What's wrong with Islamic finance?

Christian Concern
Christian Legal Centre

Christian Concern campaigns in law, media, and politics for a Christian vision of society which protects life, promotes family, and preserves liberty.

We equip the Church to speak of Jesus Christ as the hope for our nation and aim to see our culture transformed at every level by the power of the gospel.

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Introduction

In 2014, Britain made history by becoming the first non-Muslim country to issue an Islamic bond.[1] This bond was issued as part of the government's commitment for the UK "to become the western hub of Islamic finance." The British government has been encouraging the growth of Islamic finance for over ten years,[2] and has succeeded in this aim. There are now over twenty banks offering Islamic financial services in the UK – double the number in the US. The global market for Islamic financial services was estimated to be $2tn in 2014, and expected to grow to $3tn by 2018.[3] TheCityUK estimated that there are over 100,000 Islamic finance retail customers in the UK. The UK is by far the largest provider of Islamic finance courses at both the undergraduate and postgraduate level, with offerings at around seventy educational institutions.

With so many people seeing this as an attractive growth market, are there any reasons for caution? We think there are many and this briefing seeks to expose some of the pitfalls and problems with Islamic finance.

1 "UK Excellence in Islamic finance," (London: UK Trade and Investment, 2014). https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367154/UKTI_UK_Excellence_in_Islamic_Finance_Reprint_2014_Spread.pdf

2 "The UK: Leading Western Centre of Islamic finance," (London: TheCityUK, 2105). https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367154/UKTI_UK_Excellence_in_Islamic_Finance_Reprint_2014_Spread.pdf

3 Ibid.

What is Islamic finance?

Islamic finance, otherwise known as sharia-compliant finance, is based on the idea that all forms of interest are prohibited (or *haram*) in Islamic law. In this system, money is viewed as a tool for measuring value rather than an asset with intrinsic value, and therefore charging interest is regarded as exploitative or unjust because it is charging for the use of money. Instead of interest some level of risk sharing is used between the borrower and the lender so that an amount similar to interest, but described as profit, is paid to the lender. Various innovative types of transaction are used in order to avoid the use of interest. Islamic finance will also prohibit investment in businesses that are *haram* under sharia law such as pork or alcohol sale or production, pornography, or gambling. This will also include conventional financial businesses because of their use of interest. Compliance with sharia law is normally monitored by a sharia advisory board (or sharia supervisory board), made up of various Islamic scholars.

Problems With Islamic Finance

1. The ban on interest is a modern radical interpretation of the Qur'an

Muslims throughout history have borrowed and lent money with interest.[4] The idea that interest is banned in the Qur'an is a modern fundamentalist interpretation. As leading scholar Timur Kuran says, "The alleged antiquity of the doctrine is a myth... even the concept of Islamic economics is a product of the twentieth century."[5] Mahmoud El-Gamal, a Muslim scholar, writes that "Islamic finance was conceived in the 1970s."[6] Patrick Sookhdeo explains: "The drive for the establishment of an interest-free Islamic economic system was started by Abul A'la Mawdudi (1903-1979), founder of the militant Pakistani Islamist Jama'at-i Islami movement."[7]

The debate on the banning of interest in the Qur'an hinges on two passages. The first is Surah 3:130

> *"O ye who believe! Devour not usury, doubling and quadrupling (the sum lent). Observe your duty to Allah, that ye may be successful."*[8]

4 Patrick Sookhdeo, Understanding Shari'a Finance: The Muslim Challenge to Western Economics (Isaac Publishing, 2008), 9-12.

