

Usury (Interest), Suicide and the Law

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Abstract

This study investigates the issue of usury, a menace that has ruined the lives of the financially downtrodden. Then, when they're in a bind and can't come up with the cash, they turn to moneylenders, where they're exploited if they can't pay it back by taking increasingly drastic measures. An additional goal is to learn the measures the court has taken to end the curse of interest. In order to find the answer, the author examines a broad area of sources that include the Holy Quran, the Bible, the Zabur, the Hadiths, the Pakistani constitution, statutes, the views of Islamic scholars, reports of the Council of Islamic Ideology, articles by distinguished writers, and case law (judgments from the Supreme Court, High courts, and Federal Shariah Courts) to explain to readers what the remedy for society to get rid of this misery should be. This article exposes the evils of usury, which prevail under the guise of its fickle nomenclature.

Key Words: Riba, Interest, Usury, Islamic provisions, Council of Islamic Ideology

Introduction

Usury, interest, and riba are all names of the same menace, which has been condemned and forbidden by all religions in each era. This scourge is now wreaking havoc wherever it has been legalized. Some countries are more victims of its evils than others are, with a 50% ratio of suicides due to it. In the West, most students, in their quest to brighten their future, obtain a loan with interest, but later on, they complete their studies or get a degree if they cannot succeed in getting a job or making money. Instead, the future darkens in such cases, and there is no way for them to relieve themselves of the burden of the menace of usury other than by taking their own life. In this article, the efforts of various institutions in Pakistan to eliminate the pain of interest have been discussed, with the suggestion that the legislature may ponder framing the act of money lenders who press the debtors and torture them in various ways to put them under such a compulsion that the victim commits suicide. If the substantive law had a specific charge for this indirect act of murder, probably in the case of Munawar Ali Samo,

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³ they might have faced an appropriate criminal charge.

According to this article, interest-based threats exist in society in both forms. Despite being forbidden by Allah, being deemed haram by the Holy Prophet (ﷺ), Islam, Shariah, and Scholars, and even having been deemed offensive to the infusion of Islam and illegal by the Courts of this nation.⁴ In addition, it has widespread condemnation in society yet persists unabated; the only reason is that it is not specified in the Penal Code, so there are no preventive measures. To support this claim, it is asserted that the interest specifically declared haram (unlawful) should be strictly forbidden in any form. Mostly in private transactions or courses of business, and if any debtor takes any step to risk his own life under the duress of creditors (moneylenders), such an act of duress may be declared a crime with an appropriate punishment specified in charge under Pakistan Penal Code-1860 (PPC). This is an implied act of murder, so it should be charged with murder in substantive law. Interest has an appealing identity under the norms of capitalistic systems in the West or in countries where usury has been recognised and legalized. They have had startling effects on their society, particularly on the youth there.⁵ Under heavy debts of ten, about eight per cent (%) of people commit suicide,⁶ embracing death as an easy way to alleviate the burden of debt that comes to them as a death sentence.⁷

Even in Muslim countries where interest is actively prohibited, there is a 0.1 per cent (%) ratio of inclusive inclination or attempt to commit suicide as a result of the stress of debt burden.⁸ Those who advocate capitalism should bear in mind the act which Allah has forbidden; it must have the wisdom of well-being for

³ A clip recorded by Munawar Ali Samo recorded a video message on his phone before drinking the entire bottle of agricultural poison pesticides, implicating the moneylenders as his murderers. <https://youtu.be/8sCxXJh6Obw>

⁴ Federal Sharia Court of Pakistan in Shariat Petition No.30-L of 1991 & all other 81 connected matters related to Riba/interest have finally announced judgement on Appeal 28-04-2022 authored by Justice Dr Syed Muhamamd Anwar, consisting of 318 pages.

⁵ In Western countries, youth is being provided student debt load which has to be recoverable after graduating from their earning or salary, in that case, most students could not successfully get suitable jobs to meet their basic requisites of liveliness and repayment of that student debt load. They, mostly depressed and inclined to suicide find it easy to alleviate that burden.

⁶ Thomas Peter Elliotta Ronald Roberts, Clinical Psychology Review “The relationship between personal unsecured debt and mental and physical health: A systematic review and meta-analysis, Volume 33, Issue 8, December 2013, Pages 1148-1162. <https://www.sciencedirect.com/journal/clinical-psychology-review>

⁷ Meanie Lockert, Stephanie DeAngelis, “Why we can no longer ignore the link between suicide and debt., Sept. 11, 2019, Blog, <https://www.allure.com/contributor/melanie-lockert>

⁸ Authors personal opinion

humanity as a whole. In Muslim society, interest (usury) is in Arabic termed "riba", declared forbidden, haram (unlawful), illegal and repugnant to the injection of Islam, hence strictly condemned in Hadiths (sayings). Some capitalists, on the other hand, have tried to confuse interest and usury with Riba on a technical level in order to get Muslims to support usury. While usury (interest) means an increase, an addition either slightly above or slightly below the principal amount that has been identically and specifically declared, riba is the same interest or usury with different names. The Arabic word "riba" has both meanings of usury and interest, irrespective of any difference. It is an excess amount that a creditor settles either at the time fixed to receive it or recovers from the debtor on the loan.⁹

A usury contract stipulates obligatory conditions on debtors if it is made without any exchange of property.¹⁰ Despite the fact that it appears to be a lawful commercial agreement, interest-based legal is not upholdable to the amount of interest.¹¹ Even under an agreement with mutual consent, a contract could not be termed halal (lawful). Haram (unlawful) can never be halal with the effect of mutual consensus or compromise.¹² From the Islamic perspective, custom and usage are secondary sources of decisions based on usage. However, if it goes against divine law, despite Ijmas (consensus), it is not enforceable.¹³ Imam Fakhru-Din Al-Razi¹⁴ has a different view in his Tafsir¹⁵ he wrote that Riba is an increase, however, not all recoverable increases are unlawful.¹⁶ In support, he has argued that under the special contract Riba al Nasiah¹⁷ mean an increase in debt is forbidden however Rabi al Fadl¹⁸ has no prohibition if it is not called profit, unlike Riba, which is the consideration or recompense for the predetermined period of loan repayment, because time is not a valuable commodity that can be exchanged for money or other forms of return is illegal. A transaction with a predefined fixed length as a surplus or addition beyond the loan's principle amount was haram and

⁹ Irshad H. Khan v. Mrs Parveen Ajaz, PLD 1987 Karachi 466

¹⁰ Ibid

¹¹ Dr Mahmood Ur Rehman Faisal and others v. Secretary, Ministry of Law and Justice and Parliamentary affairs, PLD 1992 FSC 1

¹² Note 5. *ibid.*

¹³ Note 5. *ibid.*

¹⁴ Abu Abdullah Muhammad ibn Umar ibn al-Husayn at-Taymi al-Bakri at-Tabaristani Fakhr al-Din al-Razi, an Islamic philosopher and inductive logic pioneer, was born in Shahr-e-Rey, Iran, in 1149 and died in Herat, Afghanistan, on April 5, 1210.

¹⁵ Imam Fakhru Din Al Razi, Tafsir al Kabir.

¹⁶ Note 5. *ibid.* and Abu Umar Faruq Ahmad, University of Western Sydney. Kabir Hassan, University of New Orleans, RIBA AND ISLAMIC BANKING, publ. Journal of Islamic Economics, Banking and Finance, January 2007 available at <https://www.researchgate.net/publication/228672983>

¹⁷ Borrowing and lending

¹⁸ Buying and selling on profit.

forbidden during the holy prophet's (ﷺ) time.¹⁹ Some writers mistakenly believe that usury compound or excessive charge is illegal, but not a tiny percentage. It violates Quranic teachings.²⁰

In Muslim society Interest and Islam cannot abide at once, it was considered condemnable in the dark days before Islam in Arabia, where it was regarded as dishonestly earned money.²¹ Once, long before the dawn of Islam, the building of Kaba caught fire when a spark flew through the wind and clung to the curtain of Kaba. The fire caught the whole building, and it crumbled down in a heap of ashes. It was regarded that the holy Kaba had fallen due to nasty money, so for reconstruction, usurious and prostitutes were solemnly restrained from contributing a bin.²² It is a misconception that interest increases wealth but charity does because it pleases Allah.²³ People supposed trade resembles interest however interest has been forbidden with permission of trade specifically disguising²⁴ with warring to Usurious by Allah almighty that if you don't stop taking interest that's already accrued, Allah and His Apostle (ﷺ) will wage war against you.²⁵ Further advised, to give ease to the debtor if he is in difficulty²⁶ rather than burden him with interest, which is likely to compel him to take actions that endanger his life. One recent viral video clip on social media of a young man Munawar Ali Samo²⁷ declaring while drinking poison (pesticides) that he is compelled to commit suicide by being freighted under interest, which he has repeatedly paid but has not even reached the principal amount of the same. He accused the moneylenders of his murderers who made him take such a grave step of self-immolation.²⁸

The author has tried to seek out the answers to research questions. 1. Explain the terms "usury" and "perplexity": 2. what are the Islamic principles and commands for identifying usury? 3. What is the difference between usury and a mortgage? 4. Statutes regulating or legalising usury? 5 Side effects of usury in Pakistan? As far as substantive law doesn't specifically say, making a person die by making them commit suicide is a form of murder. The goal of this study is to

¹⁹ Note 5. *ibid.*

²⁰ Note 5. *ibid.*

²¹ Note 5. *ibid.*

²² Dr Hameedullah, Muhammad Rasulullah: A Concise Survey of the Life and Work of the Founder of Islam, pub.1979, paragraph 34

²³ Surat-ur-Room 30:39

²⁴ Surat-ul-Baqara 2:275 and 2:276

²⁵ Surat-ul-Baqara 2:279

²⁶ Surat-ul-Baqara 2:280

²⁷ A resident of village Dhani Parto Samo, Tahsil Shahdadpur, union council Kauro Khan Umrani, District Snaghar.

