Concept of Time in Islamic Economics

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By Ridha Saadallah

1. INTRODUCTION

In *Surat Al-Baqarah* (Chapter II of the Qur'an) God, the Almighty, says: "And God has allowed sales and forbidden *riba*" (verse 275). This verse compels us to contemplate and examine the differences between sale and *riba*. Comparing the two, we see that Islam forbids any conditional increase in the principal of a loan in return for deferred repayment. However, the juristic consensus is that in a sale contract, the price of an item may be increased in case of deferred payment. At first glance, it appears that Islam sets double standards by viewing time differently in these two cases: on the one hand, it makes it part of the price in the case of deferred sales but strips it of any value in the case of loans. We believe that the matter requires more comprehensive consideration to figure out, beyond this apparent duality, the real Islamic perception of the economic role of time. This paper, therefore, seeks to explore and determine this perception by looking closely at juristic opinions and judgements relating to two categories of financial transactions involving time: loans and credit sales.

1.1 Importance of Time in Economics

Time exercises a strong influence on economic activity and on economic decisions of both individuals and communities. Economic theory handles this time-dimension in various ways. In some theories, time figures as a production factor, like capital and labour. Examples of this theoretical trend may be found in the Austrian theory of production and in the neo-classical growth theory.

The Austrian School, particularly B.hm-Bawrek, views production as a flow which necessarily has a time dimension. The lengthening of the period increases the variety of possible time-paths of the output flow. Thus, production may start at a low level and rise rapidly, or it may start higher but rise slowly. In the first case, even though a portion of production may have been sacrificed in the initial phase, we may get a higher output over the whole period, even though the amount of inputs, such as labour and equipment, remains the same. This increase in production, which cannot be attributed to an increase in capital or labour, is, therefore, the result of a method of production characterized by a certain distribution of the flow of production over the given period of time. This is what Wicksell had in mind when he called time a factor of production.[1]

In the neo-classical growth theory, writings dealing with technological progress, add time to the other traditional factors of production: capital and labour. In this context, time becomes an expression of the impact of technological progress which makes it possible to obtain more production by utilizing the same amount of traditional factors.[2]

There may not be unanimity on considering time as a factor of production, but there is no doubt that time plays an important role since economic activity is undertaken over time; each economic process takes place within a period of time; and the organization of relations between these processes requires time.

But does the recognition of this clear time-dimension in economic activity necessarily mean that time deserves to be analyzed and considered as part of an economic theory? To answer this question we need to know how time is perceived in economic analysis and how economic variables are linked to it. To begin with, economic analysis of time is predicated on the division of time into successive periods that vary in length and may not necessarily correspond to known time intervals such as years or months. Economic variables, then, are divided into discrete variables that exist at one point of time, the beginning or the end of the period, and continuous variables that continue throughout the period. A discrete variable is called a stock, while a continuous variable is called a flow. If the period covered by economic analysis could be defined so as to ensure the completion of all economic phenomena relevant to the issue within a given period, the dimension of time in economic variables would lose all its analytical significance and the theory could be elaborated without referring to time. This approach, called static analysis, may have partial justification for its approximate application in some areas of economic analysis related to the short period. In practice, however, many economic variables and factors extend over several periods, thus establishing a time link between economic decisions and forcing the analyst to observe the time dimension in his analysis. For example, some projects take more time to complete than the period of analysis and it may be impossible to determine the achievement of each period separately. The same applies to capital goods which are used for more than one period and we cannot turn those used at the end of each period into "equivalent" new capital goods at the beginning of the subsequent period.[3]

It should also be noted that economic decisions relevant to the current period influence the future and are influenced by the past: time thus becomes a closely-linked chain. For example, a decision to make savings in the current period affects production, income and consumption in subsequent periods. Current decisions are also influenced by future prospects; and both individuals and corporations are helped by past events in the formulation of their projections and expectations relating to future. It is evident, therefore, that the importance of time in economic analysis emanates not only from the presence of a time dimension in economic activity but also, and mainly, from the impossibility of cramming all that is relevant to economics within one period of analysis. This could only take place in respect of a period too long to have any significance as a useful tool of economic analysis.

1.2 Treatment of Time in Conventional Economics

Walras' theory of general equilibrium constitutes the common source from which flow all theoretical propositions of the dominant trend in modern economics.[4] As is known, this theory, in essence, was built on static analysis. It is extremely complex and it is difficult to extend it to take into account the time dimension with all its implications, while maintaining enough ability to explain actual economic movement. This, in fact, would mean that such a theory should meet the following requirements:

a) that it can explain the full chain of inter-related economic events extending throughout the period that bear on the decisions of economic units;

b) that it takes into account the limited nature of information available to these units, hence renouncing the assumption of perfect foresight on which the general equilibrium theory is based; and

c) that it provides for the possibility of errors in projections, thus renouncing the assumption of absolute certainty.

At present, the inter-temporal equilibrium may be considered the most advanced stage towards the formulation of an integral economic theory that takes the factor of time into consideration.[5] Yet, it only meets the first requirement mentioned above. Examination of time in a situation of uncertainty has also been attempted,[6] but a general theory that meets all of the above requirements remains elusive.

The model of inter-temporal equilibrium may be summed up in the following points:

- All goods and services, even of the same quantity and quality, are considered differently depending on the point of time at which they exist.

- All agents involved are assumed to have perfect foresight with respect to future prices, production techniques, etc.

- It is assumed that markets exist for future goods and services.

- Consumers and producers are assumed to formulate demand or supply plans covering both present and future, and maximizing utility in each unit.

- It is assumed that competitive markets exist for all present and future goods and services thus permitting equilibrium throughout all time periods both at present and in the future.

It may be noted that by varying the prices of present and future goods, this temporal frame entails that the value of money will be variable at present and in the future, since the value of money in this general equilibrium model is determined by the value of goods and services that can be bought with money. In dealing with the question of time, conventional economics does not separate a loan from a sale, since it considers an installment sale as a dual operation of sale-cum-loan. Economic units decide their current and future borrowing and lending by comparing the subjective interest rate[7] and the market interest rate.[8]

This uniform treatment of time in conventional economics seems contrary to the dual perception of time in financial transactions governed by Islamic law. Whether such difference exists in reality is what we seek to determine in the following pages through an examination of Islamic jurisprudential provisions relevant to sales and loans.

2. TIME AS AN ELEMENT IN SALES

The element of time comes into a sale transaction by deferring either or both of the two components of the transaction: the commodity and the price. If the price is deferred the sale is called *nasi'a* sale. If the item sold is deferred, the sale is called *salam* sale. If both commodity and price are deferred, the sale is called debt-for-debt sale. In this section, we will discuss two major themes: legitimacy of deferment in sales and legitimacy of increasing the price in return for deferment.

2.1 Legitimacy of Deferment in Sales

In this respect, the following points are worth noting:

(i) Deferment of both commodity and price is not permissible. In this respect, Al-Daraqottni traced a saying of the Prophet (peace be upon him) quoting Ibn Omar, that the Prophet (pbuh) has forbidden the sale of a loan for a loan.[9] The authenticity of this saying, however, is considered by scholars as weak.

(ii) Gold and silver are not to be exchanged on credit whether or not the counter value is the same metal. Gold is traded for gold, silver is traded for silver and gold is traded for silver only in instant transactions. The consensus of scholars is that this principle applies to all currencies, arguing that trading on credit is banned because gold and silver are medium of exchange. Hanafi scholars, however, argue that the ban is ordained because of the element of measurement by weight and have thus extended the ban to all commodities sold by weight.

(iii) Deferment is unlawful in exchanging four other commodities enumerated in an authentic saying of the Prophet (pbuh) reported by Ahmad and Al-Bukhary that the Prophet (pbuh) has said: "Gold for gold, silver for silver, wheat for wheat, barley for barley and salt for salt, in equal weight and hand to hand, whoever increases or asks for an increase falls in *riba*; the taker and the giver alike".[10]

The exchange with deferment is unlawful, whether the counter values belong to the same category (*jins*) or not. Jurists, other than Zahiri, added other items to these four commodities on the basis of similarity while differing in their justifications.

(iv) Sale of other kinds of merchandise for money or by barter on credit is permissible, subject to the general conditions governing sales. A saying cited by Ibn Maja to the effect that sale on credit is blessed is relevant here.[11] Though this saying is unreliable, as one source in its chain of narrators is unknown, we find in the deeds of the Prophet (pbuh) justification for sale on credit. Al-Bukhary and others have authenticated a report quoting Ayisha (May Allah be pleased with her) that "the Prophet (pbuh) bought foodstuff on credit from a Jew and gave him his shield in mortgage".[12] Jurists of leading schools have been tacitly unanimous in discussing increasing a price when payment is deferred, that sale may be transacted on credit, i. e. deferring payment.

(v) *As-salam* (sale in which price is paid for goods to be delivered later) is permissible. It was known to Arabs in pre-Islamic times and was approved by Islam on certain conditions. What may not be sold on credit may not be sold in *salam*.

2.2 Legitimacy of Increasing a Price When Payment is Deferred

As we noted above, the consensus of juristic views is that price may be increased to offset delayed payment. However, there are some dissenting voices. Al-Shawkany,[13] for example, points out that Zainul Abedin Aly bin Al-Hussein, and others have banned such increase in return of deferment. Speaking on the reduction of price in return of immediacy in payment, Al-Jassas said that reduction is the same as increase: neither should be allowed to compensate for immediacy or deferment. He adds: "This is the fundamental predicate in banning compensation for time".[14] This general formulation shows that Al-Jassas frowns on increasing the price of a commodity in return of deferment.[15] Let us briefly review the arguments on both sides.

A. Arguments Against Increase for Deferment

Abu Zahra sums up the arguments of jurists who disallow increasing the price to compensate for deferment as follows:[16]

(i) Disallowers had to give the Qur'anic verse: "That is because they say: Trade is just like *riba*; whereas Allah permits trading and forbids *riba*" [II, 275] an interpretation that is not found in most of the acceptable books of Qur'anic exegesis. They said that not all sales are permissible and that some sales constitute *riba*, citing in evidence a saying of the Prophet (pbuh) relating to what is called "sales susceptible to *riba*". They argued that on-credit sales involving a price increase might *a priori* be covered either by sales or by *riba*. When a matter is open to opposing interpretations in equal measure, the ban takes precedence over permission, and they, therefore, leaned in favour of interpreting such sales as banned *riba*.

(ii) They also said that a seller on-credit is constrained to sell: he is not consenting in the terms of the Qur'anic verse: "Oh you who believe! Squander not your wealth among yourselves in vanity, except it be a trade by mutual consent." (III, 29).

(iii) Al-Shawkany notes that the interpretation by Imam Ahmad bin Hanbal of the Prophet's saying reported by Sammak that the Prophet (pbuh) forbade "two-transactions-in-one" may be invoked by those who ban selling an item for a higher price when payment is deferred. Ahmad bin Hanbal quotes the explanation provided by Sammak of this saying: [it refers to] a man selling something and saying that it is for so much on credit but for so much in cash".[17]

(iv) Some contemporary writers[18] are of the view that increasing a price to compensate for deferred payment is not permissible. They base their argument on the literal significance of the Prophet's saying reported by Abu Dawood quoting Abu Horayra: "The Prophet (pbuh) said: whoever makes two sales in one transaction will end up with either the lesser of the two sales or with *riba*". They take this saying to mean that if a seller says: "I sell you this item for a thousand on cash or for two thousands if paid after one year" he should end up with one thousand, or he commits *riba*, whether or not the deal with the buyer was conclusive.

(v) Any increase in price in return of deferment constitutes *riba*, for time is neither susceptible to valuation nor appropriation and may not, therefore, be considered an exchange of counter value. An increase in the amount of a loan to make up for deferment is no different from such an increase in sale, and both fall under the restriction of *riba*.

B. Arguments of the Majority of Jurists in Favour of Increase for Deferment

Arguments advanced by jurists allowing increasing the price in return for deferment may be summed up as follows:[19]

(i) On-credit sale is a means of promoting trade; it meets the wishes of people and involves no compulsion. Therefore, it does not mean squandering the wealth of people in vanity.

(ii) The seller voluntarily sells a commodity on credit seeking to gain the difference in price. Similarly, the buyer voluntarily buys on credit because he takes possession of the item before payment and such an item may be used to generate benefit or may be put in trading. Thus the difference paid by the buyer and taken by the seller is in fact the price of the use of the traded item. This is not a valid case in monetary loans in which the borrower takes possession of an item whose price remains the same over time since its value is fixed and it produces no benefit by itself but only through trading.

(iii) In Islamic law, contracts are judged on their own merit, without being correlated with other contracts. A contract involving deferred payment is a contract in its own right; it is irrelevant to correlate a price in this contract with price in another contract.

(iv) An increase is often unspecified, especially as a compensation for time.

(v) The clause of untruthfulness in *murabahah* provides an argument that indirectly allows the differentiation between the price in immediate and deferred payments. Jurists are unanimous that the buyer has the option of taking or returning the commodity if the seller has bought the commodity on credit without informing the buyer.[20] But if it is not permissible to sell a commodity for a higher price when payment is deferred, there will be no basis for giving the buyer the option.[21]

(vi) Analogy may be invoked between price increase in the case of deferment and price reduction in the case of early payment. Such reduction is allowed by some jurists pursuant to the story reported by Ibn Abbas that the Prophet (pbuh) ordered the expulsion of Al-Nadeer (Jewish Clan) but some of them said: "Prophet of God, you ordered that we should be driven out but there are debts due to us and the time of their payment is still away". The Prophet (pbuh) told them: "Reduce the debts and claim them before their due time."[22]

(vii) The ban on deferment in the exchange of gold for gold or wheat for wheat means that conditions of *fair* exchange are realized not only through sameness of kind and amount but also through equality in time (hand-to-hand). This implies that the immediate is preferred to the deferred if everything is equal, except for time".[23]

C. Critique of Arguments Against Increase for Deferment

(i) The words "trading" and "*riba*" in the Qur'anic verse (II, 275) should not be understood in their general linguistic meaning. They are general terms whose generality can only be specified by the *shari'ah* itself. To determine what is permitted and what is forbidden, we have to refer to the Prophet (pbuh).[24]

(ii) Need is not necessarily an inherent feature in on-credit sales. It is rather incidental; it may be discerned in some transactions but may be absent in others. In some cases it may apply to the seller and in other cases (to the buyer). Even if we grant that the buyer (or seller) is forced by need into on-credit sales, the Qur'anic verse may not be cited as an evidence that increasing the price in such a sale constitutes squandering, or eating up, money or wealth in vanities. The opposite of "consent" is not "need" but rather "coercion". Mutual consent may characterize a contract, even when one party is forced into it by need.

(iii) The interpretation given by Sammak of the Prophet's ban on "two-sales-in-one" applies when a deal is concluded but ambiguity persists as to which of the two prices will be paid. If the two parties clearly understand which price is to be paid, the deal is valid.[25]

(iv) The narrator of the Prophet's saying "whoever makes two sales in one transaction will end up with either the lesser of the two sales or with *riba*" is not reliable. The better-known version is reported through Abu Horayra without the phrase "he ends up with either the lesser of the two sales or with *riba*". Even granting that the first version is correct, its purport would apply to *bai'`ina* "such as in the case of one advancing a person one dinar against a bushel of wheat to be delivered after one month. When the time comes for delivery, the debtor proposes to exchange the due bushel for two bushels to be delivered after one more month. This proposal constitutes a second transaction within the original deal, thus making it two-sales-in-one. Here the two parties should implement only the lesser, which is the original deal. If, however, they conclude the second sale before delivery or payment, they fall in *riba*".[26]

(v) Is sale for a higher price the same as *riba*? The statement that time is not susceptible to valuation or appropriation is correct only in the sense that a contract cannot be based on the time-term alone. However, an element that may not be compensated for in itself and by itself alone may be considered for an increase in price if joined to something else. An example is the unborn animal. The price of a sheep may be increased in consideration of what it carries, even though the unborn animal itself may not be sold separately.[27] The same thing applies in a sale on credit where the price is higher than when payment is made on the spot. Here the existence and length of time may be considered when setting the price. Time, however, is not separate from the sold article and the compensation for time is included in the price of the article sold. The contract is one: these are not two contracts, one relevant to the sold article and the other to the time-term. Moreover, it may not always be easy to separate the exact amount of increase that offsets time from the amount that corresponds to the price of the sold article. In fact, such separation is possible only when two prices are set: one for cash, and the other for on-credit sale, and the deal is concluded on deferred payment. The difference between the two prices in such a case constitutes the value attributed to time in the deferred price. If, on the other hand, the sale is concluded with one price set for deferred payment the portion attributed to time may be calculated only by estimation, i.e., through comparison with the price of a similar article sold on cash basis.

To say that increasing the price when payment is deferred is the same thing as increasing the amount of a loan to offset deferment would lead us into the very fallacy that trading is the same thing as *riba*, as claimed by pre-Islamic Arabs. They said that if deferment validated increasing a price, it should also validate increasing the amount of a loan. To their mind there was no difference between (a) selling a garment priced at ten dinars cash for 11 dinars if the price is paid after one month and (b) giving ten dinars as loan to be repaid as 11 dinars after one month.[28] Such statement by pre-Islamic Arabs follows the same logic as stating that the ban on *riba* entails the ban on price increase when payment is deferred. The fallacy is the same as has been refuted by the Qur'an in the verse: "... Allah permits trading and forbids *riba*". The verse clearly establishes the ban on *riba* and the permissibility of trading, except for those sales which are forbidden by *shari'ah* texts. Thus, we need not establish analogy between sale and *riba*. This is what Al-Razi meant when, interpreting this verse, he said: "the point is that what you say (that trading is the same as *riba*) constitutes an objection to the (divine) judgement by using analogy; this is what Ibliss (Satan) has done when ordered by God Almighty to kneel down to Adam. He objected to the order by using analogy and said: "I am better than him; you made me of fire and made him of clay".[29]

Rejection of such analogy, however, should not prevent us from exploring similarities or differences between trading and *riba* in order to reach a reasonable explanation of the ban of increase in lending while permitting it in trading. This indeed is the very essence of this research and we shall examine later this comparison of on-credit sale and lending.

It is interesting to note that the extension of the ban on *riba* to on-credit trading involving a price increase on grounds that time is not to be compensated corresponds to a great extent to the (Christian) church thinking on time in the Middle Ages.

Under the title "The Time of the Church and the Time of the Traders in the Middle Ages" Jacques Le Goff says:[30]

"It remains that the church, while extending from early times its encouragement and protection to the tradesman, it raised for a long time many doubts on the legitimacy of vital aspects of his activity. One of the most significant objections raised by the Church was that the profit made by traders predicated mortgaging time which is exclusively owned by God".

Le Goff then quotes the answer given by a churchman in the fourteenth century to a question in this respect:

"Q. May the trader demand in the same transaction from the buyer who cannot pay immediately a higher price than from a buyer who can?

The substantiated answer is No, because the tradesman is selling time, thus committing the sin of usury by selling what he does not own."[31]

The text clearly indicates that the Church in the Middle Ages banned both loan usury and price increase in deferred payment. The Church, however, revised its position later and permitted both.

D. Assessment of Arguments in Favour of Increase for Deferment

(i) The second argument advanced by those who favour price increase for deferment is especially important as it involves the idea of opportunity cost, a well known concept in modern economics. The return which is a compensation for the difference between the two prices is not realized at the conclusion of the sale; it can only be estimated. This means that the seller estimates the loss he incurs by giving up the commodity at present but receiving the price in the future, and on the basis of his estimation he determines the required price increase. The buyer makes a similar estimation and the agreed increase represents a compromise between the asking and the offered prices.

This argument is weak for it is consistent only if the sold item is a commodity that generates a usufruct. In reality, price increase for deferment is applicable, in the opinion of most jurists, to all goods except for those goods susceptible to *riba*.[32]

(ii) The statement that price increase when payment is deferred is not specifically compensating time is inaccurate. Such increase is in fact specified when two prices are set: one for immediate, the other for deferred payment; and it may be estimated in other cases as mentioned above.

(iii) Citing the Prophet's saying "Reduce the debts and claim them before their due time" as an evidence supporting the permissibility of increasing the price in deferred payment involves two requirements:

a) to prove that a debt may be reduced in return for earlier repayment; and

b) to demonstrate that such reduction entails an increase of price in the case of deferment.

Reduction of a debt in return for early repayment is a matter of contention among jurists. The juristic consensus is opposed to making such reduction of a deferred debt conditional on earlier repayment.[33] This view is adopted by the four Imams (leaders of the four major jurisprudential schools).[34]

Such reduction, however, has been permitted by some companions (of the Prophet) and some of their followers. This position has been advanced by Ibn Taymiyyeh and Ibn El-Qayyim, and it has, more recently, been adopted by the Islamic Fiqh Academy of the Organization of the Islamic Conference. The Academy decided that "reduction of a deferred debt in order to accelerate its repayment, whether at the request of the debtor or the creditor is permissible under *shari'ah*. It does not constitute a forbidden *riba* if it is not agreed upon in advance and as long as the creditor-debtor relationship remains bilateral. If, however, a third party is involved it becomes forbidden since it becomes similar to the discount of bills.[35]

Those who allow such reduction of debt base their argument on the Prophet's saying mentioned above. They also argue that "reduction" is the opposite of *riba* (increase) both in language and in practice; it is forgiving part of the debt in return for a corresponding acceleration of payment before due time.[36]

The majority of jurists are nevertheless opposed to such reduction for several reasons. These have been summed up by Sheikh Muhammad Taqi Osmani as follows:[37]

a) This saying is not directly quoted from the Prophet (pbuh) and the chain of narrators suffers some weaknesses. It is also opposed by another saying similar to it in its weaknesses:

"Al-Miqdad bin Al-Aswad is quoted as saying: "I lent a man a hundred dinars; in the meantime my name was drawn and I had to go out in expedition with the Messenger of God (pbuh). I told the man to give me 90 dinars and I give a discount 10. He agreed. I mentioned this to the Messenger of God (pbuh) and he said Miqdad, you ate `*riba*' and you fed it to others".[38]

b) The incident of Bani-Al-Nadeer, which prompted this saying, took place in the second year A.H., i.e., before the Qur'anic verse banning *riba* was revealed.

c) It is likely that the amount which the Prophet (pbuh) ordered cut out of the debt represented the interest, or *riba*, placed on the principal. It is well-known that Jews used to give loans with interest. This interpretation is supported by a report by Al-Waquedi in respect of Bani Al-Nadeer that "Abu Rafe'i Sallam bin Abu Al-Haqiq owed Ossayd bin Hadeer 120 dinars payable after one year. He then reached an agreement with Ossayd to repay the principal which was 80 dinars and to discount the interest".[39] This means that the amount that the Prophet (pbuh) said should be reduced was the excess (*riba*). This saying may not, therefore, be taken as an argument supporting the validity of discounting *riba*-free debts.

d) The creditor of a deferred debt has no right to demand accelerated repayment. Therefore, it is not correct to say that such early repayment is a fulfillment of a part of the creditor's original right. A creditor who resorts to such measure is in fact buying the time-term for the amount of discount. This is the same thing as selling the time-term for the amount of increase of the original debt; and this is precisely the pre-Islamic *riba*.

"Malik said: we have no doubt that it is reprehensible that a man who has on another a claim for a certain duration of time, reduces the amount and asks for early repayment. To us this is the same as the one who extends the term of repayment beyond the due date and receives an increase in return: this is unequivocally the very *riba*".[40]

To further clarify the point we give the example of X who has a claim on Y for 1000 payable after one year. X's right is to be reimbursed only 1000 and only on due date. However, if X needs money after ten months, offering Y to repay only 800 and discounting the balance, such an offer would amount to a request by X for a loan of 800 to be repaid as 1000 to Y after two months.

Having not been unanimously approved, but rather disallowed by juristic consensus, the discounting in return for early repayment cannot stand as a strong justification for the price increase in return of deferred payment.

If, however, we accept that a debt may be reduced in the case of earlier repayment, it will be more appropriate and more valid to increase the price of a commodity in on-credit sale. In this latter case, the increase is implicit and consequential to the contract of sale, whereas the debt discount is a separate transaction. As we said above, what may not be allowed separately and in itself may be acceptable as an implication and a consequence of something else.

2.3 Summing-Up

In sum, on-credit sale is permissible as indicated by the actual Sunna (tradition) of the Prophet (pbuh) and by consensus of jurists, except in the case of specific sales which fall in the category of *riba-an-nasa*, as derived from the saying of the Prophet (pbuh), known as the "six commodities" saying. As for the increase of price in on-credit sale over the price in cash sale, the main thrust of jurisprudential opinion shows that it is permissible, on grounds that on-credit sale with a higher price constitutes trading with mutual consent. Such trading is to the mutual benefit of both the seller - who gets a higher price - and the buyer - who takes possession of the commodity before paying the price. Another argument is that God has permitted trading, except for those sales which are banned on grounds of some evidence in the Qur'an or drawn from Sunna (Prophet's tradition); and there is no evidence to ban on-credit sale for a higher price. A further argument is drawn from the unanimous agreement among jurists that the buyer in *murabahah* has the option (of withdrawal) if the seller fails to inform him that the commodity is bought on-credit.

The legitimacy of price increase establishes that *shari'ah* admits that time has a value and recognizes the innate human preference of what is in hand to what is loaned and of the immediate to the deferred. Even though time *per se* may not be the subject matter of a contract, it is permissible to place a premium on time in on-credit sale.

The justification for increasing price when payment is deferred is that the intervening time between passing on a commodity and receiving its price involves possibilities of opportunity benefits which are waived in the interest of the buyer. To this we may add that the seller also risks non-payment, procrastination and the cost of action to force payment.[41]

3. TIME AS AN ELEMENT IN LOANS

3.1 Definition, Conditions and Provisions of Loans

A loan, or *qard* is the transfer of ownership of fungible goods (i.e. goods that may be measured in terms of weight, measure or number) whose equivalent is to be returned without any premium. Loan is an act of charity.

Contiguous to "loan" is the "*ariya*" or "loan for use". *Ariya* is the transfer of the usufruct of an asset which should be returned in itself whereas in a loan the equivalent is returned. This means that a loan is a temporary donation of an asset while *ariya* is a donation of the usufruct of an asset.

A loan is concluded by mutual agreement, one party making a proposal (*ijab*) and another accepting it (*qaboul*). The following conditions should be observed:

- The lender should be qualified to make the donation;

- The object of the loan should be a fungible good such as currencies or goods susceptible to measure or weight or goods that can be counted and their units are approximately equivalent;

- The loan should be received by the borrower;

- The loan should not entail a benefit to the lender, whether stipulated in the contract or agreed upon verbally by the parties; and

- The loan should not be tied to a sale transaction or anything else.

The general ruling on loans is that they are permissible, for a loan is a "a good act whether it is to be paid any moment or deferred to a due date".[42]

3.2 Nature of Time Delay in Loans

A condition of credit and *salam* sales is that deferment should be for a well-defined time period. Knowledge of time is required in order to avoid the lack of knowledge to prevent delivery.

The stipulation of a term in a loan, however, is not subject to the same consensus. Two views prevail among jurists, with the consensus that stipulating a term is not necessary for the validity of a loan. Whether the term is provided for in the contract or stated later, the lender is not bound by such term and he may claim the equivalent anytime he wishes. In *Al-Moghni* we read that the lender may call the loan (its equivalent) at once and that even if term is mentioned in the loan contract, it is not deferrable because deferment requires compensation and a repayment of a loan can neither be increased over nor decreased below the loan itself. Deferment in loan in fact is merely a donation and a promise and it is not, therefore, obligatory to observe it.[43]

Similar views appear in *Takmelatul Majmoub*, an authoritative work on Shafe'i school of jurisprudence.[44]

According to Ahmad, the equivalent of the loan is immediately established as an obligation on the borrower even if provision is made for deferment, because this deferment is only a non-obligatory pledge. The same applies to the time-term provision after a contract is made: such a term is not binding.[45]

Malek, on the other hand, disputes this consensus view. To him, if a term is stipulated in the loan contract or if it is customary, it becomes obligatory on the borrower to repay it at the due date whether he has benefitted from it or not. If no such term has been fixed and the custom does not imply it, the borrower is allowed to keep it until such time as he makes use of it, as generally accepted for articles of the kind.

Ibn Hazm, the Zaheri scholar, agrees with Malek that the deferment of a loan to a certain time is a valid clause if stipulated. He disagrees with Malek, however, in case such clause is not stipulated and the lender calls up his loan. He rules that the borrower can not wait for the time needed to make normal use of the loan.[46]

To Ibn El-Qayyim, if the lender advances a loan and defers the repayment to a fixed date then deferment is obligatory, according to the stronger position in the views of Malek and a version of Ahmad's views.[47]

Ibn Hajar says that Ibn Omar, Atta'a, Amr Ibn Dinar and Al-Bokhari are among those who allowed fixing a term to a loan.[48]

The consensus view that loan may be called anytime is based on the assumption that it represents a benevolent contract while sale and *salam* contracts represent exchange of counter values. Thus, the binding nature of the term in credit sales and *salam* is associated with the possibility of raising the price while the absence of such a binding term in loans is associated with the condition that the lender should not derive any advantage from the loan.

Malek, on the other hand, bases his position on two pieces of evidence, one from the Qur'an, and the other from Sunna (the Prophet's tradition). His Qur'anic evidence is the verse: "You who believe, when you contract a debt for a fixed term, record it in writing" (II, 285). Malek interprets the verse to mean that the "fixed term" is permissible in all debts, without distinction between loans and other debts. Al-Shafii, however, retorts by saying that the verse does not mean that a "fixed term" is permissible but it only establishes the need for witnesses and writing in deferred debts.

Malek's evidence from Sunna is the Prophet's saying: "Muslims are bound by their terms (terms agreed upon among themselves)". (Reported by Abu Dawood, Al-Termezi and Al-Daraqutni).[49]

Although most jurists agree that a loan may be called up anytime, omission of stipulating a fixed term may constrain or embarrass the borrower if he enters into financial obligations during the term of the loan, such as buying a house or furniture. This would contradict the feature of good-doing and charity which characterizes a loan. This, however, may be countered by the argument that a borrower is required to repay a loan only if he has the means to do so; and if he is insolvent it is the duty of the creditor to allow him the time to repay. The answer is that insolvency that calls for waiting is the lack of any surplus over basic needs whether in cash or in other assets.[50] Thus, if someone borrows money for a fixed term and uses the loan to buy furniture but the creditor calls up his loan immediately thereafter, the borrower will be forced to sell this furniture, perhaps at a loss.

3.3 Provision of Non-Profitability of Loans

The prevalent rule in this respect is that any loan that entails a benefit to the lender constitutes *riba*. The clearest form of such benefit is raising the amount or the quality of the principal in repayment. If such increase is provided for in the contract that becomes *riba* beyond any doubt.

The benefit drawn from the loan by the lender may take other forms, such as asking the borrower to allow him to live in the borrower's house, to lend him his means of transportation or to offer him a gift. Banning such forms of benefit is to pre-empt the possibility of *riba*.

Today, most loans are in the form of money, and increase in this case is called, in the banking terminology, "interest". Thus, we shall focus in the following paragraphs on the ban on interest and the relation of this ban to time.

A. Rationale of Banning Interest

Many contemporary writers and researchers have pointed out that the increase in the amount of cash loans, practiced on a wide scale these days, constitutes *riba*. It is in fact the stark *riba* banned in the Qur'an, whether the loans are for consumption or for production purposes, and whether the increase is slight or large.[51]

Having learnt that interest is banned by the Qur'anic text, the rationale or the wisdom for such a ban is known to God the Almighty, and we only apply our minds to deduce this rationale and at the same time acknowledge that our deduction may be right or wrong.

An often-cited reason for this ban is to forestall injustice, since increasing the amount is in return of the time-term. Time-term, however, is not an asset to be considered as one's property, and the increase, or interest, is unjustified.[52]

There is an agreement without dissent that any increase over the principal amount of the loan is unjust, the evidence being the words of God the Almighty addressing the believers. Having ordered them to "give up what remains of *riba*" and warning them of war from God and his Messenger if they do not, the Qur'anic verse adds: "and if you repent then you have your principal (without interest). Wrong not and you shall not be wronged" (II/279).

The question is: does wrong, or injustice, arise of the fact that the increase, or interest, is unjustifiable, or does it arise from something else?

In Section 1, we discussed the relationship between increase and deferment in sales and concluded that time has an economic value, since an asset in hand is preferable to one on loan, and an immediate payment is better than a deferred payment. A seller takes this economic value into consideration when fixing the price in on-credit sales. The same principle - that the immediate is better than the deferred - is true in loans. Indeed, if the loaned money was equal in value to the repaid equivalent, there would be no sense in calling a loan a benevolent contract. What the creditor "donates" or gives as charity is in fact nothing but the difference of the economic values attached to the immediately delivered loan and the deferred repayment after a period of time.

It is not true, therefore, to say that interest on loans has no counter value, but we hasten to add, that it is usury without any doubt, and, consequently, it is wrong or unjust. Injustice or wrong consists in fact in the unbalanced equation: the increase or interest, on one hand, and the opportunity cost, on the other. The increase over the principal, the common form of which is the bank interest, is certain and its amount is known whereas the yield resulting from investing the loan by the creditor is not sure to materialize, and if it does, its amount is not ascertainable in advance. This variance in certitude between the two counter- values, the interest on one hand and the opportunity cost on the other hand, constitutes the essence of the injustice of imposing interest on loans.

This view has been propounded by Fakhruddin Al-Razi in his exegesis of the Qur'an. Commenting on the Qur'anic verses dealing with *riba* in Sura II, he says:

"Why cannot we say that the retention of the capital in his hand (the borrower's) for a long time compensates for the increase (interest), since retention of this money by the lender for that period of time may have allowed him to invest it in trading and making a profit, and when he gives the money to the borrower he may fairly expect the increase to compensate for this alternative opportunity? The answer is that such a profit is only hypothetical; it may not materialize whereas taking the interest (increase) is certain. To take the "certain" as a compensation for the "uncertain" involves some harm".[53]

A question may then arise: but is not this unbalanced equation applicable also in trading on credit? The answer is that such a sale does not involve a contract or agreement to pay an equivalent to time as in the case of a loan. It is rather a contract to sell a commodity where time is observed as a factor in fixing the price. In other words, time in such a sale is dependent on the commodity and its presence contributes to the determination of the price, but is not, in itself paid for. The equation in such a sale consists of a commodity tied to a time-frame and a price which includes an element to compensate for time. Such an equation cannot be perceived as unjust, if the sale is concluded by mutual consent.

B. Implicit Concept of Time in Loans

Lending means ceding uncertain benefit which the creditor would have obtained had he kept his money; borrowing is obtaining benefit which would have been impossible to obtain had the creditor kept his money. Does banning interest on loans constitute, then, a negation of the value of such benefit?

It should be noted, at the outset, that negation of the value of time in a loan, if established, only relates to the worldly economic value but the creditor in any case, may expect to receive his reward from God the Almighty if he only seeks God's favor. The reward may be deferred to the Hereafter, or may be partly received in this life.

Having made the above remark we may now try to answer the question in both cases of tying the loan to a time-frame or making it payable on demand.

If we consider that a loan is callable (payable anytime), then the benefits of the loan to the borrower are realizable as long as the money remains under his control. If the creditor, however, calls up his money before the agreed term, the debtor may suffer a loss as indicated above. This loss may be more or less than the benefits he draws from the loan before he is asked to repay it. This is as far as the borrower is concerned.

As for the creditor, his loss of the benefits of the loaned money may be incurred in one of two cases:

a) that at the time of advancing the loan he may have a profitable opportunity to invest his money, or

b) he may not have such an opportunity at that moment but when such an opportunity arises, he finds the borrower insolvent and the creditor is thus unable to recover his money.

Naturally, if the creditor does not have an opportunity to invest his money at the time of advancing the loan or when he has such opportunity he finds the debtor solvent, then he (the creditor) loses nothing by advancing the loan. The loan in this case becomes a temporary allocation of uninvested money to an act of charity and kindness which brings him divine reward. Since the creditor does not know in advance whether the debtor will be (later) insolvent or not, he will always be exposed to lose the potential benefit of the money he loaned, and consequently, stipulating that the loan be repayable anytime is not inconsistent with the fact that banning interest amounts to a loss of the economic value of the potential benefits ceded by the creditor.

If, on the contrary, we consider that fixing a binding term in the loan is allowed, the borrower will certainly enjoy the benefits of the loan whereas the creditor will lose the benefits of liquidity during the loan term and the likely profit of any profitable transaction that may arise during the same period. In this case, failing to compensate the creditor would entail for the lender a loss of economic value of the potential benefits during the period of the loan.

It is interesting to note that the outcome is the same in both cases. In the first, the loan cannot constitute an acceptable mode of financing because the trader or manufacturer needs, more than anybody else, to ensure himself against surprises in the conduct of his business. It is inconceivable that he would finance his economic activity through borrowing knowing that he may be required to repay the loan at any moment.

In the second case, keeping money idle for long or short periods of time for no return may lead money-owners to be more wary of lending their money, especially when the need of the borrower is not acute. Thus, in both cases a loan would become a means to satisfy the needs of the needy. In other words, it would not be possible to use it as a means to finance trade, industry or agriculture.[54]

Whether a loan is payable on demand or deferred to a fixed term, the most important effect of loans would perhaps manifest itself in the curtailment of the economic role of loans to the benefit of other means of financing economic activity such as *mudarabah*, "partnership" or others. An interest free loan (*qard hassan*) would become only a means of social solidarity, and this marginal role is in sharp contrast to the pivotal role of loans in the financial system based on "interest".

To grasp this all important difference in the roles of loan in both systems on the macro-economic level, we need to recall the adverse effect of money-lending mechanism on economic stability.

Trading in money, which is the core of lending with interest, leads to expanding credits beyond the needs of those dealing in goods and services. As a result, a discrepancy develops between real exchanges and cash flows, which is the essence of instability. Maurice Allais[55] has estimated that monetary flows among the Group of Seven industrial countries were 34 times more than real flows of goods and services. He attributed this severe imbalance in world economy to the mechanism of credit[56] which allows expenses and debts to be settled by mere promises of payment without any real counter-part, thus boosting speculation, which means that dealers in markets are able to buy without paying and to sell without acquiring. Such a state of affairs leads to a wild expansion of credits, sharp and frequent fluctuations of exchange rates and a basic instability in the economy as a whole.

By contrast, the Islamic financial system which seems to allow the lending-borrowing mechanism only a marginal place, ties economic credits[57] to real flows of goods and services. Under the Islamic system, debts arise only from the sale of goods on credit, the sale of goods whose delivery is delayed (*salam*) or deferment of rentals which is the sale of usufruct.

This shows that the Islamic *shari'ah*, by banning interest on loans and allowing price increase, actually establishes a financial system where monetary flows and real flows are harmoniously integrated. It thus eliminates the most serious cause of fluctuations and instability.

We may also conclude that interest on loans does not only bring injustice to the individual but also inflicts severe harm on the economy as a whole. Perhaps the rationale, or wisdom, of banning interest is not confined to the elimination of injustice to the individual but goes farther as it eliminates adverse effects on the economy.

4. CONCLUSION

The above exploration of juristic opinions relating to loans and sales indicates that there is no double dealing in viewing the economic value of time by allowing a price increase when a commodity is sold on credit and banning a parallel increase on loans. It is more likely in our view - and God knows best - that rulings on both sales and loans do not conflict with the economic value of time. It is true that time alone neither gives a yield nor produces. However, if time is joined to property - whether cash or kind - it acquires an indirect value. A person who gives away a portion of his money to someone else, either on loan or in selling something on credit, cedes, by so doing, potential profits that may be obtained through putting this portion of money to use in an economic activity. These supposed profits are the economic cost borne by the creditor and are the indirect value of time from the perspective of the creditor. On the other hand, the debtor expects - when he either buys on credit or borrows - to obtain benefits through money he does not own. These potential benefits represent the economic return of his debt and are the indirect value of time as far as he is concerned.

In this sense, we see that Al-Imam Fakhruddin Al-Razi accepts that there is an economic value of time in the context of a loan as much as in a sale. This is also the general meaning of the words of Al-Imam Al-Kassani that the immediate is better than the deferred and the asset in hand is better than the loan.

It should be pointed out, though, that recognition of an indirect economic value of time does not necessarily mean acknowledging the validity of providing for equivalent material compensation for this value in all cases. We have already seen that compensating for the value of time in sales is acknowledged in the preponderant views of jurists. In loaning, however, the Quranic ban on increase (interest) means a ban on the material compensation for time, countervailing this compensation with the reward lavished by God on the creditor if he sincerely acts for God's sake. This is why a loan is considered as a donation, not an exchange.

We further believe that, in addition, the rationale, or wisdom, of banning *riba* is to direct Muslims to seek and adopt other means than loans to finance their economic activities, assigning loans to the area of social solidarity among Muslims. Negation of the economic value of time in the case of a loan means that time is treated differently in loans and sales.

Thus, we reach the following important conclusion.

Provisions of sales and loans in Islamic jurisprudence fall within a single concept of time where time is recognized as having an economic value. However, time may be treated differently in sales and loans for reasons we indicated above to the best of our knowledge, although ultimate knowledge rests with the Almighty God of all creation.

NOTES AND REFERENCES

1. Wicksell as quoted in John Hicks (1983), *Classics and Moderns: Collected Essays on Economic Theory*, Vol.III, Oxford: Basil Blackwell, pp.113,128

2. See, for example, R.G.D. Allen (1960), *macroéconomique une étude mathématique.* Paris: Armand Colin, p.479, Ch. XIII.

3. See M. Morishima (1977), *Walras' Economics: A Pure Theory of Capital and Money*, Cambridge: Cambridge University Press, Chapter 14, pp.195-198.

4. The General Theory of Keynes is subject to many interpretations, most of which trace the theory to the general equilibrium approach, or its modern version of "equilibrium at fixed prices". It is to be noted, however, that a school of economics, particularly in France, believes that subjecting Keynesian thought to the general equilibrium approach strips it of all originality. Instead they propose reading Keynes within the context of a circular flow approach. For details, see F. Poulon, *Macroeconomie approfondie: Equillibre, desequillibre circuit.*

5. Edmond Malnvaud (1971), *Leçons de théorie microéconomique*, Paris: Dunod, Chapter X.

6. *Ibid*. Chapter XI.

7. This rate expresses the consumers' preference for immediate, as opposed to deferred, goods and services.

8. For more details on decisions of lending and borrowing by consumers and producers in temporal perspective, see J. P. Dupuy (1973), *Calcul économique*: Paris: Dunod, Chapter III.

9. Al-Shawkany, *Naylul Awtar min Ahadeeth Sayyedul Akhbar*, V, p.167.

10. *Ibid*., V, p. 297.

11. Ibn Maja, *Sunan*, Book of Trades, chapter on Partnership and Mudarabah, p. 768.

12. Al-Bukhary, *Saheeh*, Book of Sales, XIV, p. 8.

13. Al-Shawkany, *op.cit*., V, 249-250.

14. Al-Jassas, *Ahkam Al-Qur'an*, I, p.467.

15. Abu Zahra, Mohamed, "Imam Zaid: Life, Age, Jurisprudential Views" [Arabic], p.293.

16. *Ibid*., pp.293-294.

17. Al-Shawkany, *op.cit*., p.249.

18. Nizamuddin Abdul Hamid "Jurisprudential Judgement of Increasing Price in On-credit Sale" (in Arabic) *Islamic Fiqh Journal*, No.6, Vol.1, page 372.

19. Abu Zahra, *op.cit*., p.294.

20. Ministry of Awkaf and Islamic Affairs, *Fiqh Encyclopedia*, Kuwait, Vol. IX, p.50.

21. Sharafuddin Al-Hussein bin Ahmad Al-Siyaghy, *Al-Rawd Al-Nadeer, Sharh Al-Majmouh Al-Kabeer*, Vol. III, pp.525-6.

22. Al-Haythamy, *Majmaa Al-Zawa'ed*, Vol.III, p.133.

23. Al-Masry, Rafic, *"Instalment Sale: Jurisprudential and Economic Analysis* (Arabic), p.50.

24. Al-Razi Fakhruddin, *Al-Tafseer Al-Kabeer*, Vol.II, pp. 355-356.

25. See *Annotations of Al-Dussouki*, Vol.III, p.58; *Al-Mabsout*, Vol. XIII, p.8; *Nehayatul Muhtaj*, Vol.III, p.450; and *Al-Moghny*, Vol.IV, p.33.

26. Ibn Al-Qayyim, *Awnul Maaboud, Annotation to Sunnan Abu Dawood*, Vol.IX, p.332.

27. Muhammad Taqi Osmani, "Provisions of Instalment Sale: Contemporary Methods in the Light of Islamic Jurisprudence", unpublished research paper in Arabic submitted to Islamic Fiqh Academy of the Organization of the Islamic Conference, 1412H (1992), p.29.

28. Al Razi, *op.cit*., p.354.

29. *Ibid*.

30. Jaques Le Goff, (1977), *Pour un autre Moyen Age, temps, travail et culture en Occident*, Paris Gallimard, p.46.

31. This argument is not acceptable in Islam. Although God's ownership is not restricted to time but covers everything else, this ownership does not exclude man's ownership of wealth and his ability to exploit it within the limits of *shari'ah*.

32. See Rafic Al-Masry, *op.cit*., p.52.

33. Hanafi and Hanbali scholars excluded the debt involved in writing of a contract of emancipation between a slave and his master. Such an exception has no effect in the present time.

34. Except for one opinion, attributed to Ahmad (bin Hanbal).

35. Resolution No. 66/2/7 on Instalment Sale, Seventh Session of the Islamic Fiqh Academy, 1412H (1992).

36. Ibn Al-Qayyim, *E'elam Al-Muwaqqiein*, Vol. 3, p. 371.

37. Muhammad Taqi Osmani, *op.cit*., pp. 19-23.

38. Al-Bayhaqi, *Al-Sunan Al-Kobra*, Vol. VI, p. 28.

39. Al-Waquedi, *Kitab Al-Maghazi*, Vol. I, p. 347.

40. Al-Kanduhalwy, *Awjaz Al-Masalek ila Muwatta'a Al-Imam Malek*, Vol. XI, p. 329.

41. Rafic Al-Masry, *op.cit*., p. 55.

42. Ibn Jizzi, *Al-Qawaneen Al-Fiqhiyyah*, p. 217.

43. Ibn Qudama, *Almoghni and Al-Sharh Al-Kabeer* (in one book), Vol. IV, pp. 357-359.

44. Mohammad Najeeb Al-Hotei, *Al-Majmoub: Al-Takmelah Al-Thaniyeh*, Vol. XIII, p. 164.

45. Al-Bahoury, *Sharh Montahal Iradat*, Vol. II, p. 227.

46. Ibn Hazam, *Al-Ihkam fi Usul al Ahkam*, Vol. V, p. 47. Also *Al-Mohalla*, Vol. VIII, pp. 81-84 and *Al-Massael*, Nos. 1196, 1198 and 1205.

47. Ibn Al-Qayyim, *Ighathatul Lahfan*, Vol. II, p. 47.

48. Ibn Hajar Al-Askalani, *Fathul Bari Sharh Saheehul Bokhary*, Vol. V, p. 66.

49. See evidence in the sources quoted above.

50. Rafic Al-Masry, *op.cit*., p. 18.

51. See, e.g., Hassan Abdullah Al-Amin, *Bank Interest and Riba* (in Arabic).

52. Hassan Al Anany, *Rationale for Ban on Usury and Relation to the Function of Money*, (Arabic).

53. Al-Razi, *op.cit*., Vol. II, p. 352.

54. Rafic Al-Masry, "Is a loan payable on Demand or Deferrable?" in the Magazine *Hadaratul Islam* (Islamic Civilization) XIXth year, No. 6.

55. A French economist, laureate of the Nobel Memorial Prize in Economics. He made these points in a lecture entitled "The Monetary Conditions of an Economy of Markets: From the Teachings of the Past to the Reforms of Tomorrow" (Under publication), delivered in Jeddah at the invitation of the Islamic Development Bank.

56. The objections of Allais to the credit mechanism are not in the absolute. Rather, his objections focus on the workings of this mechanism in capitalist societies at present.

57. As opposed to social credits which respond to the need for solidarity and charity.