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علمی و تحقیقی مجلہ فقہ اسلامی

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changed over the centuries and it was not possible for anyone to foresee and specify them all 1400 years ago. The Qur'ân and the *Sunnah* are there to provide the principles on the basis of which the *Ummah* can do so. This is the ongoing challenge to all Muslims – to examine their economic practices continually in the light of Islamic teachings and to eliminate all shades of injustice. This is a more difficult task than eliminating *ribâ al-nasî'ah*. It requires a total commitment and an overall restructuring of the entire economy within the Islamic framework to ensure justice. This was, and is, the unique contribution of Islam. While *ribâ al-nasî'ah* was well-known in the *Jâhiliyyah*, the concept of *ribâ al-fadl* was introduced by Islam and reflects the stamp of its own unflinching emphasis on socio-economic justice.

CONCLUDING REMARKS

The principal reason why the Qur'ân has delivered such a harsh verdict against interest is that Islam wishes to establish an economic system where all forms of exploitation are eliminated, and particularly the injustice perpetuated in the form of the financier being assured of a positive return without doing any work or sharing in the risk, while the entrepreneur, in spite of his management and hard work, is not assured of such a positive return. Islam wishes to establish justice between the financier and the entrepreneur.

Under these circumstances it is difficult to see how anyone could justify interest in an Islamic society. The difficulty to understand the prohibition comes from lack of appreciation of the whole complex of Islamic values, and particularly its uncompromising emphasis on socio-economic justice and equitable distribution of income and wealth. Any attempt to treat the prohibition of *ribâ* as an isolated religious injunction and not as an integral part of the Islamic economic order with its overall ethos, goals and values is bound to create confusion.

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☆ میں نے امام محمد سے بڑھ کر کوئی مصیغ نہیں دیکھا (امام محمد بن ادریس شافعی) ☆

Ribâ al-nasî'ah and *ribâ al-fadl* are, thus, essentially counterparts of the verse "God has allowed trade and prohibited *ribâ*" (2:275). While *ribâ al-nasî'ah* relates to loans and is prohibited in the second part of the verse, *ribâ al-fadl* relates to trade and is implied in the first part. Because trade is allowed in principle, it does not mean that everything is allowed in trade. Since the injustice inflicted through *ribâ* may also be perpetuated through transactions in commodities and currencies, *ribâ al-fadl* refers to all such injustices or exploitations. It requires absence of rigging, uncertainty and speculation. It demands a fair knowledge of the prevailing prices and the quality of goods being purchased or sold on the part of both the buyer and the seller. It necessitates the elimination of cheating in prices or quality, and in measures or weights. All business practices which lead to the exploitation of the buyer or the seller must be effectively eliminated.¹⁸

While *ribâ al-nasî'ah* can be defined in a few words, *ribâ al-fadl*, interspersing a vast array of business transactions and practices, is not so easy to specify. This is what may have prompted 'Umar, the Second Caliph, to say: "The Prophet, peace and blessings of God be on him, was taken without elaborating it to us."¹⁹ The attempt to justify *ribâ al-nasî'ah* or the interest on loans on the basis of this saying of 'Umar is absolutely fallacious because the reaction of 'Umar, by way of caution, was to give up not only *ribâ* but also *ribah*.

It is true that the Prophet specified only a few ways of indulging in *ribâ al-fadl* and did not indicate all the different ways, as one may have desired. However, this was not necessary and not even feasible. Forms of injustice and exploitation in trade and exchange of currencies have

¹⁸ Several types of sales have been prohibited in the *Sharî'ah* with the objective of safeguarding the right of both buyers and sellers. Examples are: *najash* (rigging and collusion), *ghabn al-mustarsil* (cheating of an unsophisticated entrant into the market), *bay' al-hâdir li al-bâdî* and *talaqqî al-rukbân* (both implying monopsonistic or monopolistic collusion or exploitation to lower or raise prices beyond what is justified by market conditions), *gharar*, *muhâqalah*, *munâbadhah*, *mulâmasah* and *muzâbanah* (sales involving uncertainty and speculation or gambling). See, for example, al-Jazîrî, Vol.2, pp.273-8 and 283-91).