²⁸ A clip recorded by Munawar Ali Samo through his mobile phone his last video message implies the moneylenders his murderers. <https://youtu.be/8sCxXJh6Obw>

find out if usury is legal in Islam in Pakistan and around the world. It also wants to find out what legal cover there is for usury in Pakistan and around the world and to look into the implied act of usury that makes the debtor commit suicide, which is an implied murder. The scope of this research is limited to the exploration of two core issues: usury and its side effect, "suicide," and the legislation thereon. It is tried to establish that the acts are denounced and declared unlawful, but due to their indirect or confusing nature, we err in understanding the real cause, or sometimes, despite knowing it, we adversely condemn the act of the victim rather than the actual actor who is reminded behind the scene. This research would expose such actors and is an effort to explain the legal lacunas that provide a shield to the actual actor. People who read this paper would say that fixing the usury fistula and its side effects, which make people angry, is a good thing. It is descriptive legal research with a prospective claim. It frames issues about usury and its side effects, its legal legitimacy, and the suicidal tendencies caused by victims of usury's compulsion to investigate its root causes. The legal deficiencies, loopholes, and lack of legislation in areas where they are still required to legislate reflect the exigency of the time. People who are experts in law and philosophy look for ways to fix problems and make suggestions. Primary and secondary sources of information are used in the research, which includes substantive and case law as well as drafts, articles, and scripts written by legal experts, as well as philosophical views.

Understanding the difference between Usury, Interest, and Riba

Usury is known as interest, which means time-related fixed monetary return²⁹ with an increase or addition on loan, either in cash or exchange of commodities, on it, except the principal amount in return is usury. In Arabic, it is termed as Riba³⁰ has been driven from "Riba/Raba" meaning clear and unequivocal³¹, to grow or expand, inflate, or excess. An additional fee must be paid by the borrower to the

²⁹ Islamic University Bahawalpur through its chancellor v. Khadim Hussain and 5 others 1990 MLD 2158 LHC,

³⁰ Hesham M. Sharawy. Understanding the Islamic Prohibition of interest: A guide to aid economic cooperation between the Islam and Western worlds. GA. J. INT'L & COMP. L., 2000, Vol. 29:153, p.163

³¹ Shahbazud Din Chaudhry and 27 others v. Messrs. Services Industries Textiles Ltd. and 4 others PLD 1988 LHC. 1; p. 18 by Mufti-e-Azam Maulana Muhammad Shall, published by Adaratul Moarif, Karachi No.18; in 21 by Mufti-e-Azam Maulana Muhammad Shaft, published by Adaratul Moarif Karachi No.18 and Islam and the Theory of Interest by Anwar Iqbal Qureshi, published by Sh. Muhammad Ashraf, Kashmiri Bazar, Lahore, p. 50

lender in addition to the loan's principal in order to extend the loan's maturity or make it harder for the borrower to repay the loan.³²

In the middle of the sixteenth century, Jewish merchants introduced a modern interest-charging system called capitalistic in western countries. To persuade Muslim countries, they premeditatedly confused the definition of Riba with an interest. However, riba in any form has been specifically declared to have an interest (usury) having no difference, thus is haram. After learning about the Prize Bond Scheme, the Pakistani Ulema changed their minds and aborted favouring it.³³ Curse of Riba(interest) was prevailing in Arabia pre-Islam to curb that menace, occasionally verses of the Holy Quran were revealed.³⁴ All forms of usury are considered Riba, regardless of the loan's purpose—consumption, production, personal, commercial, public, private or the interest rate.³⁵ The Second class of Riba-ul-Fazal is a transaction of exchange of articles.³⁶ In coercion, the needy party has sold his commodity or articles (i.e., jewellery, antiques, pearls, or any other valuable property) to purchase a needful commodity, exploiting his compulsion. Moneylenders used to purchase it, valuing it inferior to the market rate, and in exchange, they used to sell their commodity at a high rate to a needy person. It is also one of the forms of Riba³⁷.

To understand Riba, it can be recognised by its i-e (a) advancement of loan by the lender. (b) the borrower's receipt of the loan(c) preconditions of repayment of a loan (principal amount) along with the fixed rate of profit (interest) irrespective of profit or loss to the borrower, which itself is the loot and plunder of his whole savings.³⁸ In western countries, either small businesses or banks run under the capitalist system a traditional method of financing which wholly depends on interest.³⁹ Where investors have the assurance of a predetermined rate of interest, the basic function of this system is to lend money at a fixed interest rate without losing profit.⁴⁰ The West regards it as an effective business growth system

The Pakistani government, following the Council of Islamic Ideology advice, eliminated interest. In all five nationalised banks, it first offered Profit and Losst

³² Chapra, M. Umar, *towards a Just Monetary System*, Leicester, 1986, pp.56-57 referred in article Riba and Islamic Banking see its F.n.4.

³³ Dr Faiz Muhammad, the then Director-General, of the International Institute of Islamic Economics, International Islamic University, Islamabad

³⁴ Note 24. *ibid.*

³⁵ Note.7. *ibid.*

³⁶ Mufti-e-Azam Maulana Muhammad Shafi, Bukhari un Abi Saeed, published by Adaratul Moarif, p.17.

³⁷ Note 24. *ibid.*

³⁸ *Ibid.*

³⁹ Note 24. *ibid.*

⁴⁰ Note.25. *ibid.*

Accounts, then switched to interest-bearing Savings PLS Accounts. Thereafter, Mudarabah⁴¹ and Musharakah⁴² systems of investment have been introduced on a very limited and restricted scale. In this way, options remain open with banks and the public to avail the Islamic system of interest-free or non-Islamic interests.⁴³

Quranic "Riba" Prohibition⁴⁴

Riba (Usury) internet has been forbidden in the Holy Quran at five-time specifically.

First Revelation

Whatever you offer for interest (benefit) to grow people's wealth⁴⁵ won't increase with Allah. Zakat, given with the intention of pleasing Allah, multiplies⁴⁶.

Second Revelation

And for taking interest when they were told not to and for spending the people's money unfairly. And we have a painful punishment for those among them who don't believe.⁴⁷

Third Revelation

Believers, do not take usury, compounded and increased, but fear Allah to succeed.⁴⁸

Fourth Revelation

Only those who trust in Allah and the Holy Prophet (ﷺ) and ask his permission before leaving him for a common interest are believers. O the Holy Prophet Muhammad (ﷺ), those who ask your permission believe in Allah and the Holy

⁴¹ The investor provides capital, while the other party manages the business without investing any money. If the business loses money, the investor bears the loss, while the manager loses time and energy without compensation. The business manager must pay for capital lost due to carelessness.

⁴² Everyone contributes capital. All investors run the business. All parties must share the loss according to their initial capital.

⁴³ Note.7. *ibid*.

⁴⁴ Note 24. *Ibid*.

⁴⁵ The word might mean a) usury or interest, b) a loan with interest, or o) a present that was given to get a bigger gift.

⁴⁶ Surat-ur-Room 30:39

⁴⁷ Surat-ur-Room 30:39

⁴⁸ Surat-Aal-e-Imran 3:130

Prophet (ﷺ). So, when they ask for your permission for their affairs, grant it to whomever you will be with and ask Allah for pardon. Allah is merciful.⁴⁹

Fifth Revelation

- (i) Interest eaters can only stand on the Day of Resurrection as Satan-beaten lunatics. "Trade is interested," they say. Allah allows trade but forbids interest. Hence, whoever hears a warning from his Lord and desists may have what has already happened, and Allah makes the decision. But those who return to usury or interest will be eternally in the Fire.⁵⁰
- (ii) Allah ruins interest and increases charity. Allah hates sinners.⁵¹
- (iii) If you believe, fear Allah as well as give up the interest.⁵²
- (iv) If not, Allah as well as His Messenger (ﷺ) will declare war on you. If you atone, you can get your principal and do no wrong.⁵³
- (v) If a debtor is struggling, postpone payment until he is better off (it is easier). If you give (forego) your right as a charity, it's better if you only knew.⁵⁴

Prohibition in Shariah and Hadiths⁵⁵

Ibn Mas'ud Narrated

The Messenger (ﷺ) cursed those who consumed Riba, charged it, witnessed it, and recorded it.⁵⁶

Ibn Shihab

"Who can change some Dirham?" said Malik bin Aws bin Hadathan. When their servant arrived, Talhah bin 'Ubaidullah and 'Umar bin Al-Khattab said, "Leave your gold with us, then come back to us and we will give you your silver." Umar bin Al-Khattab, refuse! Allah! Please return him silver or gold. Indeed, the Messenger (ﷺ) said: "Silver for gold is Riba, except for hand to hand; and wheat

⁴⁹ Surat-un-Noor 24:62

⁵⁰ Surat-ul-Baqara 2:275

⁵¹ Surat-ul-Baqara 2:276

⁵² Surat-ul-Baqara 2:278

⁵³ Surat-ul-Baqara 2:279

⁵⁴ Surat-ul-Baqara 2:280

⁵⁵ Note 24. *ibid.*

⁵⁶ Jam-e-Tirmizi, Hadees no.1206 and Sunnan-e-Ibn-e-Maja Hadees no.2277, Mishkat-ul-Masabeeh Hadees no.2807, Musnad Ahmed Hadees no.5954 and 5955,6997,9668,10020

for wheat, barley for barley, and dried-dates for dried-dates is Riba except for hand to hand."⁵⁷

Abu Hurairah

The Messenger (ﷺ) said, "There are seventy kinds of usury, the least of which is akin to a man having intercourse with his mother."⁵⁸

Abdallah ibn Hanzalah

"A dirham of Riba that a man obtains deliberately is worse than committing adultery thirty-six times," declared the Prophet (ﷺ).⁵⁹

Abu Hurairah

I witnessed individuals on Ascension Eve with house-like stomachs which had snakes on their outside, the Prophet (ﷺ) stated. Gabriel, who are they? He said they are moneylenders.⁶⁰

Abu Hurairah

"Riba contains seventy components, the least serious being akin to a man accused of raping his mother," declared the Prophet (ﷺ).⁶¹

Preference to Mortgage against Interest⁶²

The Prophet (ﷺ) has preferred to mortgage property or valuables in exchange for the commodity over Riba. Rather seeking, requesting, begging, or lending money is better than credit in exchange for property or valuables until repayment with the right to retain and gain men's profit from it.

Narrated Bibi Aisha

The Prophet (ﷺ) borrowed food grains and mortgaged his iron armour to a Jew.⁶³

⁵⁷ Jam-e-Tirmizi, Hadees no.1243 and Sahih Bukhari Hadees no.2134

⁵⁸ Sunan-e-Ibn-e-Maja, Hadees no.2274

⁵⁹ Mishkat-ul-Masabeeh, Hadees no.2825, Musnad Ahmed Hadees no.5959.

⁶⁰ Mishkat-ul-Masabeeh, Hadees no.2828, Musnad Ahmed, Hadees no.10578,5963

⁶¹ Mishkat-ul-Masabeeh, Hadees no.2826

⁶² Messrs. Bank of Oman LTD v. Messrs. East Trading. Co. LTD. and others, P L D 1987 Karachi 404

⁶³ Sahih Bukhari Hadees no.2068, 2096,2200,2251,2252,2513 and Sahih Muslim Hadees no.4115, Sunnan-e- Nisai Hadees no.4654, Sunnan-e-Ibn-e-Maja Hadees no.2437

Narrated Abu Huraira

Since one spends on a mortgaged animal, one can ride it and drink its milk, according to the Prophet (ﷺ).⁶⁴

Narrated Bibi Aisha

The Prophet (ﷺ) left this world, yet his armour was mortgaged to a Jew for thirty shekels of barley.

Narrated Samurah

That the Messenger (ﷺ) said: The boy is mortgaged by his 'Aqiqah; slaughtering, naming, and shaving his head should be done on the seventh day.⁶⁵

Statutes Regulating Usury and its Legal Status

From 1990 to 1992, 115 Sharia Petitions and three Suo Motu Sharia Notice Cases challenged usury laws, citing various provisional protections. Statutes and provisions identifying interest and supporting them were professed offensive to Islamic commands and ceased to apply on July 1, 1992. Twenty statutes and provisions were deleted. The decision was challenged in an appeal before the Shariat Appellate Bench of the Supreme Court of Pakistan. The judgements from the Civil Shariat Appeals⁶⁶ Nos. 11 to 19 of 1992 and the Shariat Petitions Nos. 42-I and the Federal Shariat Court 1991's 44-I 45-I were set aside on 24 June 2002, when the Federal Shariat Court granted United Bank Limited's Civil Shariat Review Petition No.01 of 2002. The cases were sent to the Federal Shariat Court. According to the decision, parties were free to raise any relevant issues in addition to those that had been before the Honorable Shariat Appellate Bench of the Supreme Court. By its decision dated June 24, 2002, the Hon'ble Shariat Appellate Bench of the Supreme Court granted the Federal Shariat Court power to consider any matter on its own or from any other perspective that it believed was crucial for addressing the current challenges.⁶⁷

Once again Federal Shariat court hold that "Riba is haraam (prohibited) in all forms and quantities after reviewing a vast body of Muslim scholarship. Its ban is

⁶⁴ Sahih Bukhari Hadees no.2510,2512, and Jam-e-Tirmizi Hadees no.1254, Sunnan-e-Abu Dawood Hadees no.3526, Sunan-e-Ibn-e-Majah Hadees no.2440

⁶⁵ Jam-e-Tirmizi Hadees no.1522 and Sunnan-e-Abu Dawood Hadees no.2838, Sunnan-e-Ibn-e-Majah Hadees no.3165

⁶⁶ For a list of statutes declared repugnant read judgment for it Sees note.7 *ibid*.

⁶⁷ Federal Sharia Court of Pakistan in Shariat Petition No.30-L of 1991 & all other 81 connected matters related to Riba/interest have finally announced judgement in Appeal 28-04-2022 authored by Justice Dr Syed Muhamamd Anwar, consisting of 318 pages.

unrelated to its percentage or mathematical method. The Qur'an's phraseology shows that it includes even the smallest percentage of interest, not just doubled or multiplied interest. Interest is illegal. Thus, usury and interest are English synonyms for Riba. Riba, whether called usury or interest, is forbidden by Islamic law in the Holy Quran and Sunnah. Riba is strictly prohibited. According to Islam's Injunctions, Riba's prohibition is unaffected by loan interest rates".⁶⁸

"Now to decide if Islam prohibits only interest on consumption loans and not on commercial or productive loans. Riba is absolute, regardless of the purpose of the loan.⁶⁹ Riba remains illegal regardless of loan purpose. 222 Shariat Petition No. 30-L of 1991 & All Other 81 Relates Cases Pertaining to Riba/Interest Injunctions of Islam. The verse states that while riba is haram, a sale is permissible. Islamic jurists base their analysis of each and every financial transaction on fundamental Ayah or Hukam, which they base on the analogy (Qiyas) of legal and illegal selling (Riba/Interest) transactions. Any bank transaction with interest or riba at any percentage, simple or compound, is haram. The Quran and Sunnah make banking permissible or impermissible based on the type of transaction it conducts. Shariah-compliant transactions are allowed, while those that aren't or raise questions are prohibited and against Islamic law."⁷⁰

The Opinion of Ulema, Scholars, Economists, and Bankers Regarding Interest (Riba)

To seek their thoughts on a frequent subject, the Federal Shariat Court in Islamabad submitted 13 queries to eminent ulema, scholars, economists, and bankers both domestically and internationally. A 1987 Pakistani banking delegation met with Muslim economists and scholars to discuss interest.

Mr Mansoor Ahmad Khan⁷¹ replied that as bank interest is prohibited in Islam, they can run on a profit-loss partnership or mudarabah. In Pakistan, a merchant banking system would enable banks to conduct commerce and distribute earnings to depositors. According to the Pakistan Banking Delegation, practically all Muslim economists and scholars concur that profit-loss sharing is the only permissible banking structure because time-related fixed monetary returns on load, whether envisaged or planned, are considered to be Raba, which is forbidden. Bank interest is riba. Consumption and productive loans have the same restrictions. Merchant banking could replace Musharakah and Mudarabah-based interest-free banking. The government and banks must eliminate interest at once. Private and

⁶⁸ Ibid. see para no 52.

⁶⁹ Ibid see para no.78 of the judgment.

⁷⁰ Ibid. see para no. 108 of the judgment

⁷¹ A well-known Advocate, as amicus curiae, who was also a member of the Banking Delegation.

government banking should be identical. Interest abolition categorically as in the past decade, half-measures will fail. Repaying loans decreases money value because inflation has no effect.

The Council of Islamic Ideology advocated for interest abolition, but the Ministry of Finance stated in the report that it would hurt savings. Mr Khadim Hussain Siddiqui, however, defers to it and argues that savings are perpetually income-related and that the elimination of interest and the availability of interest-free alternatives won't have any adverse effects. Even in a non-Islamic country, Muslims cannot charge non-Muslims interests. Riba (interest) eradication won't affect people's savings. The Ummah's Ijma (consensus of opinion) prohibits riba (interest) in any form. Unfortunately, Western scholars have confused usury and interest to mislead. Indexation causes goods price inflation without ideological or practical benefits. Saving is income-related, so eliminating interest has little effect. Prize Bonds and other savings schemes are Riba (interest). If insurance were based on a non-interest system, like in Malaysia and Sudan, a currency devaluation would not affect loan repayment because the quantity would remain the same.

Constitutional Commands and Institutional Steps to Eradicate Interest

Interest elimination is crucial to the Islamic order in Muslim society. The Holy Quran and Sunnah (Hadith) specifically condemn interest, so the state must take serious steps to abolish Riba in all its forms in accordance with State Policy as stated in the Constitution of Pakistan-1973.⁷²

In 1956, to eradicate the menace of interest, it was provided in the Constitution that as early as possible, the State should make an effort to eliminate Riba.⁷³ However, they were negated late in the Constitution of 1962. The same directive was reproduced in the principles of policy.⁷⁴ In pursuance, the Council of Islamic Ideology was established and tasked with working out recommendations in light of the teachings of Islam, but the issue remained untouched thereafter. It became part of the Constitution of 1973.⁷⁵ The object of such an important constitutional command was not seriously realised until the Federal Sharia Court in 1992 declared all status and provisions prevailing repugnant to the injection of Islam, thus ordering to be deleted⁷⁶ based on Consolidated Recommendations on the "Islamic Economic System." The government ignored these suggestions.⁷⁷

⁷² Note 5. *ibid.*

⁷³ Pakistan's Constitution, 1956, Art.28-F,

⁷⁴ Pakistan's Constitution 1962, Policy no.18.

⁷⁵ Constitution of Pakistan 1973, Art.38-F

⁷⁶ Note.7. *ibid.*

⁷⁷ Council's Report on the Islamic Economic System, December 1983, pp.9 and 10. available at <http://cii.gov.pk/AnnualReports.aspx>

The Council focused on this issue until 1970. After a lengthy debate, an Islamic Social Order scheme was approved and sent for legislative measures to abolish the interest from the economy Islamic under Constitutional command. The report was considered historic, and a pioneering effort was recommended to translate it into Arabic and other languages to help other Muslim countries transform their banking systems to follow Islamic injunctions. Interest-free finance and banking are the major distinctions between the Islamic and capitalist systems.⁷⁸ The Pakistan State Bank introduced two circulars in response, one after the other. (i) BCD Circular No.13, dated 20-6-1984, and (ii) BCD Circular No.32, dated 26-11-1984, both aimed at reshaping the then-existing banking system.⁷⁹

Evils of Usury Distracting Social Order

Riba is Zulm (cruelty, injustice)⁸⁰ a technical way to usurp the wealth and income of the creditor, plunder, and loot the property of a needy person.⁸¹ Usury has an enormous adverse impact on society, like enriching the debtor and impoverishing the creditor, apart from exacerbating critical problems, the ultimate greed for increment for doing nothing. Usurious has extracted the increment withheld labour or else signed an agreement in the case.⁸² Money Lander has only one concern with additional money, irrespective of where it comes from. What the debtor may do by hook or crook, is he has to repay at a fixed time.⁸³

One who is bogged down in the rack of usury knows that it impasses life with an incessant increasing burden of debt. Failing to repay infuriates the lenders, who explicitly degrade the creditor in society. The intense pressure, mental torture by extending threats, and sometimes physical torture, leave one with no choice but to alleviate the end of life.

Suicides due to non-repayment of debt are the second biggest cause of death in the world. Even in England, more than 100,000 desperate debtors commit suicide each year.⁸⁴ Although usury has legal status, now it has been realised that

⁷⁸ Note.25. *ibid.*

⁷⁹ 2001 MLD 1351 Karachi Habib Bank v. Messrs. Qayyum Spinning LTD and 2001 YLR 1549 UBL Karachi v. Messrs. Gravure Packing PVT LTD and 4 others.

⁸⁰ Note.7. *ibid.*

⁸¹ Note.34. *ibid.*

⁸² Note.25. *ibid.*

⁸³ Usury - The Root of All Evil? The love of money is the root of all evil. 1 Timothy 6:10, available at <https://www.peterrussell.com/SP/Usury.php>

⁸⁴ Sign the petition, Money and Mental health Policy Institute, available at <https://www.moneyandmentalhealth.org/debt-threats/>, and Simon, Debt despair, I am just going to end it. Personal finance reporter,3 December 2018, BBC NEWS available at <https://www.bbc.com/news/business-46428756>

it is a menace which could be curbed with the promotion of charity.⁸⁵ However, in Islam, predominantly, it has been directed to substitute debts with charity.⁸⁶ The Ignorance of that precious Islamic rule has pushed society to the brink of suicide. Money lenders step through the resort's brutal steps for recovery, acting brutally, issuing threats, torture, or insulting the creditors open to the public at large in front of their families. In Pakistan, there are no appropriate, identical specific laws, particularly to restrain the act of harassment by moneylenders, which is an implicit act of abetment and an implied act of murder if a debtor commits suicide in compulsion as a result of intense pressure and harassment. The suicidal video of Munawar Ali Samo is a mouth-speaking, legally dying declaration against the act of money lenders whom he held responsible for compulsion for the commission of his suicide. He craves justice with a request to bring a law to eliminate like incidents in the future and bring his accusers before the court of justice for punishment.⁸⁷

In this regard, the Bombay High Court ruled that harassment for loan repayment amounts to abetment of suicide.⁸⁸ Justice A M Badar holds that continuously attacking, either verbally or physically, amounts to instigation to commit suicide.⁸⁹ A creditor committed suicide due to harassment by moneylenders; on account of recovering a loan, it established the prerequisites of the offence of abetment that constantly demanding and torturing amounted to instigation and provocation to commit suicide.⁹⁰ Gilgit Baltistan's Supreme Court held in a case of a suicide committed by a wife to her husband for reasons that due to the highhandedness and cruel attitude of the accused, the lady committed suicide. The accused created such an environment through his conduct while teasing and maltreating her, which compelled the deceased to commit suicide.⁹¹

Once, while arresting the accused, a police officer threatened the accused with dire consequences for his actions, causing the accused to commit suicide; an FIR was filed against the constable for that act.⁹² Likewise, in the case of Munawar

⁸⁵ Callum Mason, News Reporter, Martin: '100,000 attempt debt suicide each year – stop the debt threats.' 3 December 2018 Updated 4 December 2018, available at <https://www.moneysavingexpert.com/news/2018/11/more-than-100-000-people-in-problem-debt-attempt-suicide-each-ye/>

⁸⁶ Surat-ul-Baqara 2:276

⁸⁷ Note.23.

⁸⁸ Gurunath Laxman Gawli And Anr vs The State of Maharashtra on 24 March, 2017,2017 ALL MR (Cri) 2324, Bombay HC.

⁸⁹ Dhananjay Rambhav Aundhekar vs The State of Maharashtra on 20 February 2020, Gaikwad RD,1/36, (901) WPNo.38552019(J).doc Bombay HC.

⁹⁰ Note.100. *ibid.* para.16,17

⁹¹ Basharat Ali v. The State 2017 P.Cr.LJ 689 GB SC

⁹² Zahid Ali and others v. Faizl Hussain and others 2017 P.Cr.LJ. LJ 806 GB SC

Samo, an FIR should be lodged against the people whom he has nominated to set a principle and promote a punitive action as a consequence of such an act by moneylenders for their unlawful and haram business. Every form of a rise in the loan (real debt amount) is banned and incompatible with the Holy Quran's infusion. Interest has been denounced and outlawed by all major religions, just as it is said in the Bible that whoever receives an advance or accrued interest will later live? He won't do it. He committed all of these despicable acts. He will undoubtedly perish, and his own blood will be on him. You are not to regard my people, the impoverished among you, as creditors or apply interest to any loans you make to them.⁹³

The prominent philosophers of the world, Cicero, Cato, and Seneca, rebuke usury. The most unnatural and unfair of all exchanges, according to Aristotle, is the breeding of money from money; money should only be used for exchange. Plato censured that it was destructive to the state because it set one class against another.⁹⁴ Under the guise of contract performance, it was even held that, while an interest contract is not enforceable, the person who knowingly executed such an agreement, opting for the open option, accepted it, and then rebated it later, should not attempt to wiggle out of his commitment until he had received all due benefits under it.⁹⁵ In terms of Islamic norms of justice, he is bound to honour his commitment (agreement).⁹⁶ That double-standard economic system is tantamount to instigating the derogation of the Islamic rules of social justice, which are self-destructive and injurious individually or collectively.⁹⁷ Loans must be returned with the same amount since they are a type of Sadaqu, or charity transaction, rather than a business transaction. It is certain that this could save the debtor and creditor from indulging in immoral business.⁹⁸

In Islam, man's rights to seek his livelihood based on his capacity, ability, and natural endowments are recognized, rather than giving up the right to use immoral means to acquire wealth, which could lead to immoral degradation and distress in the social order. Furthermore, halal (lawful) and haram (unlawful) earnings have been distinguished, such as wine or intoxicant drinks, the manufacture, sale, purchase, and possession of which is prohibited. Adultery and intoxicating dancing proceeds are haram and illegal. Furthermore, any profit derived from the loss or injury of a living being, a human being, or society is prohibited. Methods and means, such as hoarding, holding, or stockpiling necessities of life in order to raise

⁹³ Exodus 22:25 available at:

<https://bible.oremus.org/?passage=Exodus+22:25%E2%80%9322:27&version=nrsv>

⁹⁴ Note.95. *ibid.*

⁹⁵ 1992 CLC 3, *Inayat Ali v. Agricultural Development Bank of Pakistan and another*

⁹⁶ *Syed Anwar ul Hassan v. DM SBFCBV*, 2001 YLR 2741

⁹⁷ Note 91. *ibid.*

⁹⁸ Note 91. *ibid.*

prices, theft, gambling, bribery, fraud, or deceptive business, are immoral and illegal.⁹⁹ People who are well acknowledged and acquainted with the sanctity of usury boldly practise it because it has not yet been specified as a criminal charge under the substantive law of this country. Moneylenders fearlessly lend money on speculative terms and then, in order to recover, use blackmail, threaten, pressurize, menace, overawe the creditor with dread and aghast, compelled to commit suicide as a last resort for relief.¹⁰⁰

Conclusion

Usury, interest, and *riba* are all different names for the same thing. They are, however, all haram, or illegal. An agreement to have even mutual consent is not enforceable, so there is no interest. As a result, lending and borrowing money on interest may be considered a crime. In the interest of the people's well-being, the legislature should obey the constitutional command and allow them to live as Muslims. As a result, any law or act, whether government or private, that disregards constitutional command, negatively and disabling people from leading lives in accordance with the injection of Islam and directives of Prophet Muhammad (ﷺ) must be revisited and abolished in light of Article 2-A of the Constitution-1973.

Similarly, an individual's act may be dealt with under substantive criminal law by introducing an appropriate definition of borrowing or lending usury in any form with a suitable charge punishable under Section 321 of the Penal Code 1860 with specific wording that may state that; “*whosoever, on account of repayment or recovery of a loan with its all forms of addition irrespective of any conditions, shall force, threaten, insult, or use force in any manner shall be guilty of the ultimate act or outcome in response by the victim as per law under this section*”.

⁹⁹ Note 5. *ibid.*

¹⁰⁰ Note.23.