Glossary

‘adl – Justice and fairness. It means to give every party what he or she deserves at the appropriate time.

‘ain – Determinate property in Islamic law or the material substance of an asset. This term is often used in respect of real assets.

‘amal – Work; labor or conduct. Any work performed including any valuable service rendered by a person, which may or may not attract a consideration in the form of wages.

amana – The status or duty of a trusted person (amin); one of two basic relationships towards property, which entails absence of liability for loss except in breach of duty; compare daman, other entities do not have this quality.

arbun – A down payment with revocation option akin to a call option in the conventional sense, however, the contract is about a sale of a good for which the down payment is part of the price, while the option is about the right to purchase and the price for this right is lost. In classical fiqh it is controversial, but accepted at the Hanbali School of Islamic law.

awqaf – See entry for waqf.

bait al-mal – The treasury of the Muslim community (umma); historically, the bait al-mal as an institution was developed by the early caliphs. The bait al-mal contained funds meant to be spent on the needs of the umma, for example, supporting the needy.

bay – Sale; an agreement between two parties (the seller and the buyer) that transfers ownership of the sale item from the seller to the buyer in exchange for a price.

bay‘ al-mu‘ajjal – Deferred payment sale, credit sale; a sale in which payment is delayed and delivery of the contracted goods is immediate.

bay‘ al-salam – Purchase with deferred delivery.

darar – Harm. The dire state of hardship, which the law is meant to prevent in all situations.

daruriyat – (sing. darurat) Basic needs, necessities or the essentials. These are the things or activities that are absolutely necessary for the preservation of the five foundations of the social life of an individual – life, religion, intellect, family lineage and wealth.
fard kifayah – An obligation on the Muslim community as a whole, from which some are freed if others take it up, such as funeral prayer.

fatwa – (pl. fatawa) A formal opinion, issued by a Muslim jurist (faqih) called a mufti, in response to a question relating to Islamic law (shari'ah).

fiqh – Islamic jurisprudence. The fuqaha (sing. faqih) or Muslim jurists are those whose rulings constitute the entire body of fiqh.

fiqh al-mu'amalat – The ethics and laws of financial transactions.

gharar – Lit. peril, risk, uncertainty. In the juristic sense, gharar means a sale of probable commodity, which has an uncertain or risky nature as a result of its inexistence or speculative tendencies.

hadith – Lit. report; historical account of a saying, act, or omission of the Prophet or, secondarily, of an esteemed figure among his companions and early Muslim generations.

halal – Permissible, lawful; said of a deed that is not prohibited in Islam. Opp. haram.

hajiyyat – (pl. hajiyyaat) Needs or exigencies; legitimate interests that are complementary to the essentials (daruriyat), but not as crucial. Absence of the hajiyyat leads to hardship, though short of severe disruption. This is the second level of public interest or welfare (maslaha); lower than daruriyat but higher than tahsiniyyaat.

haram – Impermissible, illegal, unlawful. Opp. halal.

hiba – Contract of gift.

hiyal – (sing. hila) Legal artifices or stratagems to circumvent or avoid legal principles and rigid constructs.

ibadah/ibadat – Obedience, submission and devotion to Allah (God) along with the ultimate love for Him.

ihsan – Perfection in worship, such that Muslims try to worship God as if they see Him, and although they cannot see Him, they undoubtedly believe He is constantly watching over them.

ijara – Operating leasing (lit. ‘letting to lease’).

ijarah wa iqtina’ – Agreement by customer to buy item after leasing it.

ijma’ – Lit. consensus. The unanimous consensus of the umma on a given issue, usually represented by the agreement of the jurists. Ijma’ has traditionally been recognized as an independent source of law, alongside the Qur’an, sunna and qiyas (analogical deduction).

ijtihad – Lit. effort, exertion, diligence. The process by which a qualified Islamic jurist (called a mujtahid) endeavours to arrive at the correct ruling on a given issue by reflecting on source texts from the fundamental sources of the shari’ah: the Qur’an and the sunna.

iman – Islamic conviction, faith or belief.
**isticna’** – Contract providing for the manufacture and purchase of a specified item.

**itlaf** – Destruction of property.

**ju'la** – An obligation to reward a person for work done successfully producing positive results.

**kafala** – Assumption of the responsibility for debt repayment; a standard Islamic financial transaction where X (the *kafil*) agrees to assume responsibility for the debts of Y (the *makful 'anhu*). Similar to *hawala*.

