CONTEMPORARY ISSUES IN ISLAMIC LAW

Abdul Haseeb Ansari
The Meaning and Nature of Ja’alah

In its literal meaning, ja’alah (rewarding) is the term for the consideration offered to a person in return for a performance. In the contract of ja’alah, the party, who undertakes to pay a reward, is called ja’ail or rewarder; whereas, the party, who is required to perform, is called maja’sul lahu or rewardee.

According to the Maliki school of thought, ja’alah is the undertaking to pay a reward in return for a utility or Manfa’ah. However, to Ibn Arafah, who is a Maliki jurist, ju’al or reward is a contract of exchange in which the reward is given in return for a certain performance, provided that the reward does not accrue from the subject-matter of the contract of ja’alah. Moreover, the reward will only be earned upon complete performance, whereas the partial performance gets nothing.

The Maliki definition emphasizes the essence of Ja’alah the utility which may or may not occur, as the contract of ja’alah involves the element of uncertainty or Gharar. Although the definition is consistent with that of Ibn Arafah, he gives great emphasis to separation of reward from the subject-matter. As such, the consideration in Ja’alah shall not be given out of the subject-matter of Ja’alah, in the sense that it must be a separate