

AN APPRAISAL OF THE PROHIBITION OF *RIBA* UNDER *ISLAMIC* LAW AND CANON LAWS: COMPARATIVE ANALYSIS

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Abstract

Muslims scholars concur as to the illegality of *Riba* (usury) as contained in the Holy Qur'an, the *Sunnah* i.e. tradition of Prophet Muhammad (S.A.W.) and the Muslims consensus since the early stage of Islam until today. The Arabic word *riba* linguistically means increase and growth. It means increase in anything, or addition to anything. In other words, it is increase in capital at the expense of the wealth of others through wrongful and false means. Hence, any addition however slight, over the principal sum lent is *riba*. This evil activity i.e. *riba* creates selfishness, money-worship, cruelty, hard-heartedness and kills the spirit of fellow feeling and co-operation. It is, therefore, ruinous for society spiritually, morally and economically. Islam has prohibited *riba* in order to protect the property of the Muslims and not to be eaten unjustly, to encourage and direct Muslims to invest their money through *Halal* i.e. lawful channels and block anything that will generate hatred, evil and envy among the Muslims. If *riba* is permissible, the needy will be required to pay back more on loans; and from the moral aspect, it will weaken his feelings of good will and friendliness toward the lender. Hence, if *riba* is prohibited in a society, people will lend to each other with goodwill, expecting back no more than what they have loaned, the spirit of mercy and charity among Muslims will be firm and strong. The paper concluded by recommended that financial institutions should reflect the provisions of the Sharia in their transactions.

INTRODUCTION

Prohibition of *riba* is, no doubt, the most recognizable feature of Islamic economics. Yet, surprisingly enough, its meanings are not crystal clear. The sayings of Caliph Umar, may Allah be pleased with him on different interpretations of *riba* testify the existence of this proverbial dilemma.¹ There are too many and too detailed interpretations of *riba* to be covered in a single paper. However, for pedagogical reasons, they can be lumped under three main headings; liberal, mainstream and conservative views. Briefly, the liberal view entails the narrowest definition of *riba*. It equates *riba* with usury, which is defined as an exorbitant rate of interest

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¹ Caliph Umar said that there were three issues, he wished, that the Prophet could have explained them in more detail. Two of them were about Inheritance Law of Islam and the third one was about *riba*. (reported in Al-Tafseer Ibne Kaseer, Ibne Majha and Ibne Mardoodia) At another occasion, he said that since some kinds of *riba* were not quite clear to them (Muslims at that time), therefore they had left almost 90 percent of otherwise permissible transactions in fear of involving in *riba* even unknowingly. (reported in Al-Kanz)

compounded at short intervals. Interest rate paid and charged by financial intermediaries, henceforth called bank interest, is considered to be outside the ambit of *riba*. The mainstream view is that any contractual increase, whether small or large is *riba*. Hence, *riba* encompasses bank interest as well. The conservative view is that in addition to usury or bank interest or both, *riba* also includes all forms of economic exploitation of the poor by the rich like profiteering and paying of subsistence wages to labourers.

This paper seeks to examine different interpretations of *riba* and then to probe afresh into the original commandments in *Islam* on the topic to deduce an absolute and cohesive definition of *riba*, and finally, a critical analysis on its prohibition by other religions will also be examined.

The paper is divided into five parts. Part one of the paper introduced the topic. Part two considers the concept of *riba* under the Holy Quran and the Sunnah of the Holy Prophet Muhammed (SAW). Part three contains analysis of existing interpretations on *riba* while Part four focuses on the critique of *riba* by various religions and the Part five is the concluding of the paper.

The Concept of *Riba*

Riba has been conceptualized by classical and contemporary jurists. These conceptualizations are based on the provisions of the Holy Qur'an, Sunnah of the Holy Prophet Muhammad (S. A. W).