**khairat** – Charity.

**khalifa** – Man’s trusteeship and stewardship of earth; most basic theory of the caliphate; flora and fauna as sacred trust; accountability to God for harms to nature, failure to actively care and maintain. Three specific ways in which *khalifa* is manifested in Muslim practice are the creation of *haram* to protect water, *hima* to protect other species (including those useful to man) and by resisting infidel domination over Muslim lands, in *jihad*.

**khiiyar ash-shart** – An option to rescind a sale contract based on the conditions stipulated by either of the parties. When one of the parties to a sale contract stipulates an option and such is mutually agreed, and the other party fails to fulfil the condition, the stipulating party has the right to rescind the contract within a given period.

**khulta** – Lexically ‘mix’; in *fiqh*, a mix of properties that belong to two or more parties, such as when four sheep owned by Zayd and five owned by 'Amr are allowed to mingle in one flock.

**khums** – Religious obligation to contribute one-fifth of a certain type of income to state.

**madhhab** – Lit. ‘way of going’. A *fiqh* school or orientation characterized by differences in the ways certain source texts and the resulting shari’ah rulings are deduced from them. There are four well-known madhahib among Sunni Muslims. Their names are associated with the classical jurists who are said to have founded them: Hanafi, Maliki, Shafi’i and Hanbali.

**mafsadah** – Harm.

**mal** – Wealth, money, property; any valuable thing that can be possessed.

**manfa'a** – Lit. benefit, usufruct. The use of an asset, especially in the context of leasing/renting (*ijarah*) transactions.

**maqasid al-shari'ah** – Lit. the objectives of the shari’ah. The term *maqasid al-shari'ah* refers to a juristic-philosophical concept developed by the later generations of the classical *fuqaha*, who attempted to formulate the goals and purposes of the shari’ah in a comprehensive manner to help investigate new cases and organize previous existing rulings.
maslaha – Lit. welfare, benefit. The consideration of general welfare is recognized by some schools of traditional Muslim legal theory as an independent basis of the shari’ah. According to some schools of legal theory, on the basis of the consideration of maslaha (that is, whether or not such an act is in the interest or enhances the welfare of an individual or group), a traditional legist can conclude that an act is prohibited or permissible, particularly in cases in which such a determination is not indicated by the Qur’an, sunnah or qiyas (analogy). Traditional Muslim legal schools hold a variety of positions as to the validity, scope and authoritativeness of such reasoning.

maysir – Gambling or speculation prohibited by Islamic law.
milk – Lit. possession or property. Tangible or non-tangible asset that belongs to a person. Such asset is usually under someone’s possession as opposed to commonly owned properties.
mishpat (a Jewish term) – Right judgement or justice embodied in a concrete act or deed.
u’amanalat – Deals or transactions among human beings; compare ‘ibadat.
mudaraba – (also called qirad). A form of partnership to which some of the partners contribute only capital and the other partners only labour (some schools do not treat it as a partnership but as a contract sui generis).
mudarib – In a mudaraba contract, the partner contributing labour.
muqayyadah – Restricted word.
murabaha – Sale at a percentage markup; one of the sales (bay) in which the price is disclosed in terms of the sale object’s cost to the seller, the others being sale at cost (tawliya) and sale at discount (wadi’a).
musaqah – Irrigation.
musharaka – Equity participation contract.
Muslim Caliph – Religious leader.
mustawriq – Person seeking tawarruq.
mutanaqisa – Diminishing.
muzara’a – A share-cropping transaction in which one party (the landowner) permits another party (the sharecropper) to cultivate and harvest on a defined subset of the former’s land in return for a defined fraction of the agricultural yield.
nisab – The exemption limit for the payment of zakat. A Muslim who possesses wealth below the nisab is exempted from paying zakat, while a Muslim who possesses wealth at or above this exemption limit is obliged to pay zakat. The nisab differs depending on the type of wealth in question.
pari passu – Equal footing.
qard – A loan. A transaction where X lends Y some wealth (for example, money) to be repaid after a specified period of time elapses.

qard hasan – Goodwill loans with no compensation whatsoever to the lender.

qimar – A type of prohibited arrangement where the acquisition of property depends on the occurrence of an uncertain event, as in the case of gambling. Syn. maysar.

