

# THE NATURE OF RIBA IN ISLAM

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## Abstrak

Perdebatan masalah riba seperti tidak pernah selesai di diskusikan oleh banyak kalangan, baik akademis, organisasi keagamaan, bahkan sampai pada forum-forum internasional. Beberapa terminologi dibahas dengan baik dalam tulisan ini yang dimulai dengan pelarangan riba itu sendiri kemudian pembagian-pembagian riba, diantaranya riba al-Nasi'ah dan riba al-Fadl, serta implikasi dari dua bentuk riba tersebut. Pembahasan didukung dengan pendapat-pendapat para ulama dan ekonom yang merujuk langsung dari ayat-ayat al-Qur'an, sampai pada perdebatan hukum. Demikian juga al-Qur'an sangat jelas membedakan antara riba dan perdagangan, namun pelarangan riba sangat jelas bahkan diperkuat dengan hadits-hadits yang dengan eksplisit melarang riba. Dijelaskan pula tentang perbedaan antara riba dan bunga bank. Islam sangat menentang bunga bank karena Islam berharap terjadinya sistem ekonomi yang mengeliminasi seluruh bentuk ketidakadilan dengan memperkenalkan keadilan antara pengusaha dan pemilik modal, yaitu berbagi resiko dan berbagi hasil.

## مستخلص

تعد العدالة الاجتماعية - الاقتصادية أحد أهم الغايات المنشودة لكل المجتمعات الإنسانية على الرغم من وجود اختلاف بين تلك المجتمعات في الاستراتيجيات المتبعة لتحقيق هذه الغاية. وبالنسبة للمجتمعات الدينية، وعلى الأخص الهندوسية واليهودية والنصرانية والإسلام، ثمة توافق على أحد عناصر تلك الاستراتيجية وهو تحريم الفائدة المتحصلة عن إقراض النقود. وإذا كان جانباً كبيراً من أتباع الديانات الثلاثة الأولى قد اتجه لمخالفة ذلك التحريم، فإن بعض المسلمين الراغبين في التأسيسي باتباع الديانات الأخرى يحاولون المجادلة بأن ما حرمه الإسلام هو 'الربا' وليس 'الفائدة'. فمن وجهة نظرهم لا تعد الفائدة البنكية رباً.

انطلاقاً من تلك الإشكالية، وفي ضوء النصوص الشرعية من قرآن وسنة وفقه، حاولت المقالة الإجابة عن سؤال مركزي هو: هل الفائدة البنكية حرام حقاً من وجهة نظر الإسلام؟ وانتهت المقالة إلى أن الفائدة البنكية محرمة إسلامياً على أساس أنها تنال من قيم العدالة التي يسعى الإسلام جاهداً لتثبيتها عبر إلغاء كافة أشكال الاستغلال غير المتكافئ. إن الفائدة البنكية تضمن للممول (المقرض) عائداً إيجابياً دون قيامه بأي جهد أو تحمله لأي مخاطرة، على حين تثقل كاهل رجل الأعمال (المقرض) الذي يتحمل كل العمل وكل المخاطرة.

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كما كشفت المقالة عن أن السبب وراء صعوبة إدراك حرمة الفائدة البنكية من الوهلة الأولى يرجع إلى عدم التقدير المتوفر الآن في المجتمعات الإسلامية للقيم الإسلامية بشكل متكامل، حيث يجري التعامل مع الربا كشيء محرم لذاته دون الوعي بالإطار القيمي الذي أتى تحريم الربا لإرسائه؛ إنه إطار العدالة في توزيع الثروة والدخل وعدم السماح بأكل أموال الناس بالباطل؛ وهو الإطار الذي يؤدي الوعي به إلى تحريم الفائدة البنكية حتماً.

### الكلمات المفتاحية

جمعية مُفضة العلماء، السوق العائم، أصحاب المشروعات الصغيرة، نظام البنوك الشرعية

## A. Introduction

Socio-economic justice is one of the cherished goals of all societies. There is, however, a difference of opinion on the strategy that should be used to realize this goal. In spite of this difference, one element which is common in the strategy of four of the world's major religions (Hinduism, Judaism, Christianity, and Islam) is the prohibition of interest.<sup>2</sup> Since the followers of the first three of these religions have in general moved away from this prohibition, there are some Muslims who wish to do the same by arguing that what Islam has prohibited is *riba* and not interest. In their opinion bank interest is not *riba*.<sup>3</sup> This raises the question of whether interest is really prohibited in Islam. This paper tries to answer this question in the light of the Qur'an, *hadith* and *fiqh*.

