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An Introduction of Islamic Transactions



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UNDERSTANDING FINANCE



Islam is not just a set of rituals to be completed but an entire way of life. It provides a complete structure and guidance for every aspect of a person's life. This can be proven by even a cursory study of the lessons found in our sources - the Quran and Sunnah.

In these sources, we find comprehensive lessons related to a range of topics: We have lessons that teach us how to purify ourselves, how to pray, lessons in relation to marriage, civil justice and the judiciary, and lessons pertaining to wealth and trade in Islam.

When observing the rules and regulations in relation to money, buying, selling and the economy from an Islamic perspective, it's important to always remember that they stem from the Divine Knowledge of God Almighty.

Ultimately, He knows us better than we know ourselves, and naturally He truly knows our best financial practices from our worst ones and knows what will bring our economy and society to a halt.

An important feature of trade in Islam, is that it is built upon many noble values, the most important being Justice and Mercy.

This reality is clearly highlighted in how the Islamic model of trade strikes a clear balance between two extremes- the extreme of Communism and the extreme of Capitalism.

Communism as we are taught; is a 20th century system which in theory required everyone to share their possessions, such as food, clothing and housing, equally. It recognised the harms of only a few people – known as capitalists - exploiting most of the people – known as workers - to gain the greatest portion of available money.

Capitalism on the other hand promotes the exact opposite of Communism, as it believes that society works best if people are free to earn as much money as they can, as long as they do it legally, making it a system based on the promotion of for-profit activity.

On the contrary, Islam is a middle way between these two systems, for it promotes the building of an economy based upon for-profit activity, as well as non-profit activity.

ISLAMIC MODEL

If we look closely at the Islamic model for trade, we will notice that it aims to build a blessed and robust economy that allows everyone the financial growth they deserve, based on the following tenets:

Trade

Based upon the important values of equity and justice.

Zakah

Which is the act of distributing a small portion of our earnings - if certain conditions apply - to the less fortunate. This will enable them to buy, sell and work towards financial independence, which in turn contributes towards the creation of profit, and a stronger economy.

Endowments

Which is the donation of an income generating asset that serves the needs and development of society.

Usury

The prohibition of borrowing or lending with interest. This strict rule in Islam is due to the many harms that are created when societies engage in the act of financial usury or interest, such as the creation of fragile economies in which debt creation outgrows wealth creation. Thus leaving behind an economy rich in debt, instead of actual wealth.

Ambiguity

The Prohibition of trade which carries a high level of ambiguity or uncertainty in terms of the price or outcome of the transaction, similar to the levels of ambiguity found when gambling and betting. These sort of transactions - in which the 'winner takes all' only allows for either the buyer or seller in the transaction to profit at the expense of the other. These sorts of transactions do not provide an equitable and fair environment allowing both the buyer and seller a chance to benefit from the trade, but rather an unfair environment whereby there will always be one winner and one loser at the end of the deal.

Oppression

The prohibition of trade considered oppressive in nature, such as transactions in which trickery is used to convince the buyer or seller to engage in a transaction, or strategies are used to drive up the selling price, or offering the seller more money in order to cancel a deal he has already agreed to do with a fellow Muslim.

UNDERSTANDING ISLAMIC TRADING

There are many evidences for this in Islam's sources, such as:

Allah says in the Qur'an,

"Believe in Allah, and His Messenger, and spend of that whereof He has made you trustees...."

[57:7]

"Indeed, Allah has purchased from the believers their lives and their wealth in exchange for Paradise". [9:111]

These verses along with others similar in meaning found in the Qur'an highlight for us an important reason behind Islam having a keen interest in our financial matters.

The concept of selling and purchasing in Arabic is known as (Bay'). Some scholars state that the term has an association with the Arabic term (Baa') which refers to one's forearm, due to both the buyer and seller stretching their forearms to exchange the item bought or sold.

In Islam, trade falls within the category of practices that Islamic Law considers permissible as a default rule. This means that as a general rule, all types of trades and investments are allowed in Islam unless specified otherwise.

- Knowing this rule is important especially for traders for the following reasons:
- Because from an Islamic perspective, there should be no speech and practice, which includes trade, before we educate ourselves about the Islamic rulings in relation to those actions.
- Because of this rule, traders would only need to learn a handful of rulings with regards to buying and selling in Islam, as every other practice aside of them would be considered Islamically permissible.

In light of this rule, if someone was to specify any transaction to be impermissible from an Islamic perspective, they would have to produce specific evidence from Islam's sources proving their stance to be correct. As a result, the burden of proof would solely be on them.

It is also noteworthy that in Islam wealth is considered to be a means to an end, with its ownership not viewed as an end in and of itself. Also, wealth in Islam is highlighted as something owned by God Almighty, and only placed with His creation in different proportions as a trust.



PROHIBITIONS IN TRADE

Since wealth is a means towards the purchase of the real estate of our hereafter, it only makes sense that it is left in our possession with rules that ensure the benefits of wealth are realised in this life and the next, as well as with rules that prevent the spoilage of our faith and character.

In light of this we find Islam categorically forbidding some of the following trade related activities:

- Usury or Interest, known as Riba in the Arabic language.
- Deceiving and cheating in all forms.
- Unfair monopolies and harmful forms of hoarding.
- Gambling.
- Deals dressed with high levels of uncertainty or ambiguity.
- Transactions considered oppressive in any way or form.

PROHIBITIONS IN TRADE



Accordingly, we find legislation which aims to protect traders from traits which negatively affect one's faith, character and society, such as giving charity, both voluntary and involuntary, as through it traits such as greed and selfishness are corrected.

Finally, it is ultimately important that

everyone learns the fundamental Islamic rulings in relation to trade before its engagement, in order to continuously maintain a conduct which is always pleasing to God Almighty. The importance of this cannot be stressed enough, and is especially highlighted in the following teaching of the final Messenger:

The Prophet (ﷺ) said,

"The son of Adam will not be dismissed from his Lord on the Day of Resurrection until he is questioned about five issues: his life and how he lived it, his youth and how he used it, his wealth and how he earned it and he spent it, and how he acted on his knowledge."

Upon close inspection of this hadith, we find that only one question will be asked regarding the different elements stated in the narration, except for wealth, which will have two questions attached to it:

- Firstly: A question related to how wealth was earned...and
- Secondly: A question related to how wealth was spent.

In light of the impact of financial related matters in our lives; the Messenger (ﷺ) taught us to recite every morning the following supplication in order to seek assistance from God Almighty in managing our affairs, especially our financial ones:

Allahumma inni as'aluka 'Ilman naafi'an, wa rizqan tayyiban, wa 'amalan mutaqqabalan

'O Allah, I ask You for beneficial knowledge, and pure provision, and actions which are accepted.'

TRANSACTIONS IN ISLAMIC LAW



The books of Islamic Law dealing with trade transactions classify contracts in which something is bought and sold (or sale-based contracts) based on their methods of completion in order to facilitate a greater understanding of the Islamic rulings that apply to each type of trade.

Examples of these classifications are as follows:

1. Trade contracts classified by the nature of the counter-values exchanged during a transaction.
Under this classification we have the following listings:
 - The exchange of something fungible, like money, for something non-fungible, such as goods.

An example of this would be of someone spending money to purchase a particular product such as a shirt, or a vehicle, or some medication.

- The exchange of something non-fungible for something else considered non-fungible, such as in the case of exchanging a product for some other product.

This type of exchange is famously known as barter trade, and in the books of Islamic law as (Bay' al Muqayyadah). An example of this would include a home purchase, for example, in exchange for a set number of cars.

- The exchange of something fungible for something else considered fungible.

An example of this would be the exchange of currencies, such as the exchange of British Pounds for American Dollars, which is in the books of Islamic Law is known as: Bay' asSarf.

2. Trade Contracts classified based on the time of delivery or exchange of the price and product. This classification consists of the following four listings:

- **Spot trading** – or hand-to-hand trading, whereby the two counter-values (or the price and product) are exchanged between the buyer and seller before their departure from the place in which the contract was agreed to.

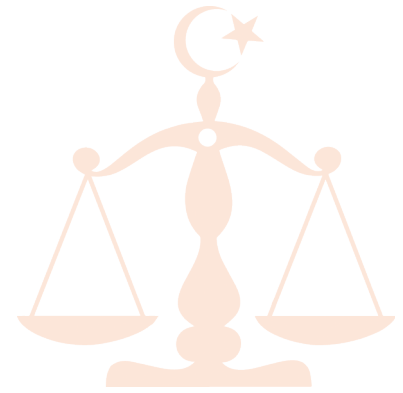
An example of this would be in the form of a buyer paying the price of a product at the time of the contract, and collecting his purchase before departing the seller.

- **Future Sales** – in this form of trade, the price is delivered immediately (or Spot) to the seller, with the delivery of the purchased product occurring at a later (or future) date.

An example of this is when a buyer pays an apple farmer in advance (or at the time of the contract) the amount for 100kgs of apples, with an agreement for the apples to be delivered in 6 months time. This type of transaction in Islamic law is known as Bay' asSalam.

- **Credit Sales** – In this type of transaction, the delivery of the purchased product occurs immediately at the time of the contract, with payment for the product occurring at a later stage.

TRANSACTIONS IN ISLAMIC LAW



An example of this is when a product is sold with a payment plan being offered to the buyer, which allows the buyer to pay for the product over several months, or before a particular date in the future.

- **A sale in which both the buyer and seller enter a contract** intending for both the price and the purchased product to be exchanged at a later date.

An example of this is when a buyer and seller agree to a deal without the price and product being exchanged at the time of the contract.

In Islamic law this type of sale is called Bay' alKaali' bilKaali' and is generally forbidden Islamically by all the scholars of Islam, except in exceptional circumstances discussed within the circles of Islamic scholarship.

3. Trade contracts in relation to the method of price quotation.

This classification entails two concepts of transactions detailed as follows:

- **Bay' alMusaawamah.** A sale in which the quoted price of a product is listed without the seller stating any input costs related to the product, such as the cost price.
- **Bay' alAmaanah** - trust-based sales. In this type of sale the price of the product must be quoted along with the seller listing all input costs related to the purchased product.

Trust based sales, as found in the books of Islamic law consists of three types:

- **Bay' alMuraabahah** (cost-plus sale transaction) – which refers to a sale in which the seller makes a profit on the sold product and honestly lists for the seller the cost price of the actual product, as well as the mark-up amount placed on top of the cost price.
- **Bay' alWadhee'ah** (sale below cost transaction) - which refers to a sale in which the seller lists the cost price of the product, and then goes on to sell it for less than the actual cost of the product.

This type of sale may be used for goods that perish without maintenance.

- **Bay' atTawliyah** (sale at cost transaction) - which refers to a product being sold at cost price, with no profit or loss being experienced from the sale.

A seller may resort to this type of trade in the event of a volatile market with shifting prices, or in the event of a buyer choosing to opt-out of a contract due the seller not being honest about the cost price during the transaction.



THE PILLARS OF
**FINANCIAL
TRANSACTION**

THE PILLARS OF FINANCIAL TRANSACTION

For any contract to be considered to have taken place from an Islamic perspective, the following elements known as (Pillars of a Financial Transaction) need to be present:

1. The Buyer.
2. The Seller.
3. The Price and Product, otherwise known as 'The Mediums of Exchange'.
4. The Offer and Acceptance, otherwise known as 'The Commission of Contract', which can be in both verbal or physical form.

An example of the physical representation of the offer and Acceptance would be a purchase that takes place via a vending machine, or via the internet where actual conversations between the buyer and seller are replaced by a set of actions recognised by our norms as an offer being tendered by one party, and the offer being accepted by the other.

Each of the pillars of a financial transaction are associated with conditions which collectively are known in Islamic law as 'Trade Conditions'.

These conditions serve the purpose of identifying a financial transaction as something considered accepted or rejected from an Islamic perspective. If one of the Trade Conditions is not met, ownership of the price and product is not considered to have exchanged between the buyer and seller.

For any transactions to be considered accepted in Islamic Law, the following seven conditions have to be met:

1. Consent:

The agreement between the buyer and seller to enter a transaction has to be purely based on mutual consent between the two parties. Any evidence of any party being forced to buy or sell renders the transaction invalid and illegal.

There are notable exceptions however to this general rule which are known within the circles of Islamic Scholarship.

An example of this exception is the form of a forceful sale of designated assets which takes place via a judicial decree, such as in the case of a court selling off the assets of a creditor who intentionally defaults on paying due debts.

2. Legally Competent Parties:

The parties to a contract at the time of entering the contract must:

- a. Have reached the age of puberty
- b. Have mental competence,
- c. Have demonstrated sound judgement in trade related decisions.

Islamic Law does however recognise an exception to the rules of this condition, and that is in the form of a minor purchasing a product:

- Considered expensive, but with the permission of a guardian.
- Or considered inexpensive, even if without the permission of a guardian, such as a child purchasing a packet of crisps from the school tuck-shop.

3. A Legal Purpose:

Parties cannot execute a contract to sell

THE PILLARS OF FINANCIAL TRANSACTION

something considered forbidden in Islamic Law, such as the sale of alcohol, cigarettes, musical instruments or musical cds and albums, etc.

Included under this condition is the sale of something which can only be used in Islamic Law during times of necessity or need, such as the meat of an animal that died before being slaughtered, which can only be consumed in life threatening circumstances due to the absence of permissible or halal meat, or a dog acquired for the purpose of hunting or assisting someone blind.

The permissibility of using these elements in Islamic law only during times of necessity or need do not qualify these elements to hold the status of having a 'legal purpose', and thus are not permitted to be bought or sold.

However, in the event of these elements not being accessible except through being purchased; Islamic Law would not invalidate its purchase during the times of necessity or need, but will consider the seller of these elements to be sinful because of the sale, and consider the money gained from the sale to be unlawful or haraam.

4. Complete Ownership.

This condition entails that the two counter-values being exchanged in a transaction be completely owned by both the buyer and seller before the actual transaction takes place, as it is forbidden in Islam to sell something not owned by the seller, or purchase something with wealth not owned by the buyer.

5. Knowledge of Product.

This condition stipulates that the buyer attains complete knowledge of all aspects of the product that affect the actual price of the product.

This knowledge is acquired through the buyer physically viewing and inspecting the product, or receiving an honest comprehensive description of the product from the seller. Failure in giving diligence to this condition renders the sale invalid due to the transaction falling into the category of transactions with unacceptable levels of ambiguity.

6. Ability to acquire the purchased product.

For any financial transaction to be counted as valid in Islamic Law, there cannot exist unacceptable levels of ambiguity with regards to the ability of the buyer to actually receive the purchased product.

As a result, Islamic Law forbids the sale of a missing vehicle for example, or a type of fish still swimming in the sea, due to the buyer's inability to acquire in hand the bought product.

7. Price specification.

This condition refers to both parties having clear knowledge of the amount that is to be paid during the transaction in order to avoid high levels of ambiguity in relation to the price being part of the transaction.

As a result of this condition, Islamic Law will not validate a transaction in which the selling price is unknown at the time of the contract, or a contract in which more than one type of currency can apply, without the actual currency being specified.

THE PILLARS OF FINANCIAL TRANSACTION

As stated earlier, the directives of these seven conditions have to be respected in order for a transaction to be considered valid Islamically, and in the event of every condition being met, the transaction will be considered binding upon both the buyer and the seller in Islamic Law, with exchange of ownership considered to have taken place, even if the price and product are yet to be exchanged.

It should be noted however that in Islamic Law, the new owner is not permitted to sell the newly acquired product at a profit before the actual exchange of the product occurs, as in Islam, a person only qualifies to enjoy profits from the sale of any product if they carry the burden of any possible loss in relation to the same product, such as in the event of the product becoming unsellable due to it being defected, or stolen, as an example.

Only If the seller carries the risks, in the event of something negative happening to the product; does the seller have a right to enjoy its rewards in the form of a profit.

In other words, from an Islamic perspective, the profit made from the sale of a product is a worthy reward for the seller due to the seller carrying the burden of possibly experiencing losses because of that product, and this burden is only transferred to the new owner of the purchased product when the physical exchange of the product occurs between the buyer and the original seller.

In light of this reality, an owner of the newly bought product will take ownership of it upon the sale being deemed permissible from an Islamic perspective, however, selling the acquired product at a profit will not be permissible until the previous seller releases the product to its new owner, either through sending the product across to the new owner, or via facilitating the collection of the product by its new owner, as through the seller releasing the product to its new owner does a transfer of guarantee take place, which - in Islamic Law - is a condition before any profit can be earned from the sale of the product.

APPROVED **FORFEITURE CLAUSES**



APPROVED

FORFEITURE CLAUSES

A sale-based transaction in Islamic Law is considered binding upon both the buyer and the seller. This means that once the sale is considered complete from the perspective of Islamic Law, both parties cannot cancel the deal, even if the product or price is yet to be exchanged.

The wisdom behind this stance in Islamic Law is to ensure that the benefit which both the buyer and seller aim to achieve from the sale is truly realised.

A party having the ability to cancel a deal unconditionally doesn't really allow the buyer to take real ownership of the product, or the seller of the price, which really makes the actual deal in the first instance void of any substantial and legal benefit.

Islam does recognise however the human element to every buyer and seller, as well as exceptional trade circumstances, and as a result has permitted a number of conditional stipulations known as 'forfeiture clauses' which are defined in Islamic Law and aim to protect both the buyer and seller from any harm due to the transaction.

These forfeiture clauses range from clauses stipulated directly by Islamic Law, to clauses approved by Islamic Law but based upon defined conditions stipulated and agreed upon between the buyer and seller.

These clauses are as follows:

1. Khiyaar alMajlis – or a clause to forfeit a transaction that is specific to the place of contract.

This feature to forfeit a transaction has been put

into place directly by Islamic Law and allows for either the buyer or seller to opt-out of a deal as long as they have not departed each other after its completion. This feature thus expires once the two parties depart from each other.

2. Khiyaar ashShart - or an applicable clause through stipulation of the buyer to cancel a contract within a specified time period.

This clause is an example of the forfeiture clauses approved by Islamic Law, with its application dependent upon the buyer opting for it, and the seller approving it. If the buyer enters this feature as a condition for entering into a deal before it's finalised, and it is accepted by the seller, the buyer will successfully be able to opt-out of the deal after the transaction is completed, within the set time-frame of the clause.

3. Khiyaar alAyb - or a defect or non-performance clause.

This feature to forfeit a transaction has been put into place directly by Islamic Law and gives the purchaser of a product or service the right to the following two solutions in the event of a seller failing to deliver a product or service as promised:

- A legal channel to cancel the transaction and receive back the entire amount paid for the product or service.
- A legal challenge which allows the transaction to stand, on condition the purchaser is refunded an amount that equates to the 'value difference' between the product or service in its complete form, and its appropriate price in its defective or incomplete form.

APPROVED FORFEITURE CLAUSES



The appropriate way, as discussed in Islamic scholarship, with regards to working out the value difference would be through using a 'fractional difference' formula which is clarified in the following example:

Let's say we have a scenario whereby a buyer named Abdullah purchases a vehicle from a seller named Mario for US\$30,000. After the purchase is complete and counter-values exchanged; Abdullah finds out that there is an engine defect which couldn't have happened since the purchase of the vehicle and was not

disclosed to him before the transaction. In determining the value difference in this case, Islamic Scholarship will seek the advice of those who have expertise in this area.

If the experts for example explain that a fair price for the car in question is around US\$25000 if in normal condition, and US\$20000 in its affected condition; it would be determined that the fractional difference between the two circumstances is a fifth (or US\$5000).

In this instance, Islamic Law would allow Abdullah to:

- a. Return the vehicle and receive back the entire fee of US\$30000. Or
- b. Keep the vehicle and receive back from the buyer a fifth of the price paid which equals US\$5000.

TRADERS IN ISLAMIC LAW

Every financial transaction has its pillars and conditions as shown in this booklet.

Another important feature of a transaction is the placement of conditions between the traders in relation to the actual transaction, which if agreed to, would entail both the buyer and seller consciously and willingly agreeing for the deal to be completed in a particular way.

TRADERS IN ISLAMIC LAW

Another important feature of a transaction is the placement of conditions between the traders in relation to the actual transaction, which if agreed to, would entail both the buyer and seller consciously and willingly agreeing for the deal to be completed in a particular way.

These conditions between traders are known as buyer or seller clauses and differ from the conditions for trade, in the following two ways:

1. The Conditions for Trade are stipulated by Islamic Law, whilst the Clauses between Traders are stipulated by the traders themselves.
2. In the event of a Condition for Trade not being fulfilled; the entire transaction would be considered incomplete, which nullifies any transfer of ownership from the outset, as if the parties never engaged the trade process in the first place.

However, in the event of all the Conditions for Trade in Islamic Law being fulfilled, but a Clause stipulated by a trader not being fulfilled; the actual transaction will be considered as complete in Islamic Law, with Islamic Law giving the trader whose rights were not fulfilled the choice of either accepting the situation for what it is and continuing with the transaction, or choosing to reverse the transaction such that both counter-values are returned back to the buyer and seller respectively.

In terms of Islamic Law, traders are allowed to stipulate any conditions as long as these conditions do not lead to making something established in Islamic Law as permissible, impermissible, or making something impermissible, permissible.

In Light of this important rule regarding Clauses between Traders; Islamic Law has classified these clauses into two categories as follows:

1. Clauses which Islamic Law considers appropriate and lists them as acceptable.
2. Clauses which Islamic Law considers inappropriate and lists them as rejected.

Examples of acceptable clauses include:

Confirmation Clauses

These clauses aim to confirm matters of trade already established in Islamic Law, such as a buyer of a vehicle stipulating a clause that the seller will be responsible for any substantial vehicle defects known to the seller and not highlighted at the time of the transaction.

This clause is one which is already stipulated by Islamic Law, and offers the buyer this right during a transaction even without it being listed as a clause by the buyer.

Collateral Clause

Which is a condition entered into the contract by either party mandating some form of collateral being part of the transaction which can be used by the affected party to recover any losses in the event of one of the two parties failing in fulfilling their part of the contract.

An example of this would be a seller of a mobile phone on hire-purchase requesting a watch from a buyer, which will be kept in safe keeping by the seller until the buyer can pay the entire amount for the phone.

Descriptive Clauses

this refers to a clause stipulated by any party describing certain particulars related to the counter-values of a transaction, such as a seller of a vehicle stipulating new bank notes, or a buyer stipulating that the vehicle be a particular color.

Exception and Exclusion based Clauses

These are stipulations placed in the contract by the seller particularly, which allows for the seller to benefit from the sold product for a specific period of time, such as a seller of a home or vehicle who stipulates that the buyer allows for the seller to use the vehicle or home for a week, or month after the sale is complete, or a clause that excludes certain accessories added to the

vehicle by the seller from being part of the transaction, such as a mobile phone holder, or seat covers.

Restrictive Clauses

Such as a condition placed by a seller which stipulates that the buyer gives the seller the first right to purchase back the item sold in the event that the buyer decides to sell the purchased item in the future.

Contract-Stipulation Clause

This is a clause placed by the seller in a contract which stipulates that the sale only goes ahead between the buyer and seller on condition of the buyer entering into another transaction with the seller.

An example of this would be Abdullah selling his house for US\$200,000 to Ahmed, on condition that Ahmed sells his vehicle to Abdullah for US\$30,000, or that Ahmed leases his vehicle for a particular period of time, and a particular fee to Abdullah.

However, this clause is only considered binding in Islamic law if it doesn't lead to an impermissible outcome. An example of an impermissible outcome would be a seller stipulating that the sale only proceeds on condition that the buyer loans money to the seller or vice-versa, due to the Messenger (ﷺ) forbidding a transaction in which loans are stipulated as a part of it.

Penalty Clause

This clause is considered acceptable in Islamic Law if used in Labour and Construction related contracts, and not purchases.

With this clause; a contractee can stipulate a penalty upon a contractor in the event of the contractor delaying completion of the desired project on time.



An example of an acceptable application of this clause would be of a person contracting a construction company to build a house for US\$100,000 with a penalty clause which stipulates the contractor losing one percent of the stated amount for every month that passes without the project being completed after the agreed completion date.

On the contrary, an unacceptable application of this clause would be in the case of a seller or service provider stipulating late fees (or fines) upon a person for delaying on paying anything payment-related, such as a bill or debt.

Circumstantial Clause

This clause refers to a condition placed in a contract which makes it dependent upon the occurrence of an event.

An example of this clause would be a transaction in which the seller says that he will sell his car to a buyer on condition that the seller's father is pleased with the sale. Upon the buyer accepting this condition and the seller's

father approving his son's actions; the contract immediately becomes binding upon both parties.

Another example of this clause is a transaction accepted by the Hanbali scholars of Islamic Law which entails a transaction with a non-refundable down payment (or deposit) being stipulated as part of the contract. In this contract, the buyer is required to pay a small non-refundable percentage of the price up front to the seller, which is considered part of the entire payment in the event of the buyer completing the purchase. However if the buyer decides against completing the purchase; the seller keeps the percentage taken.

In the above section, we discussed clauses that are acceptable to place in a contract. There are however particular clauses placed by the two parties within a contract which Islamic Law invalidates.

Examples of unacceptable clauses include:

Clauses which bring about a result which the Shariah has forbidden, from the outset.

An example of this clause would be a Contract-Stipulation Clause which necessitates riba (or interest) being a part of the transaction, such as a condition which stipulates that one of the parties lend the other party money in order for the transaction to proceed. This clause is considered illegal and non-binding as it creates a benefit for the lender which is forbidden in Islam, as Islamic Law forbids any benefit whatsoever to be gained by the loaner because of the loan.

Any benefit created as a result of a loan is considered a form of Riba in Islamic Law.

Another example of this type of invalidated clause is when the clause stipulates that the transaction takes place in a way that prevents either of the two parties from completing an Islamically prescribed act, for instance a clause stipulating that the transaction takes place after the second athaan of Jumuah. This is forbidden in Islamic Law due to verse in the Qur'an where Allah says,

“O you who have believed, when (the Adhan) is called for the prayer on the day of Jumuah, then proceed to the remembrance of Allah, and leave trade. That is better for you, if you only knew”. [62:9]

Similarly a clause stipulating that the transaction is completed in a place that Islamic Law forbids is also invalid. An example of this would be a clause stipulating that the transaction is completed in the Masjid. Islamic Law forbids all forms of profit based transactions from occurring in the houses of Allah Almighty. It is important to note that this prohibition includes all forms of electronic based sales or purchases, whereby a person may purchase a plane ticket, hotel reservation or trade shares or currency via the internet.

A clause which prevents an objective from the objectives of trade in Islam taking effect.

An example of this clause would be a condition which prevents the buyer from taking complete ownership of the purchased product, such as a condition which forbids the buyer from ever selling the purchased product.

- This clause prevents complete ownership of the purchased product from being transferred to the buyer, and causes the transaction to only resemble a sale, without actually being one, which goes against the objectives of trade in Islam.

IMPERMISSIBLE TRANSACTIONS



In the previous chapters, it has been established that the forbidden matters in relation to trade in Islamic Law are far fewer than the transactions and trade practices considered permissible.

In addition to this it's important to take note that for every transaction or trade habit considered impermissible in Islam, Islamic Law has facilitated the process of wealth creation through listing suitable permissible alternatives.

More importantly; there is no trade practice considered impermissible within Islamic Law in relation to buying, selling and the economy except that it has been forbidden due to the harmful outcomes that will come about should everyone be left to practice them.

IMPERMISSIBLE TRANSACTIONS

We must also never forget that the laws of trade in Islam originate from Allah Almighty who created us and possesses divine knowledge which is not confined to time and space. Naturally He knows us better than we know ourselves and knows the harmful outcomes of our trade practices before those outcomes are realised by us.

It is also worth noting that mankind by design can be overcome by desire, which can lead to trade injustices taking place, which is forbidden in Islamic Law.

In light of all this, it is only appropriate for the Law-Giver to reveal trade boundaries that no transaction should cross, irrespective of the personal views of the buyer and seller with regards to those laws.

The Qur'an with all its wisdom addresses this; for at the time of the Messenger (ﷺ), the disbelievers queried any issues with usury by stating that usury based transactions are no different in outcome from trade based transactions. In answer to their misconception, revelation descended and Allah says in the Qur'an;

Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein. [2:275]

The transactions and trade practices which Islamic Law deems impermissible can be packaged under the following three reasons:

1. Oppression
2. Ambiguity
3. Due to Riba (Usury/Interest)

IMPERMISSIBLE TRANSACTIONS

Oppression

Oppression in all forms is forbidden in Islam and with regards to oppressive trade practices, God Almighty says in the Qur'an,

O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful. [4:29]

Islamic Law forbids the following transactions due to their unjust and oppressive nature:

A sale in which the buyer was deceived by the seller with regards to the product. This in Islamic Law is known as (alGhish).

All forms of cheating are forbidden in Islam, and this includes all forms of deceptive behaviour during trade. This prohibition is based on the Prophetic Narration in which the Messenger (ﷺ) said to a trader who deceptively poured some dry wheat over the top of wheat which had been affected by moisture, in order to deceive the buyer regarding its suitability: "Whoever cheats us is not from us".

A sale in which the selling price was artificially increased, which is known in Islamic Law as (anNajash).

These forms of transactions were forbidden by the Messenger (ﷺ) and entail artificially driving

- Planned strategic bidding during an auction.
- Presenting an inaccurate description of the sold item which necessitates a higher price.
- Falsely stating a higher cost price of the sold item in order to justify a sale of an item at a higher price point.

A third transaction considered oppressive in Islamic Law is one which takes place at the expense of a fellow Muslim.

A transaction of this type includes selling, buying and renting at the expense of another Muslim, and entails a third party offering a higher price than the one already agreed to between the buyer and seller, in order to convince the seller to break his agreement with the original buyer.

This action is prohibited in Islamic Law due a prophetic narration in which the Messenger (ﷺ) forbade a Muslim from trading at the expense of his brother.

It is important to note that this important rule in Islamic Law does not include a Muslim placing a higher bid for a product at the expense of another Muslim during the bidding phase of an auction.

Transactions through which harmful forms of hoarding occur.

1. The hoarded product is something required by the entire community, such as staple foodstuffs, or fuel as examples. Or

2. The practice of hoarding occurs when supplies of the needed product are restricted due to shortages, or if the hoarding actually leads to an increased demand from the community for the needed product.

A sale through which the facilitation of something forbidden in Islamic Law occurs.

This rule is understood through a verse in the Qur'an where Allah says,

“And assist one another in (practices) of righteousness and piety, but do not assist one another in (practices) of sin and transgression”. [5:2]

Examples of this sort of trade include transactions such as selling weapons to individuals who are known to use the sold item illegally, or selling equipment or ingredients to buyers who will use the sold item in matters considered forbidden in Islam, such as selling a property to a commercial bank, or to a business that will use the property as a bar.

Ambiguity

The second reason why a transaction may be discarded in Islamic Law is due to the presence of an unacceptable level of Ambiguity in relation to the product, price or outcome of the transaction.

High levels of ambiguity in a transaction render the transaction void due to the Messenger (ﷺ) forbidding these forms of trade.

Ambiguity in the Arabic language is called (Gharar), and the books of Islamic Law highlight the following conditions which necessitate

invalidating a contract due to Gharar:

- For the levels of Ambiguity or Gharar to be in amounts considered high. This condition recognizes that some transactions may have necessary elements of ambiguity attached to them, however they are considered to be at a low level due to other factors that give the buyer and seller the confidence that they most likely will both benefit from the transaction.

An example of this would be the purchase of vegetables which are yet to be harvested after studying the environment in which the product was grown in and looking at other products harvested from the same garden, or a lunch buffet which allows the customer to view the servings on offer before deciding to participate, even though a fixed price is paid, and customers will differ in the amounts of servings consumed.

- For the high levels of ambiguity to be part of the actual product or service purchased. To understand this condition better, let's consider the example of the purchase of a pregnant cow.

If the transaction is related to the actual cow with the selling price inclusive of the unborn calf; the transaction would be permissible due to the concept of gharar considered to be at a low level, given that the actual cow is the intent of the transaction and can be inspected by the buyer, allowing the buyer to make an informed decision which allows both the buyer and seller to reach a level of confidence that they most likely will both benefit from the transaction.

However, if the buyer was interested in the unborn calf; the transaction would be invalid due to the calf being the intent of the transaction, which would necessitate the presence of high levels of ambiguity, given the unknown factors related to the unborn calf that can affect the actual price of the transaction, such as the calf passing away during birth, or being born with a defect. In other words a deal based on an unborn calf really constitutes a gamble and gambling is forbidden in Islam as stated in the Qur'an.

- For the transaction to be a for-profit one. This means that the concept of Gharar will not apply, irrespective of its level, in contracts not considered to be for-profit.
- Over-burdening debt, given that it takes two elements to make actual money through honest work, time and effort, and only one element to make money from an interest based debt, and that is time. In other words, it just takes the ticking of the second hand on the clock for interest based debts to increase, making it impossible to anyone to produce actual wealth that can meet the demands of the debt.

Thus, it would be entirely valid for someone to say for example: "I donate all the money I have in my pocket to your charitable cause", without stating the actual amount in his pocket, as a donation falls outside the scope of for-profit transactions, making the unknown elements of statement unharmed.

Riba / Usury / Interest

The third reason why a transaction would be discarded in Islamic Law is due to the presence of Interest. Interest necessitates an undeserved gain and creates overwhelming harms to both one's self, society, and the economy. The 21st century has provided unfortunate opportunities for us to experience first-hand the oppressive reality of Interest based economies and their harms.

From its harms are:

- Social Segregation and the widening of the financial gap between sectors of the society, given that the rich will only get richer at the expense of the poor getting poorer.

At different intervals in this booklet; Islam's opposition to interest has been shared and there are several evidences in the sources of Islam to prove beyond doubt that Interest is forbidden in Islam, and that dealing with interest as a taker of it or a giver is a major sin.

The prohibition of Riba ensures the presence of many far reaching benefits, such as:

- Equity in exchange.
- Protection of wealth by making unjust and unequal exchanges illegal.
- Promotion of charity, kindness and financial proactiveness.
- Removal of selfishness and self-centeredness, which can create social antipathy, distrust, and resentment.

From the many evidences forbidding usury or interest; Allah says in the Qur'an:

Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein. [2:275]

And He says,

"God destroys usury, but blesses charitable deeds with multiple increase: He does not love the ungrateful sinner." [276]

"You who believe, beware of God: give up any outstanding dues from usury, if you are true believers. If you do not, then be warned of war from God and His Messenger. You shall have your capital if you repent, and without suffering loss or causing others to suffer loss." [278-279]

After these manifest evidences, the only thing left to ask is: "Who can ever win in a war with Allah Almighty and His Messenger (ﷺ)?"

In Islamic Law, the topic of Usury is listed to occur in the form of:

Debt-Based Transactions.

Debt based Usury entails interest charged due to a loan, either at the beginning of the transaction, as we find with home based mortgages as an example, or at the end of the time period of the loan in the event of the borrower requiring extra time to pay off the loan, as we find with credit card based transactions.

Sales-Based Transaction

Islam also forbids Sales-based Riba in respect to certain types of wealth which is called Riba based wealth.

The teachings of the Messenger (ﷺ) list Riba based wealth as two categories, as follows:

- Gold, Silver, and wealth considered similar. In today's age, this would include fiat money, like dollars and pounds etc.
- Dates, wheat, Barley, Salt, and similar storable staples, such as rice in today's age.
- Islam's rule with regards to these categories of Riba based wealth is as follows:

If the same wealth from the same category are traded between the parties; the exchange will be invalid unless two conditions are met, as follows:

- a. That the transaction be Spot- with immediate exchange of both counter-values taking place at the time of the contract, and:
- b. That the quantities of the counter-values are equal.

Examples of this would include:

- 10kgs of old gold for 10kgs of new gold or
- 5kgs of Silver for 5Kgs of Silver or

- 100 Dollars for 100 Dollars or
- 50Kgs of a particular type of date, for 50 Kgs of another type of date.

Failure to meet these two conditions constitutes and interest based transaction having taken place.

- If different wealth from within the same category are traded with each other; the exchange will be invalid unless one condition is met. This condition is that the transaction be Spot. It is not a requirement for the quantities of the counter-values to be equal.

Examples of this would include a spot exchange of

- 2kgs of Gold for 5kgs of Silver or
- 2Kgs Silver for 500 Dollars or
- 50 Pounds for 1g of Gold, Wheat for Dates, Barley for Rice etc.

Failure to meet this condition constitutes an interest based transaction to have taken place.

If wealth from one category is exchanged with wealth from another category; there are no rules which apply. This means it would be permissible to have a deferred exchange of

- 100 dollars for 4kgs of dates or
- 1g of gold for 10kgs of rice as example.

There are many financial and social wisdoms that can be derived from the genius listing of these types of wealth and their rules by Islam.

May Allah help us to secure our wealth in a way that is pleasing to Him, ameen!



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