



**Article:**

**ISLAMIC PRINCIPLES OF DEBT EXTENSION IN  
DISTRESS AND CONTEMPORARY FINANCIAL  
AGREEMENT: AN ACADEMIC AND COMPARATIVE  
REVIEW**

**Authors**

<sup>1</sup> Ghufuran Ullah

**& Affiliations:**

*PHD Scholar Qurtaba University of Science and Information  
Tecnology Peshwar.*

**Email Add:**

[gghufuran26@gmail.com](mailto:gghufuran26@gmail.com)

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# ISLAMIC PRINCIPLES OF DEBT EXTENSION IN DISTRESS AND CONTEMPORARY FINANCIAL AGREEMENT: AN ACADEMIC AND COMPARATIVE REVIEW

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## ISLAMIC PRINCIPLES OF DEBT EXTENSION IN DISTRESS AND CONTEMPORARY FINANCIAL AGREEMENT: AN ACADEMIC AND COMPARATIVE REVIEW

\*Ghufran Ullah

### ABSTRACT

Islam has a deep and gently expanding moral teaching to be given to distressed debtors that emphasizes patience and understanding. This principle, based on Qur'anic verses and hadith, encourages creditors to grant breaks, leading to spiritual rewards and social harmony. Although it is questionable whether this break is legally obligatory or intelligent action though Islamic jurists recognize it as a moral obligation. Furthermore, if we emphasize the balance between compassion and responsibility in Islamic finance, alternative mechanisms such as imprisonment or continuous care are allowed to ensure debt recovery. Finally, Islam not only encourages the provision of relief but also encourages creditors to work diligently to achieve financial recovery, thereby fostering a culture of empathy and empowerment in the community. The text also discusses various types of financial activities and transactions in terms of Islamic principles, particularly focusing on the prohibition of loss and their exploitation. This includes issues such as future sales, speculation, goods of collecting and smuggling. The principles mentioned in the text emphasize justice, honesty, and actions that help or harm others. Islamic teachings discourage hoarding, speculation and smuggling which exploit economic weakness and destroy social harmony. The text also emphasizes the importance of following government regulations, provided they are consistent with Islamic principles, and emphasizes the need to prioritize the public interest over private gain.

**Keywords:** distressed debtor, charity jurisprudence, Islamic finance, Prohibition, Future sale, Hoarding, smuggling, tax, trad.

### Providing relief to a distressed debtor

In Islam, there is a moral teaching to be gentle with the poor debtor. Allah says in Surah Al-Baqarah:

"وَإِنْ كَانَ ذُو عُسْرَةٍ فَنَظِرَةٌ إِلَىٰ مