

Lands on which Agriculture Cess ('*Ushr*) and Revenue is Levied ♦

The Islamic Shariah has prescribed the right of poor and destitute in the proceeds of agriculture in the way their rights have been pronounced in *Zakāt*. This head of obligatory charity is technically called as '*Ushr*'. The theologians have declared after their deliberations in the Sixth Seminar the following kinds of land as liable under this category while considering injunctions of the Qur'an and *Sunnah* and the practice of the classical age:

- 15.1 Those lands whose owners voluntarily embraced Islam before the conquest of those territories by Muslims.
- 15.2 The lands in a conquered territory, which have been distributed among Muslims by the state.
- 15.3 Lands granted to Muslims by a Muslim government as *Jāgīr* (ownership of land).
- 15.4 All the lands in the Arabian Peninsula, which have already been demarcated as such by the early jurists.
- 15.5 House-site lands converted into agricultural lands while adjoining lands are also '*Ushri*'.
- 15.6 All such fallow lands in a Muslim country, which have been made cultivable by a Muslim, while adjoining lands are already '*Ushri*' lands.
- 15.7 The following types of lands fall in the category of *Khīrāji* (revenue) lands:
 - A. Land in a conquered territory, which have been left in the possession of local non-Muslims.
 - B. Lands of a town, the non-Muslim populace whereof have made truce with the Muslim government and have been allowed to retain possession thereof.
 - C. Lands of Muslims, which go over into the ownership of non-Muslims and later on given back in the possession of Muslim subjects.
 - D. The lands granted by a Muslim government as *Jāgīr* to non-Muslims.

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- 15.8 As a broad principle, Shariah has placed all lands possessed by Muslims in the category of *'Ushri* lands and those in the possession of non-Muslims as *Khirāji*. However, because the *'Ushr* is a type of *'Ibādat* (act of worship) and is, in its essence, a kind of *Zakāt*, as far as Muslims are concerned all their agricultural lands are, basically, to be treated as *'Ushri* lands as abrogating *'Ushr* would be tantamount to abrogation of an act of *'Ibādat*. Hence, unless there is a clear authority of the Qur'ān or *Sunnah* to take any land out of the category of *'Ushri* lands the prudent course would be to classify all lands in Muslims' possession as *'Ushri* lands.
- 15.9 These unanimous opinions on *'Ushr* and the existing administrative set-up in respect of the status of lands in India according to Shariah, prompted to at the following conclusions.
- A. It is incorrect to hold that all lands in the possession of Muslims in India are neither liable for *'Ushr* nor for *Khirāji*.
 - B. Lands in India falling in the following categories (C-F) are as per consensus, *'Ushri* lands.
 - C. Lands granted to Muslims by a Muslim government, which continue to be in the possession of Muslims.
 - D. Lands in those regions the people whereof voluntarily embraced Islam even before the establishment of Muslims' rule there.
 - E. Lands in the possession of Muslims since a considerably long time and there being no historical evidence of those having ever been *Khirāji* lands.
 - F. Those cultivated or fallow lands, which are given to Muslims by the Government of India (or for that matter by any state government). However, in view of some, such lands will be treated as *Khirāji* lands.
- 15.10 There is a difference of opinion in respect of lands obtained by Muslims either from a non-Muslim Government or from a non-Muslim individual. Some of the participants of the Seminar hold that all lands in the hands of Muslims in India, irrespective of their origin, are *'Ushri* lands while others hold that the same must be treated as *Khirāji* lands.
- 15.11 However, it is commonly agreed that as a matter of abundant caution all lands should be treated as subjected to *'Ushr*.