5 Timur Kuran, Islam & Mammon (Princeton University Press, 2006), 83.

6 Mahmoud El-Gamal, Islamic finance: Law, Economics, and Practice (Cambridge University Press, 2009), 137.

7 Sookhdeo, Understanding Shari'a Finance: The Muslim Challenge to Western Economics, 13.

8 Pickthall translation.

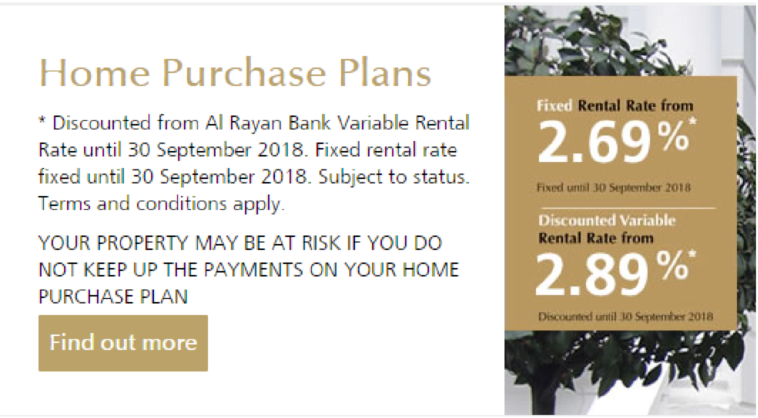
The Arabic word translated ‘usury’ here is *Riba*. It is clear in this verse that extortionate usury is meant since the verse talks about ‘doubling and quadrupling’. This is why Pickthall translated with ‘usury’. The Yousef Ali and Sahih International translations also put ‘usury’. As Raquib Zaman says, “this is the only definition of *Riba* available from the Qur'an.”[9] The second passage is Surah 2:275-79

> *“Those who devour usury will not stand except as stand one whom the Evil one by his touch Hath driven to madness. That is because they say: ‘Trade is like usury,’ but Allah hath permitted trade and forbidden usury. Those who after receiving direction from their Lord, desist, shall be pardoned for the past; their case is for Allah (to judge); but those who repeat (The offence) are companions of the Fire: They will abide therein (for ever). Allah will deprive usury of all blessing, but will give increase for deeds of charity: For He loveth not creatures ungrateful and wicked. ... O ye who believe! Fear Allah, and give up what remains of your demand for usury, if ye are indeed believers. If ye do it not, Take notice of war from Allah and His Messenger. But if ye turn back, ye shall have your capital sums: Deal not unjustly, and ye shall not be dealt with unjustly.”*[10]

This is where some translations have put ‘interest’ in for *Riba* instead of ‘usury’ as translated by Pickthall and Yousef Ali.[11] Raquib Zaman shows how all the classic commentators on

9 M. Raquibuz Zaman, "Usury (Riba) and the Place of Bank Interest in Islamic Banking and Finance," International Journal of Banking and Finance 6, no. 1 (2008): 2.
10 Pickthall translation.
11 Sahih International translates with ‘interest’.

the Qur'an understood *Riba* as usury.[12] He also shows that there is no support in the Hadith for the meaning ‘interest’.[13] Modern Islamists have not drawn on traditional practice or interpretation in order to interpret *Riba* as ‘interest’. They have interpreted *Riba* in its strictest possible sense with no



Al Rayan Bank advertises home purchase plans with rental rates looking very similar to interest rates [14]

actual basis for this interpretation. Now western financial institutions are promoting this interpretation as if it is the only interpretation, and are therefore agreeing with the modern radical view that sharia law bans all forms of interest. Not only financial institutions, but the British government itself states unequivocally “The taking or receiving of interest (Riba) is strictly prohibited as, under Sharia principles, money is not

12 Zaman, "Usury (Riba) and the Place of Bank Interest in Islamic Banking and Finance," 2-3.

13 Ibid., 3-6.

14 See similar examples here: http://www.alrayanintermediaries.co.uk/home-purchase-plan/

valuable in itself and no charge should be made for its use."[15] When did the British government become an authority on the meaning of *Riba*? Why have they accepted the modern, strictest possible interpretation? In promoting this understanding of *Riba* they are promoting a radical fundamentalist interpretation of the Qur'an.

2. The removal of interest in Islamic finance is deceptive

Islamic finance products are marketed as being interest-free. In fact, the net result is a product with charges that look a lot like interest. This is not a coincidence. It is a deliberate deception which raises questions about the system. Timur Kuran explains: "*Murabaha*, the most popular lending mechanism of the Islamic banks, is simply an ancient ruse. It consists of several interest-free transactions that together amount to interest."[16]

Many Muslims have spoken out about this. Kuran cites Khurshid Ahmad from Pakistan, as "a prolific writer who has held influential positions on key government commissions charged with steering the Islamisation of Pakistan's economy." Ahmad has "publicly criticised his country's Islamic banks, saying that '99 percent' of their business is still based on interest."[17]

15 "UK Excellence in Islamic finance," 7.
16 Kuran, Islam & Mammon, 15.
17 Ibid., 16-17.