The consensus prevailing among Muslims throughout history has been, and continues to be, that *riba* among other things, includes interest. This consensus is clearly reflected in the unanimous verdict of a number of international conferences of *fuqaha* (jurists) which have been held to discuss the question of *riba*, including the *Mu'tamar al-Fiqh al-Islami* held in Paris in 1951 and in Cairo in 1965, and the

<sup>2</sup> For the Judaic and Christian views on interest see Johns, et. al. (n.d.), and Noonan (1957); for the Hindu view, see Bokare, 1993, p. 168; and for the Islamic view, see Chapra, 1985, pp. 55-66, and Siddiqi, 2004, pp. 35-64

<sup>3</sup> Sir Sayyid Ahmad Khan (1817-98) was perhaps the first to argue that interest was not *riba* (See his *Tafhim al-Qur'an* (1880-95) Part 1, p.306, referred to by Baljon, 1964, p. 45). M. Ma'uf al-Dawalibi also argued the same at the *Mu'tamar al-Fiqh al-Islami* in Paris in 1951. (See al-Sanhuri, 1953-4, Vol.3, pp. 227-49). For a somewhat revised version of this paper, see al-Dawalibi, 1988. Some of the others who followed suit are: Phulwarwi, 1959; Fazlur Rahman, 1964; Shah, 1967; Katouzian, 1979; M. Ali Khan, 1992, and Saeed, 1995

OIC and Rabitah Fiqh Committee meetings held in 1985 and 1986 in Cairo and Makkah respectively.<sup>4</sup>

The Pakistan Council of Islamic Ideology clearly reflected this consensus when it concluded in its 1980 report on the elimination of interest from the Pakistan economy that: "The term *riba* encompasses interest in all its manifestations irrespective of whether it relates to loans for consumption purposes or for productive purposes, whether the loans are of a personal nature or of a commercial type, whether the borrower is a government, a private individual or a concern, and whether the rate of interest is low or high".<sup>5</sup>

## B. The Prohibition of *Riba*

The prohibition of *riba* appears in the Qur'an in four different revelations.<sup>6</sup> The first of these (30:39), revealed in Makkah, emphasized that while interest deprived wealth of God's blessings, charity raised it manifold. The second (4:161), revealed in the early Madinah period, severely condemned it, in line with its prohibition in the previous scriptures. It placed those who took *riba* in juxtaposition with those who wrongfully appropriated other people's property and threatened both with severe

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<sup>4</sup> al-Sanhuri, 1953-4, (1953-54), Razzaq al, *Masadir al-Haqq fi al-Fiqh al-Islami* (Beirut: Dar Ihya' al-Turath al-Arabi). Vol.3, pp.241-2 and al-Qaradawi, 1994, pp. 129-42

<sup>5</sup> *The Federal Shari'ah Court in Pakistan* also declared in its judgment that "*riba* includes both 'usury' and 'interest' as known in English terminology", 1992, p. 62. For a detailed discussion of the term *riba*, see the *Federal Shari'ah Court Judgment on Interest (Riba)*, 1992, pp.31-109 and Chapra 1985, pp. 55-66 and 235-46

<sup>6</sup> *First stage* (Surah 30:39), That which you give as interest to increase the people's wealth increases not with God; but that which you give in charity, seeking the goodwill of God, multiplies manifold. (30:39). *Second Stage* (Surah 04:161), And for their taking interest even though it was forbidden for them, and their wrongful appropriation of other peoples' property, We have prepared for those among them who reject faith a grievous punishment. (4:161), *Third Stage* (Surah 03:130-2), O believers, take not doubled and redoubled interest, and fear God so that you may prosper. Fear the fire which has been prepared for those who reject faith, and obey God and the Prophet so that you may receive mercy. (3: 130-2). *Fourth stage* (Surah 02:275-281) 275. Those who benefit from interest shall be raised like those who have been driven to madness by the touch of the Devil; this is because they say: "Trade is like interest" while God has permitted trade and forbidden interest. Hence those who have received the admonition from their Lord and desist, may have what has already passed, their case being entrusted to God; but those who revert shall be the inhabitants of the fire and abide therein for ever. 276. God deprives interest of all blessing but blesses charity; He loves not the ungrateful sinner. 277. Those who believe, perform good deeds, establish prayer and pay the *zakat*, their reward is with their Lord; neither should they have any fear, nor shall they grieve. 278. O believers, fear God, and give up the interest that remains outstanding if you are believers.

