

Business Transaction –An Islamic Perspective

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Abstract

Islam - being a complete way of life and a code of conduct - deals with every walk of human life. It gives directives in social life, marital life, political life, governance, war and peace as well as internal and external affairs.

Economy is always considered a backbone of any society. Flourishing business plays a vital role in raising the social status of an individual and the community as it ultimately strengthens the economy of any country.

Islam has given clear guidelines for business dealings, too. It promotes fair and transparent business. “Not to harm and not to be harmed” is one of the major Sharee‘ah maxims to run the business in fair, transparent and healthy way. For that, it made some businesses haram and unlawful as it harms either the businessmen or the customers or both and creates an unhealthy environment in the society and affects the whole economy in the long run.

The paper in hand is an analytical study of business transactions from the Islamic point of view; some major maxims of Sharee‘ah in business dealings, its implications and after-effects in business with special reference to some forbidden businesses; what could be the wisdom behind making it unlawful and how it could affect the overall economy.

Introduction

Business has been always considered as a noble job. It is the historical fact that all prophets were doing their own business.¹ Prophet Muhammad (pbuh) himself took many trips to Yamen and Syria – especially before the prophethood- for the business endeavour.² The first successful businesswoman in Islam was Khadijah Bint Khuwailed, the first wife of the Prophet Muhammad (pbuh). Khadijah's business flourished because of him. He proved to be the most successful businessman³ in terms of fair dealing and good return. He set an example for a successful business and gave a very high regard to the honest and trustworthy merchant as to be with prophets and martyrs^{4, 5}.

Economic Policy of Islam

Islam is not all about spirituality. It deals with every aspect of human life. Striving for the sustenance is required⁶. It is human nature to earn the livelihood for himself as well as for the dependants. An individual can get nothing unless he puts his efforts⁷.

Like any other aspect of human life, economy should also be governed by the core concept of Islam. 'How the man earns the wealth and where he spends it'⁸, will be questioned someday. So it gave clear directives to be followed for a balanced and sustainable economy. Following is one of the most important verses from the Qur'an related to the economic policy of Islam.

What Allah has bestowed on His Messenger (and taken away) from the people of the townships,- belongs to Allah,- to His Messenger and to kindred and orphans, the needy and the wayfarer; In order that it may not (merely) make a circuit between the wealthy among you. so take what the Messenger assigns to you, and deny yourselves that which He withholds from you. and fear Allah. for Allah is strict in punishment.⁹

Underlined words are the key to understand the economic policy of the Islamic society. It clearly indicates that the wealth should not be confined in some rich hands. It must roll in the society so that every individual of the society – rich and poor - equally benefits from it. This and the similar verses in the Qur'an indicate that the flow of wealth should not be from poor to rich making rich richer and richer and the poor poorer and poorer. Rather it should be from rich to poor to help the needy and poor segment of the society, to empower them, to raise them up to the level where they could be in a position to contribute their part in the welfare of the society and ultimately strengthen the overall economy. To achieve this noble goal Islam made 'interest' *Haram* (unlawful), *Zakat* was made

¹ Islamic History, Mahmood Shakir, Vol.I, p. 46

² The Sealed Nectar, Al-Mubarkpoori, p. 78

³ Islamic History, Mahmood Shakir, Vol.I, pp. 41-42

⁴ Sahih Al-Bukhari, No. 2262

⁵ Al Tirmidhi Hadeeth No. 1209

⁶ Al-Qurán, 28/77

⁷ Al Qurán, 53/39

⁸ Al Tirmidhi, 1/407

⁹ Al-Quran, 59/7

mandatory, voluntary charities were recommended and generosity was appreciated.¹ A considerable proportion of the revenue was fixed to cooperate the socially and economically deprived people and even to help them to come out from their debt burdens², if any. The law of inheritance was established to distribute the deceased's property to the maximum number of his kith and kin.³ It is just to maximise the distribution of wealth to the larger number of people.

Major Maxim

For business, there is no any fixed list of permitted businesses in Islam. Originally, all kinds of business transactions are allowed⁴ except those listed transactions that are clearly made unlawful by the *Sharee'ah* law either essentially⁵ or due to some external factors making those transactions impermissible.⁶

Instead of enlisting all permissible business dealings, jurists and scholars have, deducing from Qur'an and *Sunnah*, laid down some rules and regulations as well as juristic maxims (fundamental principles) to judge the permissibility of any such dealings. These maxims are very much general in nature while some are specific. It helps to evaluate any given situation and to reach any final conclusion in terms of permissibility or impermissibility aligned with the holistic spirit of Islam.

One such maxim is "*la dharara wa la dhiraara*"⁷ (Neither Harming Nor Reciprocating Harm). It is basically a part of Hadeeth narrated by Abu Sa'eed al Khudri⁸ and taken as a maxim. It is very much general in nature and can be applied in any situation. If any action, dealing or transaction causes any harm or reciprocates harm, it will not be permissible. One may evaluate any business transaction, too, from this point of view.