Qur’an – Lit. ‘The Recitation’. According to Muslims, the word of God as revealed to the last Prophet, Muhammad, via the Archangel Jibril (Gabriel). The Qur’an, Islam’s most sacred text, is considered the most authoritative source of Islamic law.

rabb al-mal – Lit. ‘the owner of the property’. A partner who contributes capital.

riba – Usury as forbidden in the Qur’an; interpreted in classical fiqh as including interest and various other forms of gain in contract.

riba al nasi’a – Postponement riba. Along with riba al-fadl, riba al-nasi’a is one of the two categories into which riba (see entry) is often divided by the fuqaha. Riba al-nasi’a takes place when two ribawi substances (see al-amwal al-ribawiya) are exchanged, one immediately and the other after a delay. An example of riba al-nasi’a: two parties agree to exchange 10 kilos of wheat for 20 kilos of barley such that the former is handed over immediately and the latter is to be delivered two weeks from the date the contract is signed.

ribawi – (adj. of the term riba) Any goods that exhibit one of the attributes or efficient causes that invoke the application of the riba rules. Therefore, the term is sometimes used as ‘Ribawi goods’, which implies goods that exhibit efficient causes that occasion the application of the riba rules.

sadaqaa’ – Charitable giving.

salam – A type of sale where the full price of the goods is paid in advance and the goods are delivered at a specified date in the future.

shari’ah – The divine law known from the Qur’an and sunna.

sharik – Partner in a contract.

sharika al-wujah – Partnership on the basis of creditworthiness of each of the partners where the ratio of profit and loss is determined by the liability borne by the partners respectively.

sheikh – Islamic religious leader; a senior official in an Islamic religious organization.

shirka – Any contract between two or more persons who agree to jointly enter a financial enterprise whose profits will be divided between them. Syn. musharaka.

sukuk (sing. sakk) Islamic bonds and certificates.
**Glossary**

**sukuk al-mudaraba** – A bond whose underlying activity is based on mudaraba.

**sukuk al-musharaka** – A bond whose underlying activity is based on musharaka.

**sunna** – The Prophet Muhammad’s normative example, as known from the hadith; one of the four roots (usul) of fiqh.

**tabarru** – Contribution, donation (voluntary contribution).

**tahsiniyyah** – (pl. tahsiniyyaat) ‘Embellishments’, legitimate interests that are beneficial, and enhance the quality and refinement of life, yet whose absence leads neither to severe disruption nor to hardship. This is the third level of public interest or welfare (maslaha); lower than the daruriyat and hajjyyat.

**takaful** – Lit. ‘mutual support’. Islamic insurance; based on the concept of mutual financial support, an Islamically acceptable alternative to conventional commercial insurance.

**taqwa** – Fear of Allah. The concept of taqwa in Islam is generally interpreted to mean God’s consciousness, which includes piety, love for Allah, obedience to God and self-restraint.

**tawarruq** – A practice in which a person buys something on credit and at once sells it for cash to a third party in a separate transaction.

**tawhid** – In Arabic it means attributing Oneness to Allah and describing Him as being One and Unique, with no partner or peer in His Essence and Attributes. Strictly singular; reference to One God.

**tzedakah** – Righteousness, fairness or justice.

**umma** – Muslim community.

**‘umum al-balwa** – A form of public affliction or common plight that is consistently rampant and extremely difficult to avoid in a given place, whose prohibition will bring hardship to the people.

**‘urf** – Custom. Common usage and established practice. Urf is one of the secondary sources of the Islamic law as long as it does not contradict the primary sources, that is, the Qur’an and the sunna.

**usul al-fiqh** – Principles of legal reasoning in Islamic jurisprudence.

**wa‘ad** – Promise.

**wakala** – Agency; a standard Islamic practice wherein X (the wakil) acts as the agent of Y. In this capacity X may execute the affairs of Y. A widely applicable phenomenon in Islamic practice, wakala is often used in financial transactions. Whenever a party cannot personally supervise a given affair, it deputizes another party to execute it on its behalf.

**waqf** – (pl. awqaf) Lit. ‘cessation’. A standard Islamic transaction where one ‘freezes’ one’s property such that it is considered to have been arrested in perpetuity and can neither be sold, inherited, nor donated. The term waqf frequently refers to the property itself. The use of a waqf
(for example, a park) is often reserved for the relief of the poor, for the public at large or for other charitable ends.

**wujuh** – (sing. *wajh*) Reputation. This is a metaphor for someone’s reputation or honour.

**zakat** – (var. *zakah* or *zaka*) The third pillar of Islam; obligatory almsgiving that every well-off Muslim is required to relinquish to the Islamic authority for distribution to the poor and needy. In the absence of an Islamic authority, well-off Muslims must themselves distribute their alms among the poor and needy, as prescribed by *shari’ah*. The payment of *zakat* is prescribed for all persons having wealth above an exemption limit (*nisab*), as described in the *sunna*.