

**Resolution of OIC Fiqh Academy  
(related to Islamic Economic and Finance)**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**Resolution No. 170 (8/18) on:  
Time Sharing Contracts**

The Board of the International Fiqh Academy (of the Organization of the Islamic Conference), in its 18<sup>th</sup> Session, held in Putrajaya (Malaysia), on 24-29 Jumada Al-Akhirah 1428H corresponding to July 9-14, 2007.

Having reviewed the research papers submitted to the Academy on “**Time Sharing Contracts**”, and listened to the discussions on it,

**Resolves the following:**

**Firstly: Definition of Timesharing**

Timesharing refers to Joint ownership or lease of a certain property by several people who take turns occupying the premises for fixed periods.

**Secondly: Types of Timesharing**

Timesharing includes the following two types:

- (1) Full ownership (of the asset and the usufruct) by purchasing, through a sale contract, a common share of the property so as to utilize it in succession with the other owners during specific periods.
- (2) Incomplete ownership (of usufruct only) by hiring, through a lease contract, a common share of the usufruct of the property so as to utilize it, in succession with the other owners, during a specific period.

### **Thirdly: Shari'ah Ruling on the Principle of Timesharing**

- (a) It is permissible in Shari'ah to purchase or rent a common share in a specific property and to agree with the other owners, directly or through a managing agent, to use the purchased or rented property in successive terms to be collectively agreed upon. The purchased or rented share can also be disposed of through sale, donation, bequeathal, mortgaging or any other Shari'ah -accepted form for disposal of owned property.
- (b) Application of the principle of timesharing should satisfy the conditions stipulated by Islamic Shari'ah for sale and lease contracts.
- (c) In case of leasing the lessor should bear the costs of the basic maintenance without which the property cannot be utilized, whereas costs of operating and periodic maintenance may be assigned to the lessee in the contract. If the lessor performed operating and periodic maintenance he should charge the lessee only the costs that are normally incurred for similar work, or the amount they mutually agreed upon.  
  
In case of sale, maintenance costs have to be borne by the owners of the property subject to their respective shares in the property.
- (d) It is permissible for the owners to exchange their shares among themselves, whether directly or through a specialized company.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**Resolution No. 171 (9/18) on:  
The Principle of Easement Rights and Its Contemporary  
Applications in Common Property**

The Board of the International Fiqh Academy (of the Organization of the Islamic Conference), in its 18<sup>th</sup> Session, held in Putrajaya (Malaysia), on 24 – 29 Jumada Al-Akhirah 1428H corresponding to July 9 – 14, 2007,

Having reviewed the research papers submitted to the Academy on “**The Principle of Easement Rights and its Contemporary Application in Common Property**”, and listened to the discussions on it,

**Resolves the following:**

**Firstly: Definition of Easement Rights**

Easement rights include any right of common benefit that a property proves to be entitled to in another property.

**Secondly: Types of Easement Rights**

Easement rights are diverse and continuously changing, however, in old times the *fuqahā'* had tackled some of them including the following:

- (1) Drinking Right: It refers to the right of having a turn to use water for irrigation or animal drinking, or to channel water from one property to the other.
- (2) Draining Right: This refers to the right of draining waste or excess water from one property to the other, or across it to a public ditch.
- (3) Passage Right: It refers to the right to access one property by passing through another neighboring property.
- (4) Right of Topping: It refers to the right of the different parts of a multistory building, which belong to different owners, to rise above and rest on the top of each other.

**Thirdly: Existence of Easement Rights depends on the following factors:**

- (1) Permission of the owner in case of private property, against compensation or free of charge.

- (2) Necessity.
- (3) Reclamation of Wasteful Land.
- (4) Neighborhood and Joint Property.
- (5) Any other Sharī'ah-acceptable factors that could emerge in our present times, such as extending electricity wires or water and drainage pipelines.

#### **Fourthly: Rulings**

- (1) The general Sharī'ah rule applicable to easement rights is that: in principle, any act which leads to benefit is permissible, while any act that leads to harm is prohibited.
- (2) Easement right is guaranteed for access to drinking water or channeling water for real estate and irrigation purposes. This includes water extensions for factories and laboratories, as well as drainage systems, provided that using such rights does not turn to be harmful to others.  
  
As regards privately owned and stored water, easement right is applicable only in case of necessity; and subject to fair compensation.
- (3) Right of Topping is also guaranteed with or without compensation as per the governing rules and regulations.

#### **Fifthly: Contemporary Forms of Easement Rights**

As per contemporary norms and traditions easement rights include extension of service devices such as communications, electricity, water, gas, sanitary and central cooling extensions.

#### **Sixthly: Rulings on Some Modern Forms of Easement Rights**

Private parking lots in buildings, market areas and commercial stores are considered to be part of the property which the customers head for.

**Allah Knows Best**