

THE NATURE OF *RIBA* IN ISLAM

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ABSTRACT

There is no difference of opinion among Muslims that riba is clearly prohibited by both the Qur'an and the Sunnah. However questions continue to be raised about its meaning and implications because of the two senses in which the term riba is used – riba al-nasi'ah and riba al-fadl. This paper is an attempt to clarify the meaning and implications of both these terms.

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?¹ 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*.² 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*. All the Qur'anic verses related to *riba* as well as a representative sample of *hadiths* and *fiqh* are given in Appendices 1, 2 and 3 respectively.

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 OIC and Rabitah Fiqh Committee meetings held in 1985 and 1986 in Cairo and Makkah respectively. (See al-Sanhuri, 1953-4, Vol.3, pp.241-2 and al-Qaradawi, 1994, pp. 129-42).³ 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" (See the Council's *Report*, 1980, p.1).⁴

THE PROHIBITION OF *RIBA*

The prohibition of *riba* appears in the Qur'an in four different revelations (Appendix 1). 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 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 (Appendix 2:Hadith A.1). He even equated the taking of *riba* to committing adultery thirty-six times or being guilty of incest with one's own mother (Hadiths A.3 and A.5).

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.⁵ It is, however, not every increase or growth which has been prohibited by Islam. In the *Shari'ah*, *riba* technically refers to the "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.⁶ In this sense, *riba* has the same meaning and import as interest in accordance with the consensus of all the *fuqaha* without any exception (al-Jaziri, *n.d.*, vol. 2, p. 245. See also the views of some other major juristic in Appendix 3). 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*.⁷

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 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. (Abū Zahrah, 1970, pp.53-4.)

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"(Udovitch, 1970, p.86). 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 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(al-Razi, n.d., p. 87).

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 (Appendix 2: *Hadith* A.2). This was interest on business loans extended to the Banu Tha'qif tribe. This tribe had not taken the loan from Abbas and others for fulfilling consumption needs but for expanding their business (Abu Zahrah, 1970, p. 54). 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 (al-Qur'an, 106:2). Accordingly they collected all the finance they could muster to purchase 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.⁸ 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 (*Al-Jaziri*, Vol.2, p.245). The nature of the prohibition is strict, absolute and unambiguous.(*Al-Jaziri*, Vol.2, p.24; See Appendix 3). 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.(Appendix 2; *Hadith* 5). 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 say: "Abstain not only from *riba* but also from *ribah*"(Appendix 2: *Hadith* C.1). *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"(Ibn al-Arabi, 1957, p.242.

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*).(Appendix 2, *Hadiths* C.9 and C.10). 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.(Appendix 2; *Hadith* C.8). 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.

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 (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*) (Appendix 2, *Haidths* C.2, C-4).⁹ 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*.¹⁰

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.¹¹

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” (Appendix 2; *Hadith* C.1). 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 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.

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.

APPENDICES: RIBA IN THE QUR'AN, HADITH AND FIQH

APPENDIX 1

RIBA IN THE QUR'AN

First stage (*Surah al-Rum*, verse 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 al-Nisa*, verse 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 Al-Imran*, verse 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 al-Baqarah*, verses 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.

279. If you do not do so, then be sure of being at war with God and His Messenger. But, if you repent, you can have your principal. Neither should you commit injustice nor should you be subjected to it.

280. If the debtor is in difficulty, let him have respite until it is easier, but if you forego out of charity, it is better for you if you realize.

281. And fear the Day when you shall be returned to the Lord and every soul shall be paid in full what it has earned and no one shall be wronged. (2: 275-81)

APPENDIX 2

RIBA IN THE HADITH

A. General

1. 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).

2. 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).

3. 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.*)

4. 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).

5. 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*).

6. From Abu Hurayrah: The Prophet, peace be on him, said: "There will certainly come a time for mankind when everyone will take *riba* and if he does not do so, its dust will reach him" (Abu Dawud, *Kitab al-Buyu, Bab fi ijtinab al-shubhat*; also in Ibn Majah)

7. From Abu Hurayrah: The Prophet, peace be on him, said: "God 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 eats an orphan's property without right, and he who is undutiful to his parents" (*Mustadrak al-Hakim, Kitab al-Buyu*).