Another fundamental principle is 'uncertainty corrupts the business deal'. Prophet Muhammad (pbuh) forbade any business that has uncertainty.⁹ Anas ibn Malik has narrated that the Prophet (pbuh) forbade the sale of grapes till they became black and the sale of grain till it had become hard.¹⁰ This fundamental principle indicates that any business dealing that has clear uncertainty or speculation is not permitted in Islamic Shari'a because it leads to a number of problems and disputes between the two parties.

Another maxim is '*Ad Dharooraat Tubeeho al Mahdhooraat*'. (Needs permit the forbidden). It is a very common maxim. And also it is a commonsense that if need persists and there is no way out but to adopt the forbidden, one has to go for it. And we have evidence for that from Qur'an and *Sunnah*.¹

¹ Tafheem al Qura'n, al-Maududi, 5/393

² Al Qur'an, 9/60

³ Al Qur'an, 4/11,12.

⁴ Al-Fiqh al Islami, Al-Zuhaili, 5/3307

⁵ Al Qur'an, 2/275, Also see, 2/198

⁶ Al Qur'an, 4/29.

⁷ Al Arba'een, Nawawi, No. 32.

⁸ See: al Muwatta, Ibn Majah, al-Dar Qutni.

⁹ Sunan Abi Dawood, No. 3376

¹⁰ Ibid. 3371

This can be applied in any situation even in financial and business dealings. But the 'NEED' itself is to be defined; whether really it is a need or not.

"*Al-ghunum bil ghurum*"² is another basic fundamental principle related to business dealings. It means profit is only by taking part in adventure. In other words no earning will be legitimized unless the person is involved in the venture and takes the risk. It is very much important principle and it has a big role in all financial dealings of the Islamic banks today.

These are some basic principles. Based on such principles Islamic scholars and jurists laid down some conditions and ethics that must be followed in any business dealing, else the deal will be considered illegitimate. Some of those conditions are as follow:

1. **Mutual consent:** Both the seller and the buyer should agree for the deal. There should not be any compulsion, oppression or exploitation from any side. We can quote the verse from Qur'an in support: O ye who believe! eat not up your property among yourselves In vanities: **but let there be amongst you traffic and trade by mutual good-will:** nor kill (or destroy) yourselves: for verily Allah has been to you Most Merciful!

Prophet Muhammad (pbuh) is also reported to have said: "The business deal is complete when the two parties involved depart with mutual consent"³

2. **Dealing should not be for any forbidden things** that *Sharee'ah* made it *Haram* (unlawful) like wine, gambling, pork etc. Qur'an says: **O ye who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination,- of Satan's handwork: eschew such (abomination), that ye may prosper.**⁴

These things are essentially forbidden as per the Islamic *Sharee'ah*. So its usage, its dealing and business all are *Haram* (forbidden). Islam does not allow any thing that harms the person or reciprocates it to the society. Islam is very much concerned with the sanctity of the human society. Gambling and wine are big evils; it violates the peace and prosperity, leads to the corruption and imbalance in the society.

Yes, there is no doubt in the profitability of wine and gambling business. But their evils and dangers are much higher than the benefit. Qur'an has clearly answered this questioning about wine and gambling:

They ask Thee concerning wine and gambling. say: "In them is great sin, and some profit, for men; but the sin is greater than the profit."⁵

¹ Al-Qur'an. 2/173

² Al Qawaid al Fiqhiya fi al Madhahib al Arb'a, 1/543

³ Jamí al Usool, 2/9, Majmoo' al Zawaa'id, 4/100 – Quoted from Al Fiqh Al Islami, al Zuhaili,5/3306.

⁴ Al Qura'n, 5/90

⁵ Al Qura'n 2/219

One may evaluate the profit and loss in the business of alcohol and gambling in view of the above mentioned verse from Qur'an.

It is a fact that some alcohol companies generate huge revenue to add to the economy. For example, USA has produced many alcoholic beverage brands (Jack, Daniels, Budweiser, Jim Beam) and has allowed several international brands (Bacardi, Smirnoff) to produce and distribute their products from within the country. The alcohol industry is responsible for economically contributing over \$400 billion in economic activity, while having contributed \$21 billion directly to the state through taxes. Besides its contribution to the economy, the industry has also managed to help reduce the unemployment rate in the country through \$89 billion in wages and creating close to \$4 million jobs in only 2010.¹

On the other hand, due to the high alcohol consumption rate in the USA, it has led to many physical and mental problems to the consumers. Between 2006 to 2010 there have been 88000 deaths due to alcohol, and in 2012, it was reported that 10322 deaths were caused due to alcohol-impaired-driving fatalities. And the accident in Bacardi's bottling plant in 2011 also had an impact. Besides these unfortunate losses, it has also caused underage drinking as Smirnoff marketed one of their products to minors. Report shows that over 10% of children in the USA live with a parent who has an alcohol problem. In the matter of AUD (Alcohol Use Disorder), there have been 17 million adults aged over 18, and 855000 children aged 12-17 as of 2012. The economic burden of these problems have caused the USA to spend \$223.5 billion which is just over 50% of what the alcohol industry makes annually.²

This is just an example. The same can be found in every country. A specialised survey is needed to study the expenses of individuals, families and the governments on the alcohol related treatments, apart from the loss of precious human lives, to contrast the revenue and expenses and benefit and loss in such businesses.

3. Interest free business: Interest is not allowed as per the Islamic *Sharee'ah*. Qura'n says:

Those who devour usury will not stand except as stands one whom the evil one by His touch hath driven to madness. That is because they say: "Trade is like usury," but Allah hath permitted trade and forbidden usury. ³

Based on the above mentioned verse it is clear that any transaction based on interest is forbidden. It also says that interest would gain no benefits; rather the person involved in such transactions would be deprived from the blessings of Almighty God:

Allah will deprive usury of all blessing, but will give increase for deeds of charity: for He loveth not creatures ungrateful and wicked.¹

¹ <http://www.npr.org/blog/health/2014/06/26/>

² <http://ethicalrog.org/2012/04/19/>

Also see: www.parkstreet.com/industry/alcoholic-beverage

³ Al Qura'n 2/275

Prophet Muhammad (pbuh) cursed the person involved in usury saying as:

Narrated by ‘Abdullah ibn Mas‘ud: The Messenger of Allah (pbuh) cursed the one who accepted usury, the one who paid it, the witness to it, and the one who recorded it.²

Qur’an has invalidated the usury in more than one place and the prophet Muhammad (pbuh) warned repeatedly about this evil of the society. Even in his last remarkable sermon he could not miss to mention this due to the severity of this evil of the society. He abolished the usury system prevailing at that time and warned the people not to practice it anymore:

On the authority of his father, Sulaiman b. ‘Amr Narrated: I heard the Messenger of Allah (pbuh) say in the Farewell Pilgrimage: “Lo, all claims to usury of the pre-Islamic period have been abolished. You shall have your capital sums, deal not unjustly and you shall not be dealt with unjustly.

Lo, all claims for blood-vengeance belonging to the pre-Islamic period have been abolished. The first of those murdered among us whose blood-vengeance I remit is al-Harith ibn Abdul Muttalib, who suckled among Banu Layth and killed by Hudhayl.”

He then said: O Allah, have I conveyed the message? They said: Yes, saying it three times. He then said: O Allah, be witness, saying it three times.³

Islam promotes the interest free market. While all the businesses including financial institutes and conventional banks are running on interest. To run any business – big or small – one needs loan from the bank or any financial institution and would have to pay back with interest. Even an individual is sometimes compelled to take loan from a financial institution to fulfil his needs and would have to pay back with interest. In case, he is not able to pay in due course of time, the compound interest puts him in miserable condition.⁴

Islamic concept of loan is totally different from that of the financial institutions. It is based on help and cooperation. The spirit behind it is to extend the helping hand to the people, if need persists. And some more time would be given if unable to pay back in due course of time.⁵

Another problem in these days is insurance policy. Islam does not allow insurance policy based on the same fundamental principle mentioned before. It has big *Gharar* (uncertainty). Because at the time of dealing, nothing is clear. One party surely gets in terms of premium while the other party does not know what he would get; even whether he would get something or not.

Islam calls for peace and prosperity. It does not allow anything that harms the common interest of people in the society. It works as a service provider to fulfil the need of the people. If it forbade something, it is for the sake of common interest and also provides the best option and substitute. It

¹ Al Qura’n 2/276

² Sunan Abi Dawood, Hadeeth No. 3333

³ Sunan Abi Dawood No 3334,

Also see; Tafseer al Qurtubi, 2/277, Tafseer ibn Katheer 2/276

⁴ Islam and Modern business (Urdu), Taqi Uthmani, 62-63

⁵ Al Qura’n, 2/279

promotes free market but not like the capitalism where the entrepreneur can do anything he likes ignoring government policies and fundamental ethics of business.¹ Instead, it keeps an eye on the market, too, so that one may not cross the limit in his freedom and may not violate business ethics that may harm the common interest of people.

If it forbids the interest based business, it provides the profit sharing avenues. If it forbids gambling, it gives options for legitimate competitions. If it forbids uncertainty based insurance, it opens the door for cooperation and service based *takaful*. All these are just to sustain the economy and to share the profit to the maximum number of people in the society.

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¹ Understanding Business 10th edit. Nickels McHugh Chapter 1. P.8