

AN APPLICATION OF THE ISLAMIC FINANCE PRINCIPLE OF RIBA TO THE POS BUSINESS IN NIGERIA

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ABSTRACT

This paper explored the application of the Islamic finance principle of *Riba* to the Point of Sale (POS) business in Nigeria. Islamic finance operates on the principles of Islamic law, which prohibits the charging of interest and emphasizes fairness, ethical conduct, and the sharing of risks. The paper adopted a doctrinal method of research. The paper delved into the concept of *Riba*, both in its literal and technical meanings, emphasizing its prohibition in Islamic law as outlined in the Quran, Sunnah and the consensus of Muslim jurists. Furthermore, the paper examined the emergence and growth of the POS business in Nigeria, a modern financial service introduced by the Central Bank of Nigeria to facilitate cashless transactions. This business allows individuals to withdraw money, pay bills, and engage in various financial transactions through POS terminals. The legality of this service in Islamic law has been a subject of debate among scholars, leading to divergent opinions. The paper categorized scholars into four groups based on their views regarding the permissibility of POS transactions. Some consider it prohibited (*Haram*) due to the commission charged by POS merchants, while others deem it permissible (*Halal*). Another group suggests that POS can only be allowed in situations of desperate need (*Darurat*). The last group adopts a middle-ground approach, distinguishing between

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different types of POS transactions and classifying them accordingly. In conclusion, the paper underscored the importance of a nuanced understanding of POS transactions in Islamic finance, highlighting that some forms may be *Halal* while others should be approached with caution. It encouraged further discussions and research on this topic, acknowledging that modern financial services like POS require continuous assessment in the context of Islamic commercial jurisprudence.

1.0 Introduction

Islamic banking is a part of the Islamic economic system which differs considerably from capitalist and socialist systems. Islamic banking and finance refers to banking and financial activities that are based on the principles of Islamic law which fundamentally prohibits the charging of interest.³ It is a financial activity that is consistent with the principles of Islamic law which provides guidance that includes coverage of a Muslim's economic activity, such as dealing in property as well as creation and distribution of wealth. The *Shari'ah* explains in detail ethical concepts applicable to the use of money and capital, the relationship between risk and profit, and the social responsibilities of financial institutions.⁴ The basic aim is intermediary service based on Islamic commercial Jurisprudence.⁵ Islamic commercial jurisprudence condemns all forms of exploitation particularly the continued injustice form of the lender being guaranteed a positive return without assuming the share of risk with the borrower, whereas the borrower takes upon him all sorts of risks in addition to putting in his skills and labour.⁶ *Riba* is one of the most important elements abrogated by Islamic economics. Consequently, the Almighty prohibited *Riba* and declared war against those dealing in it.

³ Salahuddin, A. (2006) *Islamic Banking, Finance and Insurance: A Global Overview*, A.S. Noordeen Publishers, Kuala Lumpur, Malaysia, p. 4

⁴ John, D. and Munib, H. (2014) *Islamic Finance & Markets*: United Kingdom, Law Business Research Ltd., London – United Kingdom, pp. 37-41; Islamic Finance, Australian Trade Commission (Austrade) (2010) p. 5

⁵ Ibid,

⁶ Siddiqi, M. N. (2004) *Riba, Bank Interest and the Rationale of its Prohibition*. *Occasional Papers* 205, The Islamic Research and Teaching Institute (IRTI). Retrieved from <http://www.irti.org/English/Pages/Publications.aspx>

Although the prohibition of *Riba* is, no doubt, the most eminent feature of Islamic economics, surprisingly enough, there remains one controversy over the real nature of *Riba* that is forbidden and prohibited according to the texts of Islamic Law. One of the frequently asked questions is "Does it include the interest paid to banks on loans?" even though some people think that this is in the mutual interest of both parties? So many questions were raised in the Islamic discourse regarding the concept of *Riba*.