Riba in Quran: The word '*riba*' means to increase, to grow, to multiply and to climb. However, in economic context, it is generally considered as a contractual increase on loaned money or commodity.² This word as such or its variants have been used in numerous verses of Quran. There is, however, a complete consensus among Muslim jurists that only in the following eight verses of Quran, this word has been used in its economic sense: -

“And from the *riba*-based giving (investment), you think as if your wealth is increasing at the cost of others (borrowers), but in the sight of Allah (from overall perspective), it is not increasing. On the other hand, when you give something in charity to please Allah, then your wealth is increasing (in the sight of Allah).”³

“And for their (Jews) devouring of *riba* even though it was forbidden for them, and for their (Jews') wrongful appropriation of other peoples' property, we (God) have prepared for those among them who reject faith a grievous punishment.”⁴

“O Believers! Do not charge *riba* on top of *riba* and fear God so that you may prosper.”⁵

“People who indulge in *riba* shall be raised like those who have been driven to madness by the touch of Devil. This is because they say that a *riba*-based transaction is just like trading, while God has permitted trade and prohibited *riba*. Hence those who have received the admonition from their Lord and have desisted accordingly, may have what has already passed, their case being entrusted to God; but those who revert to *riba*-based dealings, shall be the inhabitants of

² Al-Zuhaili, W., *Financial Transactions in Islamic Jurisprudence*, (Damascus, Dar al-Fikr, 2003), p. 156.

³ Qur'an 30 v. 39

⁴ Qur'an 4:160-1

⁵ Qur'an 3:130

the hell-fire and abide therein forever. (You must know that) God deprives *riba* from all blessings and blesses charity; He loves not any ungrateful sinners.”⁶

“O you (who claim to be) believers! Fear God and give up *riba* that remains outstanding if you are true believers. Watch out! If you do not obey this commandment, then God declares war against you from Himself and from His Prophet. But, if you give up your outstanding *riba*, then you can claim your principals. Neither should you inflict harm (due to *riba*) to others, nor others should do harm to you.”⁷

Riba in Hadith: On the topic of *riba*, there are many reported on ahadith *riba*. Here is the selection of some of the commonly quoted ahadith on *riba*:

Ahadith that reinforce the concept of Quranic *riba*

The Prophet, peace be upon him said: "There is no *riba* except in loaning.”⁸

Jurists have expressed that this Hadith is referring to *riba al-nasi’ah* (delayed usury).

The Prophet, peace be upon him said: "Verily *riba* is in loaning.”⁹

The Prophet said: "There is no *riba* in hand to hand (spot) transactions.”¹⁰

This is a reference to exchange of usurious commodity.

At the last Pilgrimage, the Prophet said: "All of the *riba of Jahilliya* is annulled. In this respect, the first *riba* I annul is the *riba* that the borrowers owe to my uncle Abbas; it is cancelled completely.”¹¹

After the prohibition of *riba*, all Muslims were clear not to indulge in it anymore. However, a dispute arose between two Muslim tribes about the settlement of outstanding interest on previously loaned capital. The dispute was put up to the Prophet who forbade demand and payment of that interest too.¹²

Ahadith that refer to *riba* in barter trade

Abu Saeed Khudri said that once companion Bilal brought to the Prophet some good quality dates. The Prophet inquired as to where he got those dates. Bilal replied that he had some low-quality dates which he had exchanged in 2:1 ratio for high quality ones in order to present the latter to the Prophet. Upon hearing this, the Prophet said: "Oh no! Oh no! That is *riba*. That is exactly *riba*. Do not do it again. If you want to do such an exchange, first sell your dates (for money or another commodity) and then buy other ones.”¹³

The Prophet said: "While exchanging gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates and salt for salt, exchange like for like (in equal measure) and

⁶ Qur’an 2:275-6

⁷ Qur’an 2:278-79

⁸ Nasaee, 4504

⁹ Muslim 2991

¹⁰ *Ibid*

¹¹ *Ibid*

¹² See Shafi 1996 p.28-9

¹³ Bakhari 2145

exchange at spot. Whosoever paid more than what he received or demanded more than what he gave, verily he dealt in *riba*. Both the payee and the receiver are equal in violating the Law of God."¹⁴

The Prophet said: "While exchanging gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates and salt for salt, exchange like for like (in equal measure). Whosoever gave more or took more, verily he made a *riba* deal. However, you are permitted to exchange gold for silver, wheat for dates, or barley for dates as you wish (in equal or unequal measures) provided that, such an exchange is at spot."¹⁵

The Prophet said: "Do not exchange gold for gold except it is like for like (in equal measure) and do not increase one over the other; do not exchange silver for silver except when it is like for like (in equal measure) and do not increase one over the other. Furthermore, do not exchange a commodity in hand with the one not in hand."¹⁶

Two traders asked the Prophet about their mutual barter trade. He said: "If it is at spot, it is all right. But, if it involves loaning then it is not permissible."¹⁷

Ahadith that refer to implicit *riba*

The Prophet said: "When one of you grants a loan and the borrower offers him a dish, he should not accept it; and if the borrower offers him a ride on an animal, he should not ride, unless the two of them have been previously accustomed to exchanging such favours mutually."¹⁸

The Prophet said: "If one of you extends loan to another fellow, the former should not accept any gift from the latter."¹⁹

The Prophet said: "A loan from which some benefits accrue to the creditor is one of the many different forms of *riba*."²⁰

Ahadith that talk about the general concept of *riba*.

The Prophet, peace be upon him has cursed all those who take *riba*, who give *riba*, who write a *riba* contract and the two witnesses to a *riba* contract. He further said: "They are all alike (in guilt)."²¹

The Prophet, peace be upon him said: "On the night of my ascendance to the Heavens, I came upon people whose tummies were as big as houses that were filled with snakes visible from outside. He asked Angel Gabriel as to who they were. Gabriel replied that they were the people who received *riba* (in their lives)."²²

¹⁴ *Ibid* p. 2154

¹⁵ Tirmizee 1161

¹⁶ Muslim and Bakhari

¹⁷ See Shafi 1996 p.90

¹⁸ Ibne Majah 2423

¹⁹ *Ibid* p.2440

²⁰ al-Bayhaqi

²¹ Muslim 2995

²² Ibne Majah

ANALYSIS OF EXISTING INTERPRETATIONS OF *RIBA*

Traditionally, *riba* is divided into two parts, *riba* in loans (*riba al-nasia*) and *riba* in excess (*riba al-fadl*). The word '*nasia*' means to postpone, defer or wait and the word '*fadl*' means to increase, add or exceed. *Riba* in loans is defined as a contractual increase, be it normal or excessive, on loaned capital that could be either in money form or in kind. All the Quranic verses on *riba* is only on this kind of interest. Other terms that are commonly used for *riba* in loans are *riba* of old times (*riba al-jahiliyya*), *riba* of credit, explicit *riba* and a price for time. On the contrary, *riba* in excess that is proven by ahadith only has following two forms: -

Riba in Barter Exchange: It arises when the same variety or two different varieties of the same commodity are exchanged in unequal measures at spot or with a time lag.

Implicit *Riba*: It arises when a person lends money without any explicit contractual increase over the principal but over time he draws some casual or regular favors from his borrower.

Such favors may be of negligible money value like a ride on an animal of the borrower, a meal or a gift from the borrower.

Other terms used for *riba* of excess are *riba* in hadith, *riba* in trade and implicit *riba*. Almost all jurists agree on this categorization of *riba*.

A majority of jurists including those who support liberal view go for another categorization. They call *riba* in loans, real *riba*; and *riba* in excess as trivial *riba*. However, different authors have offered different reasons to justify the categorization of real and trivial *riba*. *Riba* in loans is prohibited in Quran, whereas *riba* in trade is prohibited in hadith only.²³ Therefore, the former should be treated as real and the latter as trivial.

a. Liberal View: Liberal view often starts with pointing out open contradiction in faith and practice of Muslim. According to this view, presently a majority of Muslims considers bank interest as *riba*. It is so because bank interest is inevitable for the functioning of modern financial system. Therefore, to relieve Muslims from the guilt of conscience, proponents of liberal view recommend a lenient treatment for bank interest.²⁴

All the Muslims of the world condemn interests (*riba*) and yet almost the entire Muslim world indulges in the practice which they consider to be *riba*. One of the reasons appears to be that the condemnation of *riba* hits thousands of monetary, financial, fiscal and economic activities yet the alternative methods that are suggested or prescribed for carrying on these activities do not adequately meet the requirements of the existing conditions.

In fact, the prefix 'al' comes before the word '*riba*' in all relevant verses of Quran except in the first one quoted above, Qur'an 30:39. Therefore, liberal view refers to its terminological meanings only. Then, according to their view, at the time of revelation of Quran, money was borrowed mainly for bare consumption needs and, on such loans, a high rate of interest used to be charged keeping in view the degree of severity of borrower-needs. In case of non-payment on a due date, interest used to be doubled and tripled to penalize defaulters. In Islamic literatures such an interest is known as *riba* of old times, whereas in current terminology, it is

²³ *Ibid*

²⁴ *Ibid*

called usury. Liberal view gets further support from one of the verses of Quran in which *riba* on top of *riba* or compound *riba* has been prohibited categorically²⁵. They, therefore, conclude that *riba* refers to usury only.