Muhammad Saleem is another Muslim critic of this system. In his book "*Islamic Banking - a $300 Billion Deception*" he writes:

> *"In their murabaha transactions (the dominant mode of financing), the difference between the purchase price and the selling price recognises the time-value of money in the same way that charging interest does. Put more bluntly, Islamic banks charge interest on 95% of their financing transactions, but concealed in Islamic garb. By charging interest in various guises, essentially designed to obfuscate products, Islamic banks engage in deception, duplicity and thus promote dishonesty. The real question is: in the eyes of Allah which is a greater sin, charging interest openly or engaging in dishonest practices."*[18]

El-Gamal is also a Muslim who criticises this deception. He cites a comment in Fortune magazine: "The result looked a lot like interest, and some argue that murabaha is simply a thinly veiled version of it; the mark up of [bank name] charges is very close to the prevailing interest rate. But bank officials argue that God is in the details."[19] He also cites a Reuters report of a sukuk bond issue which is described as "interest free", but with "4 percent annual profit."[20] Elsewhere he argues:

> *"Almost all contemporary writings in Islamic Law and/or Islamic finance proclaim that Islamic Law (Shari'a) forbids interest. This statement is paradoxical in light of the actual practices of Islamic financial providers over the past three decades. In fact, the bulk of Islamic financial practices formally base rates of return or costs of*

18 Muhammad Saleem, Islamic Banking - a $300 Billion Deception (Xlibris, 2005), 68-69.
19 El-Gamal, Islamic finance: Law, Economics, and Practice, 2.
20 Ibid.

capital on a benchmark interest rate such as LIBOR, and would easily be classified by any MBA student as interest-based debt-finance."[21]

Why is the western world promoting a deceptive form of finance? Islamic finance is interest-bearing finance disguised as interest-free finance.

3. Islamic finance is promoted by and associated with Islamic extremists

Sheikh Muhammad Taqi Usmani chairs the Sharia Standards Board of the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) which aims to set up international standards for sharia finance.[22] He is a sharia advisor to several banks and has been chair of the HSBC Amanah Sharia Advisory Board, chair of the Sharia Board of the Dow Jones Islamic Index, and chair of the Sharia Board of Citi Islamic Investment Bank.[23]

Usmani's book "*Islam and Modernism*"[24] has been translated into English, and relevant pages are available online.[25] In this book he responds to a question about whether Jihad needs to be waged in a country like the UK where Islam can freely be preached.

21 "Interest" and the Paradox of Contemporary Islamic Law and Finance," Fordham International Law Journal (2003): 1.

22 http://aaoifi.com/members-2/?lang=en

23 Positions held by Hussain Kureshi, 18 August, 2013, http://islamicfinancialsystems1.blogspot.co.uk/2013/08/mufti-taqi-usmani.html.

24 Taqi Usmani, Islam and Modernism, trans. Dr. Mohammed Swaleh Siddiqui (New Delhi, India: Adam Publishers and Distributors, 2006).

25 http://www.saneworks.us/uploads/application/40.pdf

He responds by quoting the Qur'an and stating "Here killing is to continue until the unbelievers pay Jizyah after they are humbled or overpowered."[26] Jizyah is the subjugation tax imposed on non-Muslims under Islamic rule. He goes

on to explain: "If the purpose of killing was only to acquire permission and freedom of preaching Islam it would have been said 'until they allow for preaching Islam."

He has subsequently been removed from the HSBC and Dow Jones advisory boards, but still sits on several other advisory boards and is regarded as a leading Islamic authority on sharia compliance finance. It stretches credibility to assume that the other sharia advisors sitting under Taki Usmani's chairmanship of various boards were unaware of his fundamentalist views. Patrick Sookhdeo in his book "*Understanding Shari'a Finance*" points out several connections with fundamentalist groups

26 Usmani, Islam and Modernism, 131.

that members of Sharia Advisory Boards in the UK have.[27] The McCormick Foundation Report gives detailed profiles of several Sharia Advisory Board members showing their links with extremist groups and in some cases statements in support of terrorism.[28]

Former Malaysian Prime Minister Mohamed Mahathir told a banking conference in Kuala Lumpur in November 2002 that: "A universal Islamic banking system is a *jihad* worth pursuing, to abolish this slavery [to the West]." [29] The enthusiasm of fundamentalists for sharia finance should be an immediate cause for concern as we think about whether we should be supporting and promoting Islamic finance here in the UK.

4. Islamic finance aims to create a separate, rival financial system

One has to consider the motivation of radical Muslims in creating and involving themselves in the entirely modern concept of Islamic finance. Their aim is deliberately to create a rival financial system. Islamic finance serves to prevent the integration of Muslims into western societies. Muslims are told that they are not allowed to use standard financial products. Financial institutions are told that they must create and market separate products for Muslims than for everyone else. All of this separates Muslims from mainstream economics whilst creating a rival financial system directly influenced by Islamic scholars.

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27 Sookhdeo, Understanding Shari'a Finance: The Muslim Challenge to Western Economics, 81-88.

28 "Shariah, Law and 'Financial Jihad': How Should America Respond?," (McCormick Foundation, 2009). http://www.saneworks.us/uploads/application/49.pdf

29 http://humanevents.com/2005/09/22/financial-jihad/

Timur Kuran puts it this way:

> *"The real purpose of Islamic economics has not been economic improvement but cultivation of a distinct Islamic identity to resist cultural globalization. It has served the cause of global Islamism, known also as 'Islamic fundamentalism,' by fuelling the illusion that Muslim societies have lived, or can live, by distinct economic rules. In fact, now as in the past, the economic life of Muslims has adhered to the very same principles observed elsewhere."*[30]

He further describes the emergence of Islamic economics as: "a weapon of civilizational resistance," noting that: "Unsurprisingly, the theme of clashing civilisations appears in all early contributions to Islamic economics."[31]
Robert Spencer cites examples where Muslims have successfully refused interest payment to IRS, Mastercard and other creditors.[32] This serves to illustrate the extent to which resistance to civilisation is encouraged by Islamic finance. Michael Nazir-Ali questions whether funds provided for sharia compliant financial products can be obtained from conventional finance? Logically the answer is not, which then would "require the establishment of free-standing institutions which engaged only in sharia-compliant activity."[33]
A completely 'interest-free' Islamic economy would ultimately be entirely isolated from the rest of the global economy. A rival financial system would be the result. It would be controlled by Muslims and would be very likely to become

30 http://news.usc.edu/20744/Conversation-With-Timur-Kuran/

31 Kuran, Islam & Mammon, 98.

32 Robert Spencer, Stealth Jihad: How Radical Islam Is Subverting America without Guns or Bombs (Washington: Regnery Publishing, 2008), 185-86.

33 Michael Nazir-Ali, "Islamic Law, Fundamental Freedoms, and Social Cohesion: Retrospect and Prospect," in Shari'a in the West, ed. R.J. Ahdar and N. Aroney (Oxford: Oxford University Press, 2010), 83.

discriminatory against non-Muslims. Western financial institutions and governments have been incredibly naïve in their encouragement of this subversive system of finance.

5. Islamic finance lends credibility to sharia law which is illiberal, undemocratic and discriminatory

Linked to the above creation of a rival financial system is the way in which Islamic finance legitimises sharia law. The promotion of sharia finance as a way to enhance the credibility of sharia law more generally is a key aim of the Islamists involved. As leading scholar Timur Kuran puts it "Successful Islamization in one domain lends credibility to Islamization attempts in other domains. So a significant consequence of the economic activities undertaken in the name of Islam is the support they give to the broader Islamist agenda"[34] Once people are comfortable with sharia finance, they find it harder to criticise sharia law more generally. Our accommodation of sharia into the financial world makes it harder to object to accommodating sharia into family law. Sharia finance has quickly become part of the economy with jobs and government loans dependent on it. Sharia law is in fact inherently discriminatory in relation to both women and non-Muslims. Sharia finance does not directly discriminate in this way, but lends credibility to a system which does. We should be wary of anything which supports the wider influence of sharia law in our culture.

34 Kuran, Islam & Mammon, 62.

6. Zakat is paid in some cases – where does it go?

The payment of *zakat* is one of the five pillars of Islam. It is described as charitable giving of 2.5% of profits. Sheikh Yusuf Al-Qaradawi has issued a *fatwa* stating that *zakat* can be used to finance violent Jihad.[35] An internet questioner asked if he can pay *zakat* to UNICEF. He received the answer "No", followed by a list of possible recipients of *zakat* money based on the Quran.

Point 7 includes: "propagation of Islam, Jihad etc."[36] Indeed, *zakat* directed in this way, is the single largest source of funds for terrorism.[37]

35 http://www.freerepublic.com/focus/news/666056/posts
36 https://uk.answers.yahoo.com/question/index?qid=20100205104923AAh862S
37 Sookhdeo, Understanding Shari'a Finance: The Muslim Challenge to Western Economics, 42.

Brisard in his Terrorism Financing report for the Security Council of the United Nations explains that, using the system of *zakat* "al-Qaeda was able to receive between $300m and $500m" over a decade "from wealthy businessmen and bankers representing twenty percent of Saudi GNP, through a web of charities and companies acting as fronts, with the notable use of Islamic banking institutions. Most of this financial backbone is still at large and able to support fundamentalist organizations. "[38]

A Centre for Security Policy Paper puts it this way:

> *"Financial jihad through zakat, of course, is nothing particularly new and has been carried out for a long time. Zakat committees in Gaza have been a prime transfer mechanism of funds for Hamas, for instance, and the radical jihadist madrassas in Pakistan have been partly funded from zakat for decades. What's new with Islamic finance is the sheer volume of potential zakat collections and a move afoot to centralize both collections and distribution under one central authority that almost certainly will be controlled by committed Islamists. Every bank offering Islamic products appears required to donate 2.5% of revenue generated from them to zakat and with some 400 banks in 75 countries and a trillion dollars in Islamic financing currently the potential zakat sums are staggering."*[39]

Islamic finance then, may increase the availability of funds for terrorism.

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38 Jean-Charles Brisard, "Terrorism Financing: Roots and Trends of Saudi Terrorism Financing," (Report prepared for the President of the Security Council, United Nations, 2002), 3.

39 Alex Alexiev, "Islamic finance or Financing Islamism?," (Center for Security Policy, 2007), 12-13.

7. Islamic finance is vulnerable to money laundering and fraud due to the lack of transparency

The additional complexity of Islamic finance lends itself to abuse in various ways. El-Gamal explains:

> *"The 'degrees of separation' utilised by Islamic bankers to camouflage an interest-bearing loan as commodity or asset trading bear a striking resemblance to the 'layering' techniques used in financial crimes. Since financial criminals have expertise in utilising similar methods, it would be easy for them to abuse the mechanics of Islamic financial Shari'a arbitrage to reach their criminal ends."*[40]

A recent IMF working paper highlights "The complexity of Islamic finance products as a factor increasing exposure to risk" of money laundering.[41] It also states that very little study has been done of the risks of money laundering and terrorist financing from Islamic finance.[42] This risk of money laundering is in addition to the use of *zakat* highlighted above.

40 El-Gamal, Islamic finance: Law, Economics, and Practice, 176.

41 Nadim Kyriakos-Saad et al., "Islamic finance and Anti-Money Laundering and Combating the Financing of Terrorism (Aml/Cft)," in IMF Working Paper (2016), 9.

42 Ibid., 8.

8. Who adjudicates disputes arising from the use of Islamic finance?

Islamic financial products are usually supported by sharia advisors who determine whether the product complies with sharia law. When disputes arise around the use of such products, these advisors will expect to be consulted which may result in the granting of judicial or quasi-judicial powers to these Islamic experts.[43] Islamic advisors may, for example, rule on what funds are acceptable to use for Islamic financial products, which could create difficulties for the provider.

If a legal dispute arises Islamic advisors may require that sharia law is used to resolve the dispute rather than English law, or they may insist that they have final say on how the dispute is resolved and can veto any decision they are unhappy with. This would then undermine the integrity of English law and grant further legal influence to sharia law into our legal system. There are all sorts of potential difficulties that could arise and questions around what role Islamic scholars will play in disputes about Islamic finance.