Furthermore, amidst this controversy, the question of *Riba* gives rise to another debate on *Riba*. These modern transactions include the use of Point-of-Sale Terminals as means of money withdrawal from one's bank account and airtime borrowings from networks. Regarding the Point of Sale (POS) business in Nigeria. People use POS in Nigeria like ATMs to withdraw money from their bank accounts and the POS vendor or agent, gives them the cash. However, a person will be charged some amount of money for the transaction. For instance, a person might be charged 50 Naira if that person wants to withdraw or deposit a 1000 Note. The legality of these transactions and whether or not they contain *Riba*, have been a topic of discussion between Islamic clerics and preachers in Nigeria. This research is therefore premised on this background. The thrust of this paper is the examination of the legality or otherwise of POS business in Islamic law.

2.0 Concept of *Riba*

The concept of *Riba* could be understood by its lexical and jurisprudential meanings. Each will be dealt with under the following headings.

2.1. Literal Meaning of *Riba*

The great Arabic lexicon, *Ibn Manzur* said that the grammatical declination of the noun *Riba* is *Raba* (the past simple verb) means: increased and grew.⁷ The inflectional *arbaytuhu* (first person pronoun and objective included) means, "I increased it." In the Holy Quran, the verb "*Yurbee*" means, "increase the charities." From here, the forbidden *Riba* was taken. God the Great said, "The *Riba* you

⁷ Usmani M. A. (2002) Meezan Bank's Guide to Islamic Banking. Karachi: Darul Ishaat, p.4

perpetrate (*liyarbuwa*) to augment people's money does not *yarbu* (grow) with God."⁸

Abu Ishaq⁹ argues that the word "*yarbu*" means that man pays something to be compensated for more than he paid. In most interpretations, this is not forbidden. But, there is no reward for the one who increased what he took. Chapra¹⁰ explains that *Riba* in the Arabic wordlist, means to increase, add, expand or grow.

Additionally, Zuhailiy contends that, lexically, *Riba* means increase.¹¹ Allah Most High says, "But when We pour down rain on it, it is stirred (to life), it swells (*rabat*)."¹² meaning: it increases and grows. He, Most Praised, also says, "lest one party should be more numerous (*arba*) than another"¹³ meaning: more numerous. It is said "So-and-so exceeded (*arba*) so-and-so," meaning: has more than he.

Riba is derived from the derivative word "*raba-wa*" It has certain meanings as "to increase; to grow; to grow up, to exceed, be more than. In the specific sense, *Riba* is generally translated into English as *Riba* or interest but it has a much broader sense under Shari'ah."¹⁴

2.1.2 Technical Meaning of Riba

Muslim writers give various definitions to the term *Riba*. It is used to denote a specific kind of excess. *Riba* means an increase in things specified by the Revealed Law, this particular definition being that of the Hanbali School.¹⁵

Riba is defined in the Hanafi work as a surplus of commodities without counter-value in a commutative transaction of property for property.¹⁶

⁸ Iqbal, M.M. (n.d) A Broader Definition of Riba. Retrieved from <https://www.pide.org.pk/pdf/psde%2018AGM/A%20Broader%20Definition%20Of%20Riba.pdf> accessed 5th June 2021 at 08.02 am.

⁹ Ibid, Web

¹⁰ Usmani, Ibid, p.5

¹¹ Iqbal, Ibid,

¹² Hajj 22:5

¹³ Naml 16:92

¹⁴ Haqqi, A. R. A. (2009). The philosophy of Islamic Law of transactions. CERT Publications. p.123-124.

¹⁵ Ibid,

¹⁶ Ibid,

The intent of such a transaction is a surplus of commodities, even if only legally; thus, the definition includes both credit *Riba* and invalid sales, since postponement in either of the indemnities is a legal surplus without perceivable material recompense, the delay usually being given an increase in compensation.¹⁷ The Hanafi jurists have defined surplus *Riba*, which is a sale, as an increase of capital assets above the legal standards (being volume or weight) in an exchange of like kinds.

Another notable Maliki Scholar, Abu Bakr Ibn al 'Arabi held that every excess in return for which no reward is paid is *Riba*.¹⁸ A shafi'i Jurist, Ibn Hajar al-Asqalani held that the essence of *Riba* is excess whether it is in the commodity itself or money.¹⁹

Some of the contemporary scholars have defined *Riba*. Al-Mawdudi²⁰ defined *Riba* as a predetermined excess or surplus over and above the loan received by the creditor conditionally about a specified period. This definition entails that *Riba* contains the following three elements:

- a) excess or surplus over and above the loan capital;
- b) determination of this surplus about time;
- c) stipulation of this surplus in the loan agreement²¹

Haque²² defined *Riba* as "an increase or excess which, in an exchange or sale of a commodity, accrues to the owner (lender) without giving in return an equivalent counter or recompense to the other party."

From the above definitions, it could be concluded that *Riba* denotes a specific kind of excess. This excess originates either in the thing itself, or an increase in an exchange or sale of money as the sale of one dirham

¹⁷ Siddiqi, M. N. (2004) *Riba, Bank Interest and the Rationale of its Prohibition. Occasional Papers* 205, The Islamic Research and Teaching Institute (IRTI). <http://www.irti.org/English/Pages/Publications.aspx>

¹⁸ Ibid

¹⁹ Afzal, U. R. (1986) *Economics Doctrine of Islam*. Lahore: Islamic Publications Ltd (3rd Edition) Vol. III, p. 69.

²⁰ Mawdudi, A.A. "Interest", Vol. 1, p. 33; Afzal, Ibid. p. 71.

²¹ Mawdudi, ibid, p.33

²² Haque, Nadeem Ul and Mirakhor, A. (1999) *The Design of Instruments for Government Finance in an Islamic Economy*, Islamic Economic Studies, Vol. 6, No. 2, pp. 27-43;

for two dirhams or of commodities as in cases of barter of a measure for more of the same merchandise.²³

2.2. Legal Position of *Riba* in Islamic Law

Islam has left no reservation as regards the prohibition of *Riba*. The prohibition of *Riba* derives its source from the Holy Qur'an, the tradition of the prophet as well as the consensus of the Muslim Jurist.

In the holy Quran, there are at least 12 verses that deal with *Riba*. *Riba* was prohibited by Allah, the Almighty, by conveying its pros and cons in the Suratu Ruum²⁴ and finally declared Haraam in the Suratu Al-Bakara²⁵ Notably, these verses are on an ascending scale which starts with a mere judgment of value, followed by an implicit prohibition, then a limited one and finally, a total and conclusive prohibition.²⁶

Thus, to start with the verse of Surat Rumm,²⁷ it says:

That which ye gave in *Riba* so that it may increase on (other) people's property hath no increase with Allah; but that which ye give in charity; seeking Allah's countenance, hath increase manifold.²⁸

The above holy verse makes a strong foundation for the prohibition of *Riba* by declaring it as an unwanted activity. It conveys the pros and cons of *Riba*.²⁹ The Quran disclosed the pros and cons of *Riba* and ordered to spread of charity. People only consider the extrinsic characteristics of *Riba* to increase their capital manifold and ignore the intrinsic fatal outcome of *Riba*. It is strongly recommended that Muslims must frequently distribute charity, Zakat and donations

²³ Abd. Al Mun'im, M. Q. (1982) *Riba, Islamic Law and Interest*. A Ph.D dissertation, Temple University, p.p. 121-122.

²⁴ 30:39

²⁵ 2:275

²⁶ Ibid, p.122

²⁷ 30:39

²⁸ Siddiqi, M. N. (2004) *Riba, Bank Interest and the Rationale of its Prohibition*. *Occasional Papers* 205, The Islamic Research and Teaching Institute (IRTI). <http://www.irti.org/English/Pages/Publications.aspx>

²⁹ Ibid,

among deserving people for the sake of an increase in their income and success in this life and the life hereafter.

Another verse in Qur'an³⁰ provides "O ye who believe! Devour not *Riba*, doubled and multiplied; but fear Allah; that ye may (really) prosper." "Fear the fire, which is prepared for those who reject faith." And obey Allah and the Messenger; that ye may obtain mercy."³¹

The above verse is to the effect that people are ordered to stop eating the earnings from *Riba* and follow the instructions of Allah Almighty. It rejects the manifold increase in the *Riba* and warns the people. It also inspires the human being to be obedient to Allah Almighty for ultimate success.³²

The final set of verses for the prohibition of the *Riba* transaction comes in chapter two of the Qur'an. They states:³³

Those who devour *Riba* will not stand except as stands one whom the evil one by his touch hath driven to madness. That is because they say: 'Trade is like *Riba*'. But Allah hath permitted trade and forbidden *Riba*. 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 (forever).³⁴

The sequel verse provided that "Allah will deprive *Riba* of all blessing, but will give increase for deeds of charity; for He loved not creatures ungrateful and wicked."³⁵

Allah Almighty does not bestow blessings upon *Riba*-based activities and orders to stop them, as He dislikes the violence. But there are uncountable blessings attached to the deeds of charity and sadaqaat.

³⁰ 3:130

³¹ 3:130

³² Ibid,

³³ 2:275 to. Verse 275

³⁴ Q2:275

³⁵ 2:276

O ye who believe! Fear Allah and give up what remains of your demand for *Riba*, if ye are indeed believers.³⁶

If you do 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.³⁷

These verses are related to the desired post-prohibition behaviour of believers. Believers of Allah Almighty are required to waive the interest due to them by borrowers and recover only the principal amount.

The final two verses provide:

If the debtor is in difficulty, grant him time till it is easy for him to repay. But if ye remit it by way of charity, that is best for you, if ye only knew.³⁸

And fear the Day when ye shall be brought back to Allah. Then shall every soul be paid what it earned, and none shall be dealt with unjustly.³⁹

These verses are the best examples of promoting a sense of brotherhood and collective welfare through cooperation. The verses teach the values of tolerance, understanding and empathy are being promoted. They are also educated to be too obsessed with the accumulation of wealth. Finally, it reminds us that life is just a journey to eternity and therefore what should matter most in life is the accumulation of Allah's pleasure and not the accumulation of wealth for the sake of wealth alone.⁴⁰

³⁶ Q2:278

³⁷ Q2:279

³⁸ Q2:280

³⁹ Q2:279

⁴⁰ Iqbal, M.M. (n.d) A Broader Definition of Riba. Retrieved from <https://www.pide.org.pk/pdf/psde%2018AGM/A%20Broader%20Definition%20Of%20Riba.pdf>

2.3 *Riba* in Sunnah

The second source of Islamic Law, Sunnah, has also come with a detailed explanation of the varieties of usurious transactions as well as their legal position. For example, the Messenger of Allah (s.a.w.) has cursed the one who accepted *Riba*, the one who paid it, the one who recorded it, and the two witnessed it, saying they were all alike⁴¹ This hadith reflects the badness of *Riba* and the involvement of different parties in *Riba*-based transactions. The holy prophet Muhammad (peace be upon him) cursed the four parties that is, the receiver, the payer, the witness and the person who documented it. It shows that all the parties equally participated in sin.

It is also reported that the Prophet (S.A.W.) has said to the effect: “(Exchange) gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt, measure for measure and hand to hand If the (exchanged) articles belong to different genera, the exchange is without restraint provided it takes place in a hand-to-hand transaction.”⁴²

Abu Sa’id al Khudri (R.A) narrated that the Holy Prophet (Peace be upon him) said:

Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates and salt for salt, like for like, payment being made hand by hand. If anyone gives more or asks for more, he has dealt in *Riba*. The receiver and giver are equally guilty.⁴³

This hadith specifies the six commodities to be exchanged at equal and alike. Two of them are represented as money commodities while others are staple food items.

Anas Ibn Malik (R.A) narrated that the Holy Prophet (Peace be upon him), said: “When one of you grants a loan and the borrower offers him

⁴¹ Usmani M. A. (2002) Meezan Bank’s Guide to Islamic Banking. Karachi: Darul Ishaat

⁴² Siddiqi, M. N. (2004) *Riba, Bank Interest and the Rationale of its Prohibition. Occasional Papers* 205, The Islamic Research and Teaching Institute (IRTI). Retrieved from <http://www.irti.org/English/Pages/Publications.aspx>

⁴³ Iqbal, M.M.,m Op.cit, p.3

a dish, he should not accept it; and if the borrower offers a ride on an animal, he should not ride unless the two of them have been previously accustomed to exchanging such favours mutually.”

It reflects the careful treatment of monetary transactions to control *Riba* in the economy. It indicates that any excessive amount or even additional benefit and facility than the principal amount could be part of *Riba*.

Abu Hurayrah (RadiyalLahu Anh) arrated that the Holy Prophet (Peace be upon him), said: “Allah would be justified in not allowing four persons to enter paradise or to taste its blessings; he who drinks habitually, he who takes *Riba*, he who usurps an orphan's property without right, and he who is undutiful to his parents” Similarly, this hadith shows the punishments for the Bad deeds in this world including *Riba*. It reveals that receipt and payment of *Riba* is an unwanted activity that may lead towards curse and punishment.

Riba is also forbidden by the scholarly consensus of the entire Muslim nation. Mawardi relates, "It has even been said that it is not permissible according to the law of any revealed religion," as can be understood from His Most High's saying, "They took *Riba*, while they had been forbidden therefrom" that is, as in the previously revealed scriptures.⁴⁴

2.4 Classification of *Riba*

Riba could be broadly divided into two;

1. *Riba al-Nasiy'ah*
2. *Riba al-Fadl*

2.4.1 *Riba al-Nasiy'ah*

Usmani explains that *Riba al-Nasiyah* is an excess amount over and above the principal amount received by the lender from the borrower at a predetermined rate (fixed rate). According to this definition of *Riba al Nasiyah*, the giving and taking of any excess amount in exchange for

⁴⁴ Q4:161

a loan at an agreed rate is *Riba* irrespective of whether at a high or low rate.

This type of *Riba* has been strictly forbidden in Islam and there is no ambiguity about it. There are very clear instructions in the Holy Quran and the Ahadith about *Riba al-Nasiyah*.

One of the ahadith reported by Ali ibn Abi Talib (RA) has defined *Riba al-Nasiyah* in similar words. The Holy Prophet (PBUH) said “Every loan that draws interest is *Riba*.”⁴⁵

Usmani⁴⁶ describes that Imam Abu Bakr Razi defined *Riba Al-Nasiyah*, in the following words: “That kind of loan where specified repayment period and an amount over capital is predetermined.” He further quotes that the famous Sahabi Fazla Bin Obaid has also defined *Riba* in similar words: “Every loan that draws profit is one of the forms of *Riba*.”⁴⁷

This is the real and primary form of *Riba*. Since the verses of the Quran have directly rendered this type of *Riba* as illegal. It is called *Riba Al-Quran*. Similarly, since only this type was considered *Riba* in the Dark Ages; it has also earned the name of *Riba Al Jahiliya*.⁴⁸

Allah has ordered for prohibition of *Riba* in various verses of the the Holy Quran and has warned those who persist in practising it of a war which is certain to be declared on them by Allah Himself and His Messenger and has seriously threatened those engaged as either writer, witness or dealer in *Riba* transactions. *Riba Al Nasiyah* is *Haram* has never been disputed in the Muslim community.

2.4.2 *Riba al-Fadl*

Niazi⁴⁹ defined *Riba Al-Fadl* as an excess or increase which was found in one of the counter-values through weight, measure or count when two counter-values of the same species were exchanged on the spot at

⁴⁵ Iqbal, M.M.,m Op.cit, p.3

⁴⁶ Usmani M. A. (2002) Meezan Bank’s Guide to Islamic Banking. Karachi: Darul Ishaat

⁴⁷ Ibid

⁴⁸ Ibid, p.15

⁴⁹The Special Issue on Behavioral and Social Science © Centre for Promoting Ideas, USA www.ijhssnet.com 146 (1995)

once. Usmani defined *Riba Al Fadl* as an excess which was taken in exchange for specific homogenous commodities and encountered in their hand-to-hand purchase and sale as explained in the famous hadith.⁵⁰ This class of *Riba* was mentioned by the Prophet (PBUH) where he says;

Sell gold in exchange for equivalent gold, sell silver in exchange for equivalent silver, sell dates in exchange for equivalent dates, sell wheat in exchange for equivalent wheat, sell salt in exchange for equivalent salt, sell barley in exchange for equivalent barley, but if a person transacts in excess, it will be Riba. However, sell gold for silver any way you please on the condition it is hand to hand (spot) and sell barley for a date any way you on the condition it is hand to hand (spot).⁵¹

It, therefore, follows from the foregoing that the main rationale of prohibiting *Riba* is on account of exploitation in lending or exchange when an equal return or counter value is not given to the other party, whether seller/purchaser or a debtor.

3.1 The Concept of Point of Sale (POS)

Rose⁵² described the point-of-sale terminals as computer facilities in stores that permit a customer to instantly pay for goods and services electronically by deducting the cost of each purchase directly from his/her account. The customer presents an encoded debit card to the store clerks who insert it into a computer terminal connected to the financial firm's computer system. The customer's account is charged for the purchase and funds are automatically transferred to the store's deposit account.

Adeoti⁵³ described a POS machine as a terminal, a box that allows a merchant to accept payments using cards from his customers. It works almost like an ATM except that in this case, the machine is designed to

⁵⁰ Usmani, (2002) Op.Cit., p.6

⁵¹ Ibid, 7

⁵² Rose et al, 2008:113

⁵³ Adeoti et al, 2012:10

accept payments only on behalf of the merchant which is mostly the registered company which has an account with the bank.

3.1 History of POS

The history of POS systems dates back to 1879 when the cash register was invented by James Ritty, an Ohio native and saloon owner. Ritty was inspired to create the device after seeing a machine that counted the number of times a ship's propeller completed a revolution.⁵⁴ Ritty's register was a simplified version of the cash register that we know today. In the early 1900s, many businesses started to utilize the cash register, and improvements were made, including adding a cash drawer and paper roll for receipts.⁵⁵ The NCR Corporation highlights other new features introduced during this time, including store automation and signature capture. POS systems that emerged during this time look a lot like those we use today. In the 1980s and 1990s, computer software changed the game for the POS system. POS systems nowadays are expected to do much more than simply complete transactions. They are capable of tracking employee activity and inventory, delivering invoices, providing real-time information, even operating when the internet is down, and offering applications merchants can easily download for additional features that make running an organization easier. The use of POS terminals to make financial payments in Nigeria was introduced by the Central Bank of Nigeria (CBN) in 2012 to promote its cashless policy aimed at improving the payment system. Since then, there has been an increasing growth in the number of active POS terminals provided by banks to mobile money merchants. The POS business in Nigeria is very profitable, and it has become a livelihood for some Nigerians.⁵⁶

3.2 Point of Sale Business in Nigeria

The POS business is also known as agent banking. It began in 2013 after the Central Bank of Nigeria released its guidelines on the

⁵⁴ Folly Yem (n.d.) History of POS. Retrieved from <https://www.follyyem.com/pos-post/history-of-POS-Systems>

⁵⁵ Ibid,

⁵⁶ Ibid,

operations and management of the business.⁵⁷ Since then, it has remained one of the retail channels of several commercial banks to make their banking services reach a large number of people.

A banking agent owns and operates a retail outlet. He/she offers services such as funds transfer and withdrawal, sales of airtime, and bill payments like GOTV, DSTV, Startimes, PHCN, and other utility bills. It is used in several places where goods and services are sold/rendered; places as retail shops, offices, supermarkets, fuel/gas stations, pharmacies, eateries, etc.⁵⁸

POS business thrives more in rural areas, semi-urban centres, the unbanked and underbanked communities. It is similar to any other remote banking channel. The banks equip the agents with point-of-sale (POS) card readers, mobile phones, barcode scanners, personal identification number (PIN) pads, personal computers, etc. They are third-party agents and can be an agent to as many banks as they can serve.

POS business in Nigeria is a lucrative business anyone could start in Nigeria and a successful POS business owner can take home as much as 15,000 Naira daily as net income.⁵⁹ The charges on POS are two-fold, banks make their charges directly from the account of the customer and also the merchant demands other charges. Let's look at the below table for the charges charged by the banks.

S/N	Transaction	Charges
1.	1, 000 to	
2.	11,000 to 20, 000	200
3.	21,000 to 30, 000.	300

Notably, the above table presents that generally, POS merchants charge 100 Naira on every transaction from 1 thousand Naira to 10 thousand Naira, 200 Naira on any transaction from 11, 000 to 20, 000 Naira and 300 on any transaction from 21,000 to 30,000. However,

⁵⁷ Ojo, E. POS Business – How To Start A POS Business In Nigeria. Retrieved from <https://www.google.com/amp/s/www.entrepreneurs.ng/how-to-start-a-pos-business/amp/> accessed on 17th July 2021.

⁵⁸ Ibid, 1

⁵⁹ As said by one POS agent interviewed by this researcher

some POS merchants charge higher than this. Thus, POS agents earn a commission based on their agreements with the banks and also earn a commission from their customers.

So, the bank agent or POS business owner will have a business centre or outlet where he will comfortably carry out monetary transactions and allow his customers to withdraw and pay utility bills, recharge their phones, check their account balance, etc.

3.4 CBN Guidelines on POS

The Central Bank of Nigeria (CBN) has introduced comprehensive guidelines for point-of-sale (POS) card acceptance services in the country. These guidelines establish minimum standards and requirements for various stakeholders within the POS ecosystem, covering aspects crucial to the smooth operation of POS services.

The guidelines provided for stakeholders. The identified stakeholders in the POS card acceptance services include merchant acquirers, card issuers, payment terminal service providers, and switching companies. Each of these entities plays a vital role in ensuring the efficiency and integrity of POS transactions. The guidelines set forth minimum standards for different types of POS terminals, encompassing countertop, wireless/portable, handover, automated dispenser, and biometric POS. These standards are designed to uphold the quality and functionality of diverse POS devices.

Moreover, clear delineation of roles and responsibilities is a key feature of the guidelines. Specific duties for merchant acquirers, payment terminal service providers, and merchants are outlined. This ensures that each party understands its obligations, fostering a more transparent and accountable POS ecosystem. While the guidelines mention the existence of a settlement mechanism for transactions, specific details are not provided in the available information. Further exploration may be required to understand the intricacies of this aspect.

The guidelines touch upon the topic of fees associated with POS services, but the exact details are not available in the provided search results. A more in-depth review of the guidelines or additional sources

may be necessary to obtain comprehensive information on fee structures. To encourage healthy competition and flexibility, the guidelines explicitly prohibit exclusivity agreements within the POS card acceptance space. This ensures that merchants have the freedom to choose from multiple service providers, fostering a more competitive and dynamic market.

In addition to the outlined guidelines, the CBN has proposed two new restrictions. Firstly, retail merchants' POS devices should not be utilized for agent cash-in/cash-out services. Secondly, the CBN mandates agents to be exclusive to one financial service provider. These additional restrictions aim to streamline and secure the POS landscape further.

In summary, the CBN's POS guidelines aim to enhance and streamline electronic payment systems in Nigeria. By establishing clear standards, responsibilities, and restrictions, the guidelines contribute to the development of an efficient and compliant POS ecosystem, ensuring that electronic transactions adhere to relevant standards and regulations. Moreover, the guidelines govern the use of contactless payment systems, setting daily cumulative transaction limits for added security and control.

3.3 Legal Position of POS Business in Islamic Jurisprudence

POS business is a modern business that does not have a precedent in Islamic rulings. Therefore, scholars are divided into at least four groups regarding its permissibility or otherwise in Nigeria.⁶⁰ These are;

1. Those scholars who perceive the business as illegal,
2. Those scholars who perceive the business as legal (Halal), and
3. Those who perceive its permissibility or otherwise from Darurah's perspective.
4. Those who are yet to make the decision.

The first set of scholars who see business as illegal gave the reason that that transaction involve *Riba* since the POS merchants charge the amount of money. When money is withdrawn, the commission is being

⁶⁰ Bala, A. (2021) POS Business: The clerics and the rest of us. Retrieved from <https://nigeriantracker.com/2021/01/15/pos-business-the-clerics-and-the-rest-of-us/>

collected on it. One of the prominent scholars who hold this view is Sheikh Mukhtar Yola. Yola opined that⁶¹ withdrawal of money from POS agents is nothing more than an exchange of currency. Yola therefore perceive it Sarf Transaction. In Islamic Law, the same currency should be exchanged the same without any increment, otherwise, it becomes *Riba* which is prohibited in Islamic Law.