According to liberal view, bank interest is different from *riba* of old times because it is charged mostly on productive loans and its rate is determined entirely by supply and demand forces at the market place. Its rate remains almost same for all borrowers irrespective of the purpose for which they borrow and irrespective of the degree of severity of their immediate needs. They further argue that interest-based financial intermediation has been instrumental for economic growth since its inception. Therefore, Muslim scholars should legitimize bank interest even if it comes under the purview of real *riba* in strict legal sense.

Mainstream View: Mainstream view is that *riba* refers to both usury and bank interest. *Riba* in barter trade of six commodities, gold, silver, wheat, barley, dates and salt is also considered prohibited. Furthermore, majority of jurists supports extension of *riba* in barter trade to other commodities, though they differ among themselves as to what those commodities should be.²⁶

On the basis of the characteristic of gold and silver as commodity, it has been generally concluded that all commodities used as money enter the sweep of *riba al-fadl*. With respect to the other four items, there is a difference of opinion. According to one opinion it has been argued that since all four commodities are sold by weight or measure, therefore, all items, which are saleable (by weight or measure), would be subject to *riba al-fadl*. A second opinion is that since all four items are edible, *riba al-fadl* should be involved in all commodities, which have the characteristic of edibility. A third opinion is that since these items are necessary for subsistence and are storable, therefore all items that sustain life and are storable are subject to *riba al-fadl*. A fourth but perhaps the most plausible explanation seems to be that all the six commodities were used as money in and around Madina (city of the Prophet), particularly among the Bedouins, and therefore, *riba al-fadl* would be involved in the exchange of any goods against cash or any commodity which is used as money."²⁷

Conservative View: Conservative view propels mainly from the third kind of ahadith that talk about implicit *riba*. The argument is that since God has forbidden a lender (mostly a rich person before the dawn of modern banking) from taking a ride or accepting a meal or a gift, of whatever meager value it may be, from a borrower (mostly a poor person at that time), therefore rich industrialists and landlords should also be barred from appropriating big margins of profit and residual income (surplus value) in an Islamic framework.²⁸ Haque says that *riba* in loans is the domain of money lenders and hoarders of commodities who charge against time whereas, *riba* of excess is the domain of landlords, merchants, speculators and middlemen who give less in exchange of what they get. Ibn al-Arabi, a well-known scholar of the middle ages, defines *riba* as "all excess over what is justified by the counter value"²⁹ rephrases it as "*riba* represents, in the Islamic value system, a prominent source of unjustified advantage." Ali has also opined that "profiteering of all kinds, but excluding economic credit, the creature of modern banking and finance."³⁰

²⁵ Quran: 3:30

²⁶ Ayub, The Report of the Council of Islamic Ideology Pakistan (1983).

²⁷ The Federal Sharia Court Judgement on *Riba* 1991 and 1999.

²⁸ Sulaiman, A. commentary on the Qur'an 2 verse 275 p.235

²⁹ *Ibid* p.340

³⁰ *Ibid* p.360

According to proponents of conservative view, only their definition of *riba* can promise a just and equitable social and economic system, which is the ultimate goal of Islamic economics.

Critiques of Usury (*Riba*) by Various Religions.

Riba (usury) is primarily an economic issue in all religions. In fact, all religions and mythologies have prohibited the practice of *riba* in one way or the other since the beginning of human civilization. Therefore, the revealed religions of Islam and Christianity as well as Hinduism and Buddhism have strongly criticized *riba* in its very nature.

Usury (*riba*) in Islam

As discussed earlier, even since the Prophet Mohammed's life, the criticism of usury in Islam was well established and reinforced by several of his teachings in the Holy Quran dating back to around 600 AD. The Quranic evidence and condemnation on the concept and practice of *riba* is clear and completely final. However, particularly the Muslims today who are satisfied in their ignorance and unconcern, are probably still and continue to live their lives in and around the system, which is abhorred by God. To this end, Allah the Almighty has this to say:

*“O you who believe, beware of God, and refrain from all outstanding gains from usury, if you are truly believers. If you do not, then know that you are at war with God and His messenger...”*³¹

The original word used for usury in this text was *riba* which literally means “excess or addition” which is accepted to refer directly to interest on loans.

Usury (*riba*) in Christianity

The critique of usury was most respectfully taken up as a cause by the institutions of the Christian Church where for well over a thousand years the debate prevailed with great intensity. The Old Testament decrees were resurrected and a New Testament reference to usury makes it even controversial. In building on the authority of these texts, the Roman Catholic Church had by the fourth century AD prohibited the taking of interest by the clergy; a rule which they extended in the fifth century to the laity.³²

The following are taken from the King James Version of bible:

*‘You shall not lend him your money for usury, nor lend him your food at a profit’*³³

*‘Woe is me, my mother that you have borne me, A man of strife and a man of contention to the whole earth! I have neither lent for interest, Nor have men lent to me for interest. Every one of them curses me.’*³⁴

By the eighth century under Charlemagne, they declared usury to be a general criminal offence. When Pope Clement V made the outlaw on usury absolute and declared all secular

³¹ ***Qur’an2: verse278-279)***

³² Wayne, A.M. Visser and Alastair McIntosh, (1998) p. 359.

³³ ***Leviticus 25:36-37***

³⁴ ***Jeremiah, 15:10***

legislation in its favor, null and void, at this time. These anti-usury movements gain its momentum during the early middle ages and perhaps reached its peak in 1311AD.³⁵

Usury (*riba*) in Hinduism and Buddhism

According to Wayne A.M. Visser and Alastair McIntosh (1998), they mentioned that among the oldest known references to usury or interest can be found in ancient Indian religious manuscripts.³⁶

However, usury had become a more relative term by the second century AD as it is implied in the *Laws of Manu* of that time: “Stipulated interest beyond the legal rate being against (the law), cannot be recovered; which they call that as usurious way (of lending).”³⁷ This concept of usury seems to have continued in Indian society until today. Even though, it is condemned by principle, usury only refers to interest charged above the existing socially accepted range and it is no longer prohibited or controlled in any significant way.

Conclusion

Prohibition of interest is the most distinctive feature and probably the most intensively discussed issue of Islamic economics. There are many different definitions of *riba* which are arranged under three main headings: liberal, mainstream and conservative views. Liberal view confines *riba* to usury only and, thus, does not recommend any change in the modern financial system in which bank interest plays the pivotal role. According to mainstream view, *riba* also includes bank interest. Therefore, it implies a major restructuring of conventional financial system, though practically interest has been replaced mainly with mark-up, which is quite similar to interest on economic grounds. Mainstream jurists also emphasize deepening of capital markets for the success of emerging interest-free system. Conservative view further extends the definition of *riba* to major forms of social injustice like contracting of subsistence wages and profiteering. This view suggests a radical change in whole economic system.

The paper has also discussed *riba* under Islam, Christianity, Hinduism and Buddhism.

Liberal and conservative views are, on one hand, subject to juridical criticism; they do not conform to all verses of Quran and Ahadith on the subject. On the other hand, they define *riba* in relative terms, which cannot be unanimously settled once forever. Mainstream definition of *riba* is though free from these weaknesses, yet it generates some contradictions in theory and practice. According to this view, the unanimous reason for prohibition of *riba* is to make both financiers and users of funds share the actual outcome of an underlying project. However, practically current interest-free banking has been predominantly using mark-up in place of interest that equally inhibits sharing of ex post profits of an underlying project. Furthermore, many experts of emerging interest-free banking are emphasizing development of financial markets and securitization of various fixed-return interest-free modes which definitely hamper fair sharing of actual outcome of a given project between its financiers and users of funds.

The first contradiction is not serious because a majority of academia in mainstream camp still believes that profit-loss-sharing is the real alternative to interest. It is only practitioners who

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³⁶ Jain, V. *Indigenous Banking in India* (1929) p.309

³⁷ *Ibid* p.350

have adopted mark-up with the pretext that currently moral fibre of the society is not up to mark for an abrupt switchover to profit-loss-sharing. The second contradiction is, however, worrisome.

Riba in barter loans arises in exchange of goods with goods with a time lag. In such transactions, any change in the price of underlying commodity benefits one party while it hurts the other. It is, therefore, prohibited to let both parties realize the outcome of actual deal. Many authentic ahadith proved *riba* in barter loans unambiguously. It gets further support from prohibition of any measure or count of a commodity as a subject-matter of a trusteeship or partnership business in Islamic jurisprudence.

The researchers therefore recommend that financial institutions devised their products to reflect the provisions of the Qur'an and Hadith as accepted by the mainstream positions which has been accepted by the majority Muslims.