B. *Riba al-Nasi'ah*

1. From Usamah ibn Zayd: The Prophet, peace be on him, said: "There is no *riba* except in *nasi'ah* [waiting]" (Bukhari, *Kitab al-Buyu, Bab Bay al-dinar bi al-dinar nasa'an*; also Muslim and Musnad Ahmad) "There is no *riba* in hand-to-hand [spot] transactions". (Muslim, *Kitab al-Musaqat, Bab bay al-ta'am mithlan bi mithlin*; also in *Nasa'i*).

2. From Ibn Mas'ud: The Prophet, peace be on him, said: "Even when interest is much, it is bound to end up into paltriness" (Ibn Majah, *Kitab al-Tijarat, Bab al-taghliz fi al-riba*; also in Musnad Ahmad).

3. From Anas ibn Malik: The Prophet, peace be on him, said: "When one of you grants a loan and the borrower offers him a dish, he should not accept it; and if the borrower offers a ride on an animal, he should not ride, unless the two of them have been previously accustomed to exchanging such favours mutually". (*Sunan al-Bayhaqi, Kitab al-Buyu, Bab kullu qardin jarra manfa'atan fa huwa riban*).

4. From Anas ibn Malik: The Prophet, peace be on him, said: "If a man extends a loan to someone he should not accept a gift". (*Mishkat, op. cit.*, on the authority of Bukhari's *Tarikh* and Ibn Taymiyyah's *al-Muntaqa*).

5. From Abu Burdah ibn Abi Musa: I came to Madinah and met 'Abdallah ibn Salam who said, "You live in a country where *riba* is rampant; hence if anyone owes you

something and presents you with a load of hay, or a load of barley, or a rope of straw, do not accept it for it is *riba*". (*Mishkat, op. cit.*, reported on the authority of Bukhari)

6. Fadalrah ibn Ubayd said that "The benefit derived from any loan is one of the different aspects of *riba*" (*Sunan al-Bayhaqi, op. cit.*, This *hadith* is *mawquf* implying that it is not necessarily from the Prophet; it could be an explanation provided by Fadalrah himself, a companion of the Prophet, peace and blessings of God be on him.

C. *Riba al-Fadl*

1. 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, *op. cit.*).

2. From Abu Sa'id 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).

3. From Ubada ibn al-Samit: 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, equal for equal, and hand-to-hand; if the commodities differ, then you may sell as you wish, provided that the exchange is hand-to-hand" (Muslim, *Kitab al-Musaqat, Bab al-sarf wa bay al-dhahab bi al-waraq naqdan*; also in Tirmidhi).

4. From Abu Sa'id 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).

5. From Abu Sa'id and Abu Hurayrah: A man employed by the Prophet, peace be on him, in Khaybar brought for him *janibs* [dates of very fine quality]. Upon the Prophet's asking him whether all the dates of Khaybar were such, the man replied that this was not the case and added that they exchanged a *sa'* [a measure] of this kind for two or three [of the other kind]". The Prophet, peace be on him, replied, "Do not do

so. Sell [the lower quality dates] for dirhams and then use the dirhams to buy *janibs*." [When dates are exchanged against dates] they should be equal in weight". (Bukhari, *Kitab al-Buyu, Bab idha arada bay tamarin bi tamarin khayrin minhu*; also Muslim and Nasa'i).

6. From Abu Sa'id: Bilal brought to the Prophet, peace be on him, some barni [good quality] dates whereupon the Prophet asked him where these were from. Bilal replied, "I had some inferior dates which I exchanged for these - two *sa's* for a *sa'.*" The Prophet said, "Oh no, this is exactly *riba*. Do not do so, but when you wish to buy, sell the inferior dates against something [cash] and then buy the better dates with the price you receive". (Muslim, *Kitab al-Musaqat, Bab al-ta'am mithlan bi mithlin*; also Musnad Ahmad).