punishment from God. The third revelation (3:130-2), around the second or third year after Hijrah, enjoined Muslims to keep away from *riba* if they desired their own welfare (in the comprehensive Islamic sense). The fourth revelation (2:275-81), near the completion of the Prophet's mission, severely censured those who take *riba* by declaring them to be at war with God and His Messenger, established a clear distinction between trade and *riba*, and required Muslims to annul all outstanding *riba*, instructing them to take only the principal amount, and to forego even this in case of the borrowers' hardship.

The Prophet, peace and blessings of God be on him, also condemned in the most unambiguous words not only those who take *riba* but also those who give *riba* and those who record the transaction or act as witnesses to it.<sup>7</sup> He even equated the taking of *riba* to committing adultery thirty-six times or being guilty of incest with one's own mother.<sup>8</sup>

### The meaning of *riba*

After knowing this severe verdict of the Qur'an and the *Sunnah* against *riba*, it is necessary to determine what the term *riba* really stands for. *Riba* literally means increase, addition, expansion or growth.<sup>9</sup> It is, however, not every increase or growth which has been prohibited by Islam. In the *Shari'ah*, *riba* technically refers to the

<sup>7</sup> From Jabir: The Prophet, may peace be on him, cursed the receiver and the payer of interest, the one who records the transaction and the two witnesses to the transaction and said: "They are all alike [in guilt]" (Muslim, *Kitab al-Musaqat*, *Bab la'ana akil al-riba wa mu'kilahu*, also in Tirmidhi and Musnad Ahmad).

<sup>8</sup> From Abdallah ibn Hanzalah: The Prophet, peace be on him, said: "A dirham of *riba* which a man receives knowingly is worse than committing adultery thirty-six times" (*Mishkat al-Masabih*, *Kitab al-Buyu*, *Bab al-riba*, on the authority of Ahmad and Daraqutni). Bayhaqi has also reported the above *hadith* in *Shuab al-Iman* with the addition that "Hell befits him whose flesh has been nourished by the unlawful" (*ibid*). From Abu Hurayrah: The Prophet, peace be on him, said: "On the night of Ascension I came upon people whose stomachs were like houses with snakes visible from the outside. I asked Gabriel who they were. He replied that they were people who had received interest" (Ibn Majah, *Kitab al-Tijarah*, *Bab al-taghliz fi al-riba*, also in Musnad Ahmad). From Abu Hurayrah: The Prophet, peace be on him, said: "*Riba* has seventy segments, the least serious being equivalent to a man committing adultery with his own mother" (Ibn Majah, *ibid*).

<sup>9</sup> See the word *riba* in Ibn Manzur's *Lisan al-'Arab*, (vol. 14, 1968), pp. 304-7; al-Zabidi's *Taj al-Arus*, (vol. 10, 1306), pp. 142-3; and Raghib al-Isfahani's *al-Mufradat*, (1961), pp. 186-7. The same meaning is also unanimously indicated in all classical Qur'an commentaries.

“premium” that must be paid by the borrower to the lender along with the principal amount as a condition for the loan or for an extension in its maturity.<sup>10</sup>

In this sense, *riba* has the same meaning and import as interest in accordance with the consensus of all the *fuqaha* without any exception.<sup>11</sup> The term *riba* is, however, used in the *Shari'ah* in two senses. The first is *riba al-nasi'ah* and the second is *riba al-fadl*.<sup>12</sup>

### Riba al-Nasi'ah

The term *nasi'ah* comes from the root *nasa'a* 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 *riba al-nasi'ah* is equivalent to the interest charged on loans. It is in this sense that the term *riba* has been used in the Qur'an in verse 2:275, which states that “God has allowed trade and forbidden *riba* (interest)”

The prohibition of *riba al-nasi'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 *Shari'ah*. It makes no difference whether the rate of return is small or big, or a fixed or

<sup>10</sup> Ibn Manzur specifies that “what is prohibited is the extra amount, benefit or advantage received on any loan” (1968, p. 304). See also the commentary on verse 2:275 in *Tafsir al-Kabir* of Fakhruddin al-Razi (Appendix 1.3.2), *Ahkam al-Qur'an* of Abu Bakr al-Jassas and *Ahkam al-Qur'an* of Ibn al-'Arabi. See also items 4, 5, 6, 7 and 8 of Appendix 3.

<sup>11</sup> 'Abd al-Rahman Jaziri, al-, *Al-Fiqh ala al-Madhabib al-Arba'ah*, 5th ed. (Cairo: Al-Maktabah al-Tijariyyah al-Kubra, n.d.), p. 245. (*Abd al-Rahman al-Jaziri's Al-Fiqh Ala al-Madhabib al-Arba'ah*, is a compendium on the juristic opinions of the four predominant schools of Muslim jurisprudence. It is held in high esteem and considered to be an authority on the subject. Given below are some relevant excerpts from this book on the subject of *riba*. “Definition and classification: “*Riba* is one of those unsound (*fasiq*) transactions which have been severely prohibited (*nahyan mughallazan*). It literally means increase... “However, in fiqh terminology, *riba* means an increase in one of two homogenous equivalents being exchanged without this increase being accompanied by a return. It is classified into two categories.\* First, *riba al-nasi'ah* where the specified increase is in return for postponement of, or waiting for, the payment; for example, buying an *irdab* (a specific measure) of wheat in winter against an *irdab* and a half of wheat to be paid in summer. As the half *irdab* which has been added to the price was not accompanied by an equivalent value in the commodity sold and was merely in return for the waiting, it is called *riba al-Nasi'ah*. The second category is *riba al-fadl*, which means that the increase mentioned is irrespective of the postponement and is not offset by something in return. This happens when an *irdab* of wheat is exchanged hand to hand for an *irdab*, and a *kilab* (another measure) of the same quality of wheat, the buyer and the seller both taking reciprocal possession; or when ten carats of gold produce are exchanged for twelve carats of similar gold produce).

<sup>12</sup> *Riba al-nasi'ah* is also called *riba al-duyum* (*riba* on loans), *riba al-mubashir* (direct *riba*), or *riba al-jali* (obvious *riba*), while *riba al-fadl* is also called *riba al-buyu* (*riba* in trade), *riba ghayr al-mubashir* (indirect *riba*), or *riba al-khafi* (hidden *riba*).

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 is the predetermined positiveness of the return. It is important to note that, according to the *Shari'ah*, the waiting involved in the repayment of a loan does not by itself justify a positive reward.

There is hardly any room even for arguing that the prohibition applies only to consumption loans and not to business loans. This is because the borrowing during the Prophets' times was not for consumption purposes but rather mainly for financing long distance trade. Accordingly, the late Shaykh Abu Zahrah, one of the most prominent and respected Islamic scholars of this century, has rightly pointed out that:

There is absolutely no evidence to support that the *riba* of *al-Jahiliyyah* [pre-Islamic days] was on consumption and not on development loans. In fact the loans for which a research scholar finds support in history are production loans. The circumstances of the Arabs, the position of Makkah and the trade of Quraysh, all lend support to the assertion that the loans were for production and not consumption purposes.<sup>13</sup>

Even Professor Abraham Udovitch, Ex-Chairman of the Department of Near Eastern Studies at the Princeton University, has clarified that "Any assertion that medieval credit was for consumption only and not for production, is just untenable with reference to the medieval Near East".<sup>14</sup> Hence, the Quranic verse about remitting the principal in the event of the borrower's hardship does not refer to consumption loans. It refers essentially to interest-based business loans where the borrower had encountered losses and was unable to repay even the principal, leave alone the interest.

The whole argument that interest causes hardship only for the one who borrows for consumption needs is misfounded. It is the obligation of the Muslim society to meet the dire consumption needs of the poor. Borrowing for conspicuous consumption has been discouraged by Islam and most of the borrowing in the classical Muslim society was for business purposes.

It is only in this context that one may be able to understand the argument of the *Jahiliyyah* that trade is like interest and the distinction that the Qur'an draws between trade and interest. While in trade an entrepreneur has the prospect of making a profit, he also faces the risk of incurring a loss. In contrast with this, interest is

<sup>13</sup> M. Abu Zahrah, *Bubuth fi al-Riba* (Kuwait: Dar al-Buhuth al-Islamiyyah, 1970), p.53-54

<sup>14</sup> Abraham Udovitch, *Partnership and Profit in Medieval Islam* (Princeton, NJ: Princeton University Press, 1970), p.86

predetermined to be positive irrespective of the ultimate outcome of business, which may be positive or negative depending to a great extent on factors beyond the control of the entrepreneur. Imam Razi (d. 313AH/925AC) himself posed the question of what was wrong in charging interest when the borrower was going to employ the funds so borrowed in his business and thereby earn a profit. His well-considered reply to the question was: "While the earning of profit is uncertain, the payment of interest is predetermined and certain. The profit may or may not be realized. Hence there can be no doubt that the payment of something definite in return for something uncertain inflicts a harm."<sup>15</sup>

Accordingly, *riba* is essentially in conflict with the clear and unequivocal Islamic emphasis on socio-economic justice. Financiers who do not wish to take the risk are entitled to only the principal and no more. Those who insist on charging *riba* in spite of its prohibition are declared by the Qur'an to be at war with God and His Prophet, peace be and blessings of God on him.

On the occasion of his Farewell Pilgrimage, the Prophet, while declaring the abolition of interest, announced the remission of interest accumulated in favour of his uncle Abbas ibn Abd al-Muttalib.<sup>16</sup> This was interest on business loans extended to the Banu Thaqif tribe. This tribe had not taken the loan from Abbas and others for fulfilling consumption needs but for expanding their business.<sup>17</sup> This was not an isolated case but a prevalent form of business financing in those days. Several tribe members having skill in trading acted essentially like large partnerships, borrowing finance from members of their own tribe or from other friendly tribes, to carry long-distance trade on a large-scale, which their own resources would not permit. This is because they could not undertake too many business trips abroad from east to west. The slow means of communication, the difficult terrain and the harsh climate confined them to mainly two caravan trips during the year, one in summer and one in winter.<sup>18</sup> Accordingly they collected all the finance they could muster to purchase

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<sup>15</sup> Fakhruddin al-Razi, *Tafsir al-Kabir*, 2nd. ed. (Tehran: Dar al-Kutub al-Ilmiyyah, d. 606/1209), p. 87

<sup>16</sup> Jabir ibn Abdallah, giving a report on the Prophet's Farewell Pilgrimage, said: The Prophet, peace and blessings of God be on him, addressed the people and said: All of the *riba* of *Jahilliyyah* is annulled. The first *riba* that I annul is our *riba*, that accruing to Abbas ibn Abd al-Muttalib [the Prophet's uncle]; it is being cancelled completely. (Muslim, *Kitab al-Hajj*, *Bab Hajjat al-Nabi*, may peace be on him; also in Musnad Ahmad).

<sup>17</sup> M. Abu Zahrah, *Buhuth fi al-Riba*, p. 54

<sup>18</sup> Al Qur'an, 102:2

the exportable local produce, sell it abroad and bring back what was necessary to satisfy the entire needs of their society for imports during a specific period. Most of the interest-based transactions mentioned in the classical commentaries in relation to the prohibition of *riba* are loans taken by tribes from each other, each tribe acting like a large partnership company.<sup>19</sup> Islam abolished the interest-based nature of these relationships and reorganized them on a profit-and-loss sharing basis. The financier got a just share and the entrepreneur did not get crushed under adverse conditions, one of which was the caravan being way-laid on the way.

There is, thus, absolutely no difference of opinion among all schools of Muslim jurisprudence that *riba al-nasi'ah* stands for interest and, is *haram* or prohibited.<sup>20</sup> The nature of the prohibition is strict, absolute and unambiguous.<sup>21</sup> However, if the return on principal can be either positive or negative, depending on the final outcome of the business, which is not known in advance, it is allowed provided that it is shared in accordance with the principles of justice laid down in the *Shari'ah*.

### *Riba al-Fadl*

While Islam has prohibited interest on loans and allowed trade, it has not allowed everything in trade. This is because it wishes to not merely eliminate the injustice that is intrinsic in the institution of interest on loans as well as all forms of dishonest and unjust exchanges in business transactions, but also close the backdoor to *riba* 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 *riba* in seventy (= several) different ways.<sup>22</sup> 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" (cited by Ibn Kathir in his commentary on verse 2:275). Caliph Umar was thus inspired to

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<sup>19</sup> For an excellent factual presentation on the subject with numerous solid references from primary sources, see Mufti Muhammad Shafi' *Mas'alah-e-Sud* (Urdu), (1374 AH), pp. 18-23. See also Abu Zahrah, pp. 54-55.

<sup>20</sup> 'Abd al-Rahman Jaziri, al-, *Al-Fiqh ala al-Madhabib al-Arba'ah*, p. 254

<sup>21</sup> *Ibid.*, p.24

<sup>22</sup> From Abu Hurayrah: The Prophet, peace be on him, said: "*Riba* has seventy segments, the least serious being equivalent to a man committing adultery with his own mother" (Ibn Majah, *ibid.*).

say: "Abstain not only from *riba* but also from *ribah*".<sup>23</sup> *Ribah* is from *rayb* which literally means 'doubt' or 'suspicion' and refers to income which has the semblance of *riba* or which raises doubts in the mind about its rightfulness. It covers all income derived from injustice to, or exploitation of, others. Thus, it may be said in brief that anything that is unjustifiably received as 'extra' by one of the two counterparties to a trade transaction is *riba al-fadl*, which may be defined in the words of Ibn al-Arabi as "all excess over what is justified by the counter-value"<sup>24</sup>.

The Prophet, peace and blessings of God be on him, has indicated, by way of example, at least four different ways of indulging in *riba al-fadl*. These are not all-inclusive but, nevertheless, help us understand the implications of *riba 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 *riba* 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*).<sup>25</sup> Analogically one may conclude that the extra money earned through such exploitation and deception falls within the ambit of *riba al-fadl*.

Another way of being guilty of indulging in *riba al-fadl* is by accepting a reward in return for making a recommendation in favour of a person.<sup>26</sup> 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.

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<sup>23</sup> From Umar ibn al-Khattab: The last verse to be revealed was on *riba* and the Prophet, peace be on him, was taken without elaborating it to us; so give up not only *riba* but also *ribah* [whatever raises doubts in the mind about its rightfulness] (Ibn Majah, *Ibid.*).

<sup>24</sup> Ibn Arabi, Abi Bakr Muhammad, *Ahkam al-Qur'an*, (Cairo: Al-Matba'ah al-Bahiyah al-Misriyyah, d. 543/1148, 1957), p. 242

<sup>25</sup> From Anas ibn Malik: The Prophet, peace be on him, said: "Deceiving a *mustarsal* [an unknowing entrant into the market] is *riba* (Suyuti, *al-Jami al-Saghir*, under the word *ghabn*; Kanz al Ummal, *Kitab al-Buyu*, *al-Bab al-thani*, *al-fasl al-thani*, on the authority of Sunan al-Bayhaqi) From Abdallah ibn Abi Awfa: The Prophet, peace be on him, said: "A *najish* (one who serves as an agent to bid up the price in an auction) is a cursed taker of *riba* (Cited by Ibn Hajar al-Asqalani in his commentary on al-Bukhari called *Fath al-Bari*, *Kitab al-Buyu*, *Bab al-najash*; also in Suyuti, *al-Jami al-Saghir*, under the word *al-najish* and Kanz al-Ummal, *op. cit.*, both on the authority of Tabarani's *al-Kabir*).

<sup>26</sup> From Abu Umamah: The Prophet, peace be on him, said: "Whoever makes a recommendation for his brother and accepts a gift offered by him has entered *riba* through one of its large gates" (Bulugh al-Maram, *Kitab al-Buyu*, *Bab al-riba*, reported on the authority of Ahmad and Abu Dawud).

A third way of indulging in *riba 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.<sup>27</sup> (Appendix 2, *Hadiths* C.5, C.6 and C.7)

This leads to the fourth way of indulging in *riba al-fadl* which has received the maximum attention of the *fuqaha*. A number of authentic *hadiths* stipulate that, if the same genus of commodities is exchanged against each other, then the same quantity and weight of the commodities (*sawa'an bi sawa'in* and *mithlan bi mithlin* or equal for equal and like for like) should be exchanged hand-to-hand (*yadan bi yadin*).<sup>28</sup> 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 *riba* (which is referred to in *fiqh* as *sadd al-dhari'ah*). Another implication of these *hadiths*, as understood by the *fuqaha*, is the prohibition of futures transactions in foreign exchange. This is because, if the rate of exchange is fixed in advance for a futures exchange in currencies, there may be a great deal of injustice if the market rate of exchange changes. The *Shari'ah*, therefore, requires that in a futures transaction the exchange must take place on the basis of the rate prevailing on the date of settlement. However, whether hedging, which is one way of managing the risks involved in exchange rate fluctuations, is possible within the constraints of the *Shari'ah* is a question which needs the attention of the *fuqaha*.<sup>29</sup>

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<sup>27</sup> From Abu Sa'ïd al-Khudri: The Prophet, peace be on him, said: "Do not sell gold for gold except when it is like for like, and do not increase one over the other; do not sell silver for silver except when it is like for like, and do not increase one over the other; and do not sell what is away [from among these] for what is ready". (Bukhari, *Kitab al-Buyu*, *Bab bay al-fiddah bi al-fiddah*; also Muslim, Tirmidhi, Nasa'i and Musnad Ahmad). From Abu Sa'ïd al-Khudri: The Prophet, peace be on him, said: "Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt - like for like, and hand-to-hand. Whoever pays more or takes more has indulged in *riba*. The taker and the giver are alike [in guilt]". (Muslim, *ibid*, and Musnad Ahmad).

<sup>28</sup> For further discussion of these *hadiths*, see M. Umer Chapra, *Towards a just Monetary System*, (Leicester, U.K.:The Islamic Foundation, 1983), pp. 58-61.

<sup>29</sup> For some further detail on this, see Chapra and Khan, 2000, pp. 80-83.

## Implications of the Two Types of *Riba*

*Riba al-nasi'ah* and *riba al-fadl* are, thus, essentially counterparts of the verse "God has allowed trade and prohibited *riba*" (2:275). While *riba al-nasi'ah* relates to loans and is prohibited in the second part of the verse, *riba 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 *riba* may also be perpetuated through transactions in commodities and currencies, *riba 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.<sup>30</sup>

While *riba al-nasi'ah* can be defined in a few words, *riba 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".<sup>31</sup> The attempt to justify *riba al-nasi'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 *riba* but also *ribah*.

It is true that the Prophet specified only a few ways of indulging in *riba 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 changed over the centuries and it was not possible for anyone to foresee and specify them all 1400 years ago. The Qur'an 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

<sup>30</sup> Several types of sales have been prohibited in the *Shari'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'at-hadir li al-badi* and *talagqi al-rukban* (both implying monopsonistic or monopolistic collusion or exploitation to lower or raise prices beyond what is justified by market conditions), *gharar*, *muhagalah*, *munabadhab*, *mulamasah* and *muzabanah* (sales involving uncertainty and speculation or gambling). See, for example, al-Jaziri, Vol.2, pp.273-8 and 283-91.

<sup>31</sup> From Umar ibn al-Khattab: The last verse to be revealed was on *riba* and the Prophet, peace be on him, was taken without elaborating it to us; so give up not only *riba* but also *ribah* [whatever raises doubts in the mind about its rightfulness]

continually in the light of Islamic teachings and to eliminate all shades of injustice. This is a more difficult task than eliminating *riba al-nasi'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 *riba al-nasi'ah* was well-known in the *Jahiliyyah*, the concept of *riba al-fadl* was introduced by Islam and reflects the stamp of its own unflinching emphasis on socio-economic justice.

### C. Concluding Remarks

The principal reason why the Qur'an 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 *riba* as an isolated religious injunction and not as an integral part of the Islamic socio-economic order with its overall ethos, goals and values is bound to create confusion.

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