43 Michael Nazir-Ali, "The Challenges of Islamist Ideology to America's Founding Principles," Backgrounder, no. 2430 (2010). http://report.heritage.org/bg2430

9. Islamic finance disadvantages Muslims through increased complexity and transaction costs

Islamic financial products are more complex than equivalent standard financial products in order to comply with the demands of the fundamentalist view that the Qur'an prohibits interest. This additional complexity incurs additional costs, as El Gamal writes: “Islamic finance as it exists today has been shown to reduce economic efficiency by increasing transaction costs, without providing any substantial economic value to its customers.”[44] These costs are born by the customers, thereby disadvantaging them. Inefficiency of Islamic finance is therefore inevitable. El-Gamal explains:

> *“Where the substance of contemporary financial practice is in accordance with Islamic law, adherence to pre-modern contract forms (with or without modification) leads most often to avoidable efficiency losses, thus violating one of the main legal objectives that defined classical Islamic jurisprudence.”*[45]

Muslims using Islamic finance incur increased costs and are thus disadvantaged relative to those using standard financial products.

44 El-Gamal, Islamic finance: Law, Economics, and Practice, 190.
45 Ibid., xii.

10. Islamic finance is not supported by most Muslims

Before the creation of the modern fundamentalist concept of islamic finance there was no demand for it. Muslims have been happy to use normal financial products for centuries. As El-Gamal says, "In fact, however, Islamic finance has been largely a supply-driven industry, with jurists who participate actively in Shari'a arbitrage helping to expand the industry's customer base through indirect advertisement (at various conferences and publications), as well as religious admonishment that Muslims should avoid conventional finance."[46] Most Muslims see the problems with Islamic finance and do not want to participate in a fundamentalist, deceptive, disadvantageous system. Timur Kuran cites evidence that: "Where Islamic banks operate alongside conventional banks, their share of Muslim deposits has remained under twenty percent; in some predominantly Muslim countries, the figure is as low as one percent."[47] Sookhdeo cites a 2004 survey which found that 75% of the Muslim population in Britain was indifferent to sharia finance and that there was no automatic demand for it. 83% of Muslims questioned the necessity of sharia-compliant Islamic financial products approved by Islamic scholars.[48] In 2013 the Islamic Bank of Britain carried out a survey of attitudes to islamic finance and found that only 36% of Muslims currently use sharia compliant finance, of which nine percent use it exclusively.[49] This seriously undermines the fundamentalist's message that Muslims are strictly prohibited from standard financial products as the vast majority of Muslims still continue to use standard financial products.

46 Ibid., 190.

47 Kuran, Islam & Mammon, 73.

48 Sookhdeo, Understanding Shari'a Finance: The Muslim Challenge to Western Economics, 78-79.

49 http://www.alrayanbank.co.uk/useful-info-tools/about-us/latest-news/jan-dec-2014/majority-of-non-muslim-uk-consumers-believe-that-islamic-finance-is-relevant-to-all-faiths/

Conclusion

Islamic finance is based on a modern radical interpretation of the Qur'an and is deliberately subversive and deceptive. The idea behind islamic finance is to create a rival financial system and to enhance the influence of fundamentalist Islam in the financial world. It is remarkable the extent to which Western financial institutions and governments have not only allowed this system to flourish, but also encouraged and endorsed it as representative of mainstream Islam. Their naivety is extraordinary. The only good news is that, in contrast to the banks and the government, most Muslims have not bought into this system. We should be encouraging these moderate Muslims, not joining with fundamentalists in encouraging them to involve themselves in Islamic finance. It is time for the west to wake up to the true nature of Islamic finance and to expose its deceptive roots.

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The British government has made it a stated aim to make London the western hub of Islamic finance.

In 2014, the UK became the first non-Muslim country to issue an Islamic bond. Many banks and financial institutions are offering Islamic financial products. These institutions have accepted the narrative of Islamic finance, but many Muslims do not agree with or want Islamic finance, and there are real concerns about its origins and aims.

This booklet explains the origins, aims and problems arising from the promotion of Islamic finance in the UK.

Christian Concern provides a series of booklets, helping Christians understand and live out their calling to be salt and light to the world.

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