¹⁹ Reported by Ibn Mâjah and al-Dârimî from 'Umar ibn al-Khattâb.

falls within the ambit of *ribâ al-fadl*.

Another way of being guilty of indulging in *ribâ al-fadl* is by accepting a reward in return for making a recommendation in favour of a person. This implies that the performance of an apparently charitable act with the intention of making money surreptitiously is also prohibited. The rationale behind this may be that such a money-motivated recommendation might give benefit to a person who does not deserve and, thereby, indirectly deprive others who are more deserving.¹⁷

A third way of indulging in *ribâ al-fadl* is through barter transactions because of the difficulty of measuring the counter-values precisely in such transactions. The Prophet, peace and blessings of God be on him, therefore, discouraged barter in a monetized economy and required that the commodity to be exchanged on the basis of barter be sold against cash and the proceedings used to buy the needed commodity.

This leads to the fourth way of indulging in *ribâ al-fadl* which has received the maximum attention of the *fuqahâ'*. A number of authentic *ahâdith* stipulate that if the same genus of commodities is exchanged against each other then the same quantity and weight of the commodities should be exchanged (*sawa'an bi sawa'in* and *mithlan bi mithlin* or equal for equal and like for like) hand-to-hand (*yadan bi yadin*). If the commodities exchanged are different, it does not matter if there is difference in weight and quantity, provided that the exchange takes place hand to hand. One of the implications of this requirement is the elimination of the backdoor to *ribâ* (which is referred to in *fiqh* as *sadd al-dharî'ah*). Another implication of these *ahâdith*, as understood by the *fuqahâ'*, is the prohibition of futures transactions in foreign exchange. However, whether hedging, which is one way of managing the risks involved in exchange rate fluctuations, is possible within the constraints of the *Sharî'ah* is a question which needs the attention of the *fuqahâ'*.

¹⁶ The first *hadith* is reported by al-Bayhaqî and al-Suyûtî (*al-jâmi' al-Saghîr*) from Anas ibn Mâlik. The second *hadith* is reported from Abdallh ibn Abî Awfâ by al-'Asqalanî in his commentary on al-Bukhârî and by also al-Bayhaqî in his *Sunan* from Anas ibn Mâlik.

¹⁷ Reported from Abû Umâmah by *Bulûgh al-Marâm* on the authority of Ahmad and Abû Dâwûd.

حضرت امام شافعی رحمہ اللہ علیہ فرمایا کرتے کہ : امام مالک اور سفیان بن عیینہ نہ ہوتے تو تجار سے علم رخصت ہو جاتا

has not allowed everything in trade. This is because it wishes to eliminate not merely the injustice that is intrinsic in the institution of interest on loans, but also that which is inherent in all forms of dishonest and unjust exchanges in business transactions. Anything that is unjustifiably received as 'extra' by one of the two counterparties to a trade transaction is *ribâ al-fadl*, which may be defined in the words of Ibn al-'Arabî as "all excess over what is justified by the counter-value."¹²

The prohibition of *ribâ al-fadl* is intended to ensure justice, to remove all forms of exploitation through 'unfair' exchanges, and to close all back-doors to *ribâ* because, according to the unanimously accepted legal maxims of Islamic jurisprudence, anything that serves as a means to the unlawful is also unlawful. Since people may be exploited or cheated in several different ways, the Prophet warned that a Muslim could indulge in *ribâ* in seventy (= several) different ways.¹³ This is the reason why the Prophet, peace and blessings of God be on him, said: "Leave what creates doubt in your mind in favour of what does not create doubt",¹⁴ and Caliph 'Umar was inspired to say: "Abstain not only from *ribâ* but also from *ribah*."¹⁵ *Ribah* is from *rayb* which literally means 'doubt' or 'suspicion' and refers to income which has the semblance of *ribâ* or which raises doubts in the mind about its rightfulness. It covers all income derived from injustice to, or exploitation of, others.

The Prophet, peace and blessings of God be on him, has indicated, by way of example, at least four different ways of indulging in *ribâ al-fadl*. The first of these is the exploitation that may take place in trade through the use of unfair means even though trade is by itself allowed. He equated with *ribâ* even the cheating of an unsophisticated entrant into the market (*ghabn al-mustarsil*) and the rigging of prices in an auction with the help of an agent (*al-najash*).¹⁶ Analogically one may conclude that the extra money earned through such exploitation and deception

¹² Ibn al-'Arabî, *Ahkâm al-Qur'ân*, 1957, p.242.

¹³ Reported by Ibn Mâjah and al-Bayhaqî- (*Shu'ab al-Îmân*) from Abû Hurayrah.

¹⁴ Cited by Ibn Kathîr in his commentary on verse 2:275.

¹⁵ Reported by Ibn Mâjah and al-Dârimî from 'Umar ibn al-Khattâb.

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¹⁰ Udovitch, 1970, p.86.

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¹¹ *Al-Jazîrî*, Vol.2, p.245.

☆ اتر کو اقوالی بخیر الرسول ﷺ ☆ حدیث شریف کے مقابل میرے قول کو چھوڑ دو (اہل حنفیہ) ☆

'premium' that the borrower is required to pay to the lender along with the principal amount as a condition for the loan or for an extension in its maturity.⁷ This is also the unanimous verdict of a number of international conferences of *fuqahâ'* held in modern times to discuss the question of *ribâ*, including the Mu'tamar al Fiqh al-Islâmî held in Paris in 1951 and in Cairo in 1965, and the OIC and Rabitah *Fiqh* Committee meetings held in 1985 and 1986 in Cairo and Makkah respectively.⁸ In the presence of such an overwhelming consensus there is no room for arguing that interest is not prohibited in Islam? A few isolated opinions expressing a different view do not, therefore, create a dent in the consensus.

This gives rise to the question of what is it that confuses some people about its meaning. The reason may perhaps lie in the term *ribâ* being used in the *Sharî'ah* in two different senses, and the difficulty of some people in clearly understanding the meanings and implications of both. The first is *ribâ al-nasî'ah* and the other is *ribâ al-fadl*.

Ribâ al-Nasî'ah

The term *nasî'ah* comes from the root *nasa'a* (نَاسَا) which means to postpone, defer, or wait, and refers to the time that is allowed to the borrower to repay the loan in return for the 'addition' or the 'premium'. Hence *ribâ al-nasî'ah* is equivalent to the interest charged on loans. It is in this sense that the term *ribâ* has been used in the Qur'ân in verse 2:275, which states that "God has allowed trade and forbidden *ribâ* (interest)." This *ribâ* is also termed as *ribâ al-Qur'ân* (*ribâ* specified in the Qur'ân) or *ribâ al-duyûn* (*ribâ* on loans).

The prohibition of *ribâ al-nasî'ah* essentially implies that the fixing in advance of a positive rate of return on a loan as a reward for waiting is not permitted by the *Sharî'ah*. It makes no difference whether the rate of return is small or big, or a fixed or variable per cent of the principal, or an absolute amount to be paid in advance or on maturity, or a gift or service to be received as a condition for the loan. The point in question

⁷ See, al-Jaziri, Vol. 2, p.245.

⁸ See al-Sanhûri, 1953, Vol.3, pp.241-2 and al-Qaradâwî, 1994, pp.129-42. See also Abdel Hamid al-Ghazali, 1990, pp.35-60, for verdicts about *ribâ* given from 1900-89.

even after fourteen centuries some people would fail to understand its meaning clearly. Hence, it is necessary to go back to the classical sources of Islam to determine what the term *ribâ* really stands for.

Ribâ literally means increase, addition, expansion or growth.³ It is, however not every increase or growth which has been prohibited by Islam. Profit also leads to an increase in the principal amount, but it has not been prohibited. So what is it that has been prohibited?

The best person to answer this question would be the Prophet himself, peace and blessings of God be on him. He prohibited the taking of even a small gift, service or favour as a condition for the loan.⁴ This answer of the Prophet equates *ribâ* with what is commonly understood to be interest. This meaning of *ribâ* has become reflected in the writings of all scholars in Muslim history. There is hardly any classical Qur'ân commentary or Arabic dictionary which gives a different meaning. For example, al-Qurtubî (d.671AH/1070AC), considered to be one of the most illustrious Qur'ân commentators, clearly indicates that "Muslims are agreed on the authority of their Prophet that the condition for an increase over the amount lent is *ribâ*, irrespective of whether it is a handful of fodder, as indicated by Ibn Mas'ûd, or a particle of grain."⁵ Ibn Manzûr (d.711AH./1311AC) also clearly states in his authoritative dictionary of the Arabic language (*Lisân al-'Arab*) that "what is prohibited is the extra amount, benefit or advantage received on any loan".⁶ The term *ribâ* has, thus, been understood from the earliest times to stand for the

³ See the word *ribâ* in Ibn Manzûr's *Lisân al-'Arab*; 1968; al-Zabidî's *Tâj al-'Arûs*; and Râghib al-Isfahânî's *al-Mufradât*. The same meaning is also unanimously indicated in all classical Qur'ân commentaries.

⁴ The Prophet, peace and blessings of God be on him, said: "If a man extends a loan to someone he should not accept a gift" (Bukhârî in his *Târîkh* and Ibn Taymiyyah in *al-Muntaqâ*). In another *hadîth* the Prophet said: "When one person grants a loan to another and the borrower offers him a dish [of food] or a ride on his animal, he should not accept it unless the two of them have been previously accustomed to the exchange of such favours mutually" (*Sunan al-Bayhaqî, Kitâb al-Buyû', Bâb Kullû 'qardin jarra manfa'atan fa huwa riban*). Is it possible to conceive of a lower rate of interest than a plate of food or a ride in one's car?

⁵ *Tafsîr al-Qurtubî*, 1967, Vol. 3, p.241.

⁶ Ibn Manzûr, 1968, p. 304. See also the commentary on verse 2:275 in *Tafsîr al-Kabîr* of Fakhrud-dîn al-Râzî, *Akhâm al-Qur'ân* of Abû Bakr al-Jassâs, and *Akhâm al-Qur'ân* of Ibn al-'Arabî.

HAS ISLAM REALLY PROHIBITED INTEREST?

By: Dr. Muhammad Umer Chapra

Interest or *Ribā*: Which is Prohibited?

Is interest prohibited in Islam? This question is often repeated at different social gatherings because some people tend to argue that it is *ribā* which has been prohibited by Islam and that *ribā* is not equivalent to interest.

There is no doubt that what has been prohibited by both the Qur'ān and the *hadīth* is *ribā*. The Qur'ān has prohibited it in four different revelations, the first of which (30:39) was in Makkah, and the other three (4:161, 3:130-2 and 2:275-81) were in Madinah. The last of these (2:275-81) came near the end of the Prophet's life, peace and blessings of God be on him. It severely censured those who took *ribā*, and declared them to be at war with God and His Prophet. It also established a clear distinction between trade and *ribā*, and enjoined Muslims to forego all outstanding *ribā*, enjoining them to take only the principal amount, and to remiss even this in case of the borrowers' hardship.

The Prophet, peace and blessings of God on him, also prohibited *ribā* in the most unambiguous words, and condemned not only those who take it, but also those who give it, those who record the transaction, and those who act as witnesses to it.¹ He even equated the wilful taking of *ribā* with committing adultery thirty-six times or being guilty of incest with one's own mother.²

Since *ribā* has been censured severely by both the Qur'ān and the *Sunnah* it is difficult to believe that it would be left so undefined that

¹ Narrated by Muslim from Jābir and also by al-Tirmidhī and Ahmad. For the full texts and complete references to the *ahādīth* quoted in this paper, see Chapra 1985, pp. 236-40.

² The first *hadīth* is narrated by Ahmad and al-Dāraqutnī from Abdallah ibn Hanzalah, while the second is narrated by Ibn Mājah and al-Bayhaqī (*Shu'ab al-Imān*) from Ibn 'Abbās.