the debts of tenants to their landlords. Of course, necessary Shari`ah parameters for such a scheme need to be worked out.

IV. CONCLUDING OBSERVATIONS

*Muzara`ah* or share-tenancy is a legal arrangement in Shari`ah. It covers the case involving sharing of both ownership and usufruct of land, principal asset in agriculture, during the pendency of the contract between landowners and tenants. What matters in this regard is observance of Shari`ah requirements for such a contract, of course, in a Shari`ah-consistent environment in which tenants can "safely" claim their rights. Widespread dissatisfaction with the status quo is understandable. But the problems can be solved only through providing a proper institutional framework with

enhanced bargaining power for workers. The existing political and legal system does not have the capacity to bring about any meaningful change because the ruling landed èlite is not willing to forsake its un-Islamic and, of course, unjustified privileges. The only foreseeable solution is enforcement of Shari`ah, albeit Islamisation of agriculture, where basic parameters for contracts are all exogenously set.

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