7. From Fadalah bin Ubayd al-Ansari: On the day of Khaybar he bought a necklace of gold and pearls for twelve dinars. On separating the two, he found that the gold itself was equal to more than twelve dinars. So he mentioned this to the Prophet, peace be on him, who replied, "It [jewellery] must not be sold until the contents have been valued separately". (Muslim, *Kitab al-Musaqat, Bab bay al-qiladah fiha kharaz wa dhahab*; also in Tirmidhi and Nasa'i).

8. 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).

9. 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)

10. 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*).

APPENDIX 3

RIBA in FIQH

Abd al-Rahman al-Jaziri's *Al-Fiqh Ala al-Madhahib 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 (*fasid*) 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 *kilah* (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.

“*Riba al-Nasi'ah*

“There is no difference among Muslim jurists about the prohibition of *riba al-Nasi'ah*. It is indisputably one of the major sins. This is established by the Book of God, the *Sunnah* of His Prophet, and the consensus of the *Ummah*. The Qur'an says: (Verses 2:275-9).

* “The Shafi'iyah divide *riba* into three categories. First, *riba al-fadl* which includes *riba* on loans, as the lender extending a loan of twenty guineas on the condition that he will receive in return an advantage, like the borrower purchasing a commodity from the lender, or marrying the lender's daughter, or receiving a monetary benefit as discussed under void transactions (*al-bay al-fasid*); second, *riba al-nasi'ah* as mentioned; and third, hand-to-hand *riba* which means selling two homogenous commodities like wheat, without reciprocal possession on spot”. (This footnote is also a part of the quotation).

“This is the Book of God which has prohibited *riba* vehemently and has reprimanded the taker so severely that it makes those, who believe in their Lord and dread His punishment, tremble with fear. Can any reprimand be harsher than God equating the takers of *riba* with those who have risen in revolt against Him and are at war with Him and His Prophet? What will be the state of that feeble human being who fights with the Almighty and Overpowering God, Whom nothing on earth or in the Heaven can frustrate. There is no doubt that by resorting to *riba* such a person has adopted the course of self-destruction and deprivation.

“The obvious meaning of *riba* to be understood from the noble verse of the Qur’an is the *riba* known by the Arabs in the *Jahiliyyah* period as explained by the commentators of the Qur’an. More than one of them has mentioned that when a loan extended by an Arab matured, he would ask the borrower for the return of the principal or for an ‘increase’ in return for the postponement. This is also the ‘increase’ that is known to us. This increase was either in quantity, like postponing the return of a camel now for two in the future, or in age, like postponing the return of a camel of age one year against a camel of age two or three years in the future. Similarly, the Arabs were familiar with situations where a lender would advance money for a period and take a specified amount of *riba* every month. If the borrower was unable to repay the principal when the loan matured he would be allowed an extension in the time of repayment [rescheduling] with the continuation of the *riba* he has been receiving from the borrower. This is the *riba* which is prevalent now and charged by banks and other institutions in our countries. God has prohibited it for Muslims....

“The noble verses have decisively prohibited *riba al-Nasi’ah* which involves, what is generally understood in our times, as the giving of a principal amount on loan for a given period against the payment of interest in percentage terms on a monthly or annual basis. Some people try to justify this kind of *riba* in spite of its conflict with Islam. It is far removed from Islam and is in discord with its basic philosophy in form as well as meaning. Some of them claim that what is prohibited is the charging of *riba* many times the principal amount as stated by the Qur’an: "O believers! charge not doubled and redoubled interest, and fear God so that you may prosper" (3:130). This claim is however absolutely wrong because the objective of the verse is to express a repulsion against interest....