The second group of scholars permit it. they hang their views from an economic perspective and hold that this business is meant to eradicate poverty and people should accept it wholeheartedly. One of the prominent scholars with this view is Sheikh Dr. Bashir Umar Aliyu. Umar argued⁶² that what you paid the POS agent is a service fee and no additional value to the exchange of the currency but as a service fee. The question that begs for an answer here is this, does the commission charge by the POS agents differ from amount to amount since it requires the same effort to withdraw 10,000 and 100,000 Naira? Thus, if a POS agent charges a customer 100 on 10,000 Naira, he could charge a higher or lower fee as a service fee/he could charge the same fee in a higher amount. Secondly, the charge fee for each amount of withdrawal is fixed. If the commission is meant to be a service fee, then there should be room for negotiation of the price and not fixing it.

The third group of scholars opined that POS is prohibited. However, what distinguishes the opinion of this group from that of the first group is, according to the first group, people can engage in this business in a situation of desperate need or harsh situation. They based their reason on a situation where banks may be closed and a person may be in desperate need of cash to settle a medical bill or any necessity of life. In such a situation, POS can be permitted as a *Darurat*.

The last group of scholars stood in the middle. This group did not completely prohibit the POS business in Nigeria. Rather, they divided the business into categories and passed their judgement accordingly. According to Sheikh Sa'eed Hamzah, the POS transactions are of three categories;

⁶¹ Yola, M. (2020) Hukuncin POS a Musulunci (Audio-Hausa). Retrieved from <https://youtu.be/-IJKa6v69So>

⁶² Aliyu, B. U. (n.d) Hukuncin POS a Musulunci (Audio-Hausa). Retrieved from <https://youtu.be/qhfUs8tThRA> accessed on 17th July 2021.

1. **Wakaalah:**⁶³ when someone brings you money to transfer to another account on his behalf. You are free to charge him as much as you want for the agency. The money given to you can be transferred from your account.
2. **Qard:**⁶⁴ someone collects a certain amount of money from you which he returns later in cash or from his debit card. You have no right to benefit from it, that is no target profit. Lending and borrowing is not a business of profit but rather is an assistance of relief therefore it is haraam to charge above the necessary service charge. This means this group allows charging a service fee in all situations but should not be exorbitant.
3. **Sarf:**⁶⁵ someone gives you his debit card to deduct a certain amount for you to give him cash. The exchange must be instant and on an equal amount except it involves two different currencies.⁶⁶

4.0 Conclusion

This paper examined the concept of *Riba* in and POS business in Nigeria. It has shown that the provisions of the Qur'an, Sunnah, and Ijma declared *Riba* Illegal. However, the problem associated with the modern forms of transaction is too much involvement in *Riba*-based transactions. Scholarly arguments were presented as to whether POS

⁶³ Wakalah refers to an Islamic contract or agency agreement where one party authorizes another to act on its behalf in specific matters or transactions. In a Wakalah arrangement, the principal (Muwakkil) appoints an agent (Wakeel) to perform certain tasks, make decisions, or enter into transactions on their behalf. The agent acts within the boundaries set by the principal and is accountable for fulfilling the delegated responsibilities faithfully.

⁶⁴ Qard, also known as Qard al-Hasan, is an interest-free loan in Islamic finance. It is a benevolent and charitable form of lending where the lender provides a loan to the borrower without charging any interest. The objective of Qard is to help individuals in need or to support projects without imposing any financial burden on the borrower. The borrower is obligated to repay the principal amount but does not incur any interest charges.

⁶⁵ Sarf, in Islamic finance, refers to the exchange or transfer of money. It involves the buying and selling of currencies or any transaction related to the exchange of money. Sarf transactions are governed by Islamic principles to ensure fairness and prevent exploitation. Sharia-compliant currency exchange is essential in Islamic finance, and Sarf rules guide the permissible conditions for engaging in currency transactions.

⁶⁶ Daawahnigeria (2020) POS Transaction in Islam. Retrieved from <https://dawahnigeria.com/articles/finance-economics/pos-transaction-islam> accessed on 17th July 2021.

transactions are usurious-based or not. This paper concludes that POS transactions can be categorised into three. It may be Wakaalah, Qard or Sarf. Wakaalah transactions do not in most cases bear a *Riba* element as opposed to *Qard* and *Sarf* which reflect *Riba* in many instances when a transaction is conducted between the POS agent and the customer.