

6. RIBA AND ITS TYPES

Definition of Riba or Interest

The word Riba means excess, increase or addition, which correctly interpreted according to the Shariah terminology, implies any excess compensation without due consideration (consideration does not include time value of money).

This definition of Riba is derived from the Quran and is unanimously accepted by all Islamic scholars. There are two types of Riba identified to date by these scholars, namely 'Riba an Nasiyah' and 'Riba al Fadl.'

'Riba an Nasiyah' is defined as excess, which results from predetermined interest which a lender receives over and above the principle (Ras al Maal).

'Riba al Fadl' is defined as excess compensation without any consideration resulting from a sale of goods. 'Riba al Fadl' will be covered in greater detail later.

During the dark ages, only the first form (Riba an Nasiyah) was considered to be Riba. However the Prophet (Allah bless him and give him peace) also classified the second form (Riba al Fadl) as Riba.

The meaning of Riba has been clarified in the following verses of the Quran:

"O those who believe, fear Allah and give up what still remains of the Riba if you are believers. But if you do not do so, then be warned of war from Allah and His Messenger. If you repent even now, you have the right of the return of your capital; neither will you do wrong nor will you be wronged" (Al Baqarah 2:278-279).

These verses clearly indicate that the term Riba means any excess compensation over and above the principal which is without due consideration. However, the Quran has not altogether forbidden all types of excess; as it is present in trade as well, which is permissible. The excess that has been rendered haram in the Quran is a special type termed as Riba. In the dark ages, the Arabs used to accept Riba as a type of sale, which unfortunately is also being understood at the present times. Islam has categorically made a clear distinction between the excess in capital resulting from sale and excess resulting from interest. The first type of excess is permissible but the second type is forbidden and rendered Haram.

"Seized in this state they say: 'Buying and selling is but a kind of interest', even though Allah has made buying and selling lawful, and interest unlawful" (Al Baqarah 2:275).

Classification of Riba

1. The first and primary type is called Riba an Nasiyah or Riba al Jahiliya.
2. The second type is called Riba al Fadl, Riba an Naqd or Riba al Bai.

Since the first type was specified in the Quranic verses before the sayings of the Prophet (Allah bless him and give him peace), this type was termed as Riba al Quran. However, the second type was not understood by the Quranic verses alone but also had to be explained by the Prophet (Allah bless him and give him peace), it is also called Riba al Hadees.

Riba an Nasiyah

This is the real and primary form of Riba. Since the verses of the Quran has directly rendered this type of Riba as haram, it is called Riba al Quran. Similarly since only this type was considered Riba in the dark ages, it has earned the name of Riba al Jahiliya. Imam Abu Bakr Hassas Razi has outlined a complete and prohibiting legal definition of Riba an Nasiyah in the following words:

“That kind of loan where specified repayment period and an amount in excess of capital is predetermined.”

One of the ahadith quoted by Ali ibn at Talib (Allah be pleased with him) has defined Riba an Nasiyah in similar words. The Prophet (Allah bless him and give him peace) said:

“Every loan that draws interest is Riba.”

The famous Sahabi Fazala Bin Obaid has also defined Riba in similar words:

“Every loan that draws profit is one of the forms of Riba.”

The famous Arab scholar Abu Ishaq az Zajjaj also defines Riba in the following words:

“Every loan that draws more than its actual amount.”

Riba an Nasiyah refers to the addition of the premium which is paid to the lender in return for his waiting as a condition for the loan and is technically the same as interest. The prohibition of Riba an Nasiyah is one of those issues which have been confirmed in the revealed laws of all the Prophets (Peace be upon them). Some of the Old Testament has rendered Riba as haram (See Exodus 22:25, Leviticus 25:35-36, Deutronomy 23:20, Psalms 15:5, Proverbs 28:8, Nehemiah 5:7 and Ezakhiel 18:8,13,17 and 22:12). The Quran has also stated the prohibition of Riba in various verses, has warned those who persist in practicing 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 writer, witness and dealer in Riba transactions. These verses and ahadith will be discussed at length in a separate chapter called “The prohibition of Riba in the light of the Quran and hadith.”

According to the above definition of Riba an Nasiyah, the giving and taking of any excess amount in exchange of a loan at an agreed rate is included in interest irrespective whether at a high or low rate. It has been proven through ahadith that the Prophet (Allah bless him and give him peace) paid excess at the loan repayment time but since this excess was not paid through an agreed rate, it cannot be called interest. This clarifies that the word “draws” in the hadith definition. “The loan that draws interest is Riba” has been used to highlight the giving and taking of an excess amount through an agreed rate in the loan contract. Due to this, Imam Abu Bakr Hasas has added the word “condition” to the definition.

The fact that Riba an Nasiyah is categorically impermissible has never been disputed in the Muslim community.

In short, the Riba of today which is supposed to be the pivot of world economies and features in discussions on the problem of interest is nothing but this Riba, the unlawfulness of which stands proved on the authority of the seven verses of the Quran, of more than forty ahadith and of the consensus of the Muslim community.

Wisdom Behind the Prohibition of Riba an Nasiyah

First of all, we should realize that there is nothing in the entire creation of the world which has no goodness or utility at all. But it is commonly recognized in every religion and community that things which have more benefits and fewer harms are called beneficial and useful. Conversely, things that cause more harm and offer fewer benefits are taken to be harmful and useless. Even the Quran, while declaring liquor and gambling to be haram, proclaimed that they do hold some benefits for people but the curse of sins they generate is far greater than the benefits they yield. Therefore, these cannot be called good or useful; on the contrary, taking these to be acutely harmful and destructive, it is necessary that they be avoided.

The case of Riba an Nasiyah is not different. Here the consumer of Riba does have some casual and transitory profits apparently coming to him, but its curse in this world and in the Hereafter is much too severe compared to this benefit. The Riba consumer suffers such a spiritual and moral loss that it virtually takes away the great quality of being ‘human’ from him. An intelligent person who compares things in terms of their profit and loss, harm and benefit can hardly include things of casual benefit with an everlasting loss in the list of useful things. Similarly no sane and just person will say that personal and individual gain which causes loss to the whole community is useful. In theft and robbery for example, the gain of the gangster and the take of the thief is all too obvious but it is certainly harmful for the entire community since it ruins its peace and sense of security.

Riba al Fadl

The second classification of Riba is Riba al Fadl. Since the prohibition of this Riba has been established on Sunnah, it is also called Riba al Hadees.

Riba al Fadl actually means that excess which is taken in exchange of specific homogenous commodities and encountered in their hand-to-hand purchase and sale as explained in the famous hadith:

The Prophet (Allah bless him and give him peace) said, “Sell gold in exchange of equivalent gold, sell silver in exchange of equivalent silver, sell dates in exchange of equivalent dates, sell wheat in exchange of equivalent wheat, sell salt in exchange of equivalent salt, sell barley in exchange of equivalent barley, but if a person transacts in excess, it will be usury (Riba). However, sell gold for silver anyway you please on the condition it is hand-to-hand (spot) and sell barley for dates anyway you please on the condition it is hand-to-hand (spot).”

This hadith enumerates 6 different commodities namely:

1. Gold
2. Silver
3. Dates
4. Wheat
5. Salt
6. Barley

These six commodities can only be bought and sold in equal quantities and on spot. An unequal sale or a deferred sale of these commodities will constitute Riba. These six commodities in fiqh terminology are called “Amwal-e-Ribawiya.” Does this hadith apply only to the items mentioned in it? Does it concern sales of barley or wheat but not rice? Of dates but not raisins? A complete legal definition differs in every fiqh. Scholars such as Taoos and Qatada hold that Riba al Fadl includes these specified types only, however a majority of Islamic scholars believe that some other commodities should also be included. In order to answer the question, which other commodities should be included, some scholars hold that the characteristics which are common amongst these items can be used as the basis (illat) for Riba al Fadl. An illat is the attribute of an event that entails a particular divine ruling in all cases possessing that attribute; it is the basis for applying analogy. Ribawi goods are therefore goods that exhibit one of the efficient causes occasioning the application of Riba rules. Various schools define these causes differently:

Imam Abu Hanifa

Imam Abu Hanifa sees only two common characteristics, namely:

1. Weight
2. Volume

Meaning all these six goods are sold by either weight or volume. Therefore all those commodities which have weight or volume and are being exchanged with the same commodity will fall under the rules of Riba al Fadl.

Imam Shafi'i

The two characteristics observed by Imam Shafi'i are:

1. Medium of Exchange
2. Edible

Therefore this law will apply on everything edible or having the natural ability of becoming a medium of exchange (currency).

Imam Malik

Imam Malik identified the following two characteristics:

1. Edible
2. Preservable

Imam Ahmad Bin Hanbal

Three citations have been related to him:

1. First citation conforms to the opinion of Imam Abu Hanifa
2. Second citation conforms to the opinion of Imam Shafi'i
3. Third citation includes three characteristics at the same time, namely edible, weight and volume.

After a detailed study of the above schools of thought, it has been declared by Islamic scholars that if a commodity bears both of the two characteristics (it has weight and can be used as a medium of exchange) then the following two kinds of transactions are not allowed when the same goods are being exchanged:

- A deferred sale of goods (when the goods are returned or paid for after some undetermined period)
- A sale of unequal quantities of the same goods

However, when only one of the two characteristics is present to term the sale as Riba Al Fadl, then exchange of unequal goods are allowed but deferred sale is not allowed.

Wisdom Behind the Prohibition of Riba al Fadl

The prohibition of Riba Al Fadl is intended to ensure justice and remove all forms of exploitation through unfair exchanges and to close all back doors to Riba an Nasiyah because in the Shariah, anything that serves as a means to the unlawful is also unlawful.

The Laws of Riba al Fadl

After closely analyzing the meaning and interpretation of the above ahadith and their explanation in further ahadith along with issues raised in the reference work of Hanafi fiqh, the following rules and laws governing Riba al Fadl are derived:

1. It is evident that the exchange of homogeneous commodities will only be required if they differ in quality and characteristic e.g. different genus of rice and wheat, superior quality gold and inferior quality gold, mineral salt and sea salt etc. The exchange of any of these six commodities with itself, but differing in types or quality (which is called barter in modern terminology), even when considering the market rate, is prohibited in unequal amounts. The reason being that by exchanging these commodities in unequal amounts there is a fear of developing the rationale in a person eventually leading to interest based earnings and illegal benefits. Such transactions might also lead to defrauding. For example, a shrewd trader may claim that a kilogram of a specific brand of wheat is equivalent to 3 kilograms of the other kind because of the excellence of its quality, or this unique piece of gold ornament is equivalent in value to twice its weight in gold; in such transactions there undoubtedly is defrauding of people and harm to them.

As a step to prevent this, the Shariah has made it a law that the exchange of any of these six commodities with itself but differing in quality is allowed in only one of the following forms:

- a) Any difference in value/quality should be ignored and the commodities should be exchanged in equal amounts (equal weight and volume).
 - b) Instead of the direct exchange of commodities of the same kind, a person should sell his commodity against cash at the market value and buy someone else's commodity in exchange of cash at the market value.
2. One of the ways of transacting commodities of the same kind is that a person has a raw material and someone else has a product made of that material and both decide to exchange their product. In this case, one has to see whether:
 - a) *The characteristics of this product have been totally changed by the industry:* For example, the remarkable changes that transform raw cotton into cloth or iron into machinery. In this case, it is permissible to transact a lesser amount of cloth or a greater amount of raw cotton, or raw iron having more weight against machinery having a lighter weight.
 - b) *Little difference has been made to its original form after its formulation:* For example, gold which changes its shape in the form of jewelry. In this case, the Shariah holds that such a transaction should not happen in the first place or if it does, the exchange should be in equal weights in order to discourage unfair deals. Another alternative would be to sell gold against cash and the cash proceeds are used to buy the needed jewelry. This is because it is not possible in a barter transaction, except for an expert, to visualize the fair equivalent of one commodity in terms of all other goods. Hence, the equivalent may be established only approximately thus leading to some

injustice to one or the other party. The use of money could therefore help reduce the possibility of an unfair exchange.

3. Different commodities can be unequally exchanged but deferred payment is not allowed. For example, one kilogram of wheat can be sold against 2 kilograms of dates or one gram of gold can be exchanged for 4 grams of silver on the condition that they are spot transactions, the reason being that such a transaction will surely be carried on the market rate. For example, a person who wants to exchange silver for gold on spot will only transact as per the market rate. However, if the transaction is on credit, there is a possibility, no matter how minor, of stepping into interest that cannot be ignored. For example, a buyer who has traded 80 grams of silver on credit today on the understanding that it will be exchanged against 2 grams of gold after a month has in fact no means to find in advance that 40 grams of silver will be equivalent to one gram gold after a month. Therefore, this ascertaining of value in advance actually signifies its roots in interest and gambling. Similarly, the seller who has accepted credit has in fact yielded to gambling by hoping that the ratio of gold and silver might come down from 1:40 to 1:35. The law of exchanging different commodities only at spot has been established due to this reason.

The general conditions of sale, however, should be borne in mind while making a trade transaction so that the goods are specified in addition to the cash aspect of the transaction. The correct way of specifying is that gold and silver should be under the possession of the sellers or delivered at the place of contract because both goods have the original (natural) price, which cannot be specified until they are delivered.

This rule applies only to the exchange of gold and silver. Other goods can be exchanged against each other without delivery and can be specified any other way but will be restricted to cash transactions.

For example, Zaid made a spot sale of one kilogram wheat to Bakar with 2 kilogram salt against future delivery after having identified their goods. This transaction is allowed in the Shariah since it meets both conditions:

- The transaction is on spot.
- It is also specified.

However, if Zaid was selling one gram gold to Bakar against 40 gram silver, then it is necessary that both take delivery of their purchased goods at the place of contract because without delivery, goods cannot be specified.

To summarize, the Hanafi jurists maintain that in case of commodities that weigh or measure, it is illegal to transact unequally or on credit. But in the case of different commodities an unequal exchange is legal but credit remains illegal; the transaction in this case too should be spot.