“Riba al-Fadl: Its legal position

“*Riba al-Fadl* is prohibited according to the four schools of jurisprudence. But some of the Prophet's companions, among them Sayyid ‘Abdallah ibn ‘Abbas (may God be pleased with him), allowed it. Nevertheless, it is reported that he recanted his opinion afterwards and talked about its prohibition. *Riba al-Fadl* does not have substantial effect on transactions because of the rarity of its occurrence; it is not the objective of people to buy or sell one thing in exchange for the same thing unless there is something extra from which each one of the parties may benefit. Notwithstanding this, it has been prohibited because it might lead to the defrauding or deception of less sophisticated persons. For example, a shrewd trader may claim that the *irdab* of a specific brand of wheat is equivalent to three *irdabs* 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.

“The authority for the prohibition of *riba al-fadl* lies in what 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, equal for equal, and hand-to-hand ; if the commodities differ, then you may sell as you wish, provided that the exchange is hand-to-hand.

“This *hadith* indicates that it is neither proper to sell these homogenous commodities against themselves with addition nor is it proper to delay the reciprocal taking of possession. Hence it is not proper to sell a gold guinea against a gold guinea and ten *qurush*, neither on a hand-to-hand, nor on a deferred, basis, just as it is not right to sell a gold bar weighing ten carats against a gold bar weighing twelve carats. Similar is the case with wheat and barley and other items mentioned in the *hadith*.

“And if such is the case, then does *riba* enter into every commodity or is it confined to just the commodities mentioned in the *hadith*, namely, gold, silver, wheat, barley, dates and salt? There is no difference of opinion among the four schools of jurisprudence that analogically *riba* enters other commodities not mentioned in the *hadith*. If there is any difference it is in the analogy (*illah*) used to arrive at the conclusion that the ‘addition’ [*riba al-fadl*] is prohibited for all commodities wherever the analogy holds. Only the Zahiriyyah (a juristic school which was opposed to analogical reasoning) confined *riba al-fadl* to only the commodities specified in the *hadith*.”(al-Jaziri, 5th ed., n.d., vol. 2, pp. 245-8).

Even though the above excerpt is sufficient to convey the views of the four schools of jurisprudence, the reader may wish to go through the following sample of opinions from prominent Qur'an commentators and/or jurists of the various schools, particularly the Ja'fari school, which is not covered in the above quoted book. It may be seen that there is hardly any difference of opinion on the subject except in presentation and in certain minor details.

2. Fakhr al-Din al-Razi (Qur'an commentator and philosopher) (d. 606/1209)

“*Riba* is of two kinds: *Riba al-nasi'ah* and *riba al-fadl*.”

“*Riba al-nasi'ah* is what was well known and conventional among the Arabs in *Jahiliyyah*. They used to give loans on the condition that every month they will receive a stipulated amount with the whole principal remaining outstanding. Then, when the loan matured and the borrower was unable to clear his obligation, the amount was raised and the period was extended. This is the *riba* that was practiced in the *Jahiliyyah*.”

Riba al-Naqd [*al-fadl*] is, however, the selling of one maund [a unit of weight] of wheat, or anything similar to it, against two maunds” (Al-Razi, n.d., vol. 7, p. 85).

3. Abu Bakr al-Jassas (Qur'an commentator and Hanafi jurist) (d. 370/945)

“The literary meaning of *riba* is increase but in the *Shari'ah* it has acquired a connotation that its literal meaning does not convey. The Prophet, peace be on him, termed the increase, [which is a condition] for waiting, as *riba* as is evident from the *hadith* narrated by Usamah bin Zayd in which the Prophet said: “*Riba* is in waiting”... Hence God abolished the *riba* which was being practiced at that time. He also invalidated some other trade transactions and called them *riba*. Accordingly, the Qur'anic verse “God has prohibited *riba*” covers all transactions to which the connotation applies in the *Shari'ah* even though the indulgence of the Arabs in *riba*, as mentioned above, related to loans in dirhams and dinars for a specified period with the increase as a condition. The term *riba* hence signifies different meanings. One is the *riba* prevalent in *Jahiliyyah*; the second is the disparity or differential (*tafadul*) in the volume or weight of a commodity [in spot transactions]...; and the third is postponing (*al-Nasa*); this implies that it is not permitted to sell a commodity against future delivery of the same volume, weight or other measure of the given commodity” (Al-Jassas, 1347 AH, vol. 1, pp. 551-52.)

4. Muhammad ibn Abdallah ibn al-Arabi (Qur'an commentator and Maliki jurist)
(d. 543/1148)

Riba literally means increase, and in the Qur'anic verse (2:275) it stands for every increase not justified by the return" (Ibn Arabi, 1957, p. 242).

"It may be clarified here that the 'waiting' involved in a loan is not considered by the jurists to be a return justifying the increase (interest) on the principal amount.

5. Ibn Qayyim al-Jawziyya (d. 751/1350)

Riba is of two kinds: *Jali* and *Khafi*. The *Jali* has been prohibited because of the great harm it carries and the *Khafi* has been prohibited because it is an instrument for the *Jali*. Hence prohibition of the former is deliberate while that of the latter is precautionary.

The *Jali* is *riba al-Nasi'ah* and this is what was engaged in during the *Jahiliyyah*, like allowing the postponement of repayment of principal against an increase, and every time there was a postponement, there was an increase....

However, *riba al-fadl* has been prohibited to close the access to *riba al-Nasi'ah*" (Ibn al-Qayyim, 1968, vol. 2, pp. 154-55)

6. Shah Waliyullah al-Dihlawi

"Remember that *riba* is of two kinds: One is primary (*haqiqi*), .(The actual translation of *haqiqi* should be real. This has, however, been avoided because of the possible confusion with real interest which technically means nominal interest adjusted for price inflation). the other is subject to it. Primary *riba* is only on loans. The other *riba* is called *riba al-fadl* ... and is akin to primary *riba*" (Waliyullah, 1953, vol. 2 pp. 474-75).

7. Ibn Qudamah al-Miqdasi (Hanbali jurist)

"*Riba* is of two kinds: *riba al-fadl* and *riba al-Nasi'ah*. The prohibition of *Riba al-fadl* involves the exchange of one commodity against itself and covers all commodities which are exchanged by volume or by weight regardless of whether the quantity exchanged is small, like one date for two dates or one grain for two grains ... (p. 64)

“*Riba al-Nasi’ah* is involved in the exchange of two commodities one of which is not the price (p. 73)” (Ibn Qudamah al-Miqdasi, *Al-Muqni’*, 1973, vol. 2, p. 64-77).

8. Hasan ibn al-Mutahhar (Ja’fari jurist)

Riba literally means increase and, technically, it refers to the increase in the exchange of two commodities, one against its own kind.... *Riba* is of two kinds: *Riba al-fadl* and *Riba al-Nasi’ah* and the jurists are agreed on their prohibition” (Ibn al-Mutahar, *Tadhkirah al-Fuqaha’*, 1955, vol. 7, p. 84.a)

END NOTES

¹ 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

² 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

³ See also Abdel Hamid al-Ghazali, 1990 and 1994, pp. 35-60, for verdicts about *riba* given from 1900-89.

⁴ *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

⁵ See the word *riba* in Ibn Manzur's *Lisan al-'Arab*, 1968, vol. 14, pp. 304-7; al-Zabidi's *Taj al-'Arus*, 1306, vol. 10, 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.

⁶ 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 (Appendix 1.3.3), and *Ahkam al-Qur'an* of Ibn al-'Arabi (Appendix 1.3.4). See also items 4, 5, 6, 7 and 8 of Appendix 3.

⁷ *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*).

⁸ 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.

⁹ For further discussion of these *hadiths*, see Chapra, 1985, pp. 58-61.

¹⁰ For some further detail on this, see Chpara and Khan, 2000, pp. 80-83.

12. 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), *bayal-hadir li al-badi* and *talaqqi al-rukban* (both implying monopsonistic or monopolistic collusion or exploitation to lower or raise prices beyond what is justified by market conditions), *gharar*, *muhaqalah*, *munabadhah*, *mulamasah* and *muzabanah* (sales involving uncertainty and speculation or gambling). See, for example, al-Jaziri, Vol.2, pp.273-8 and 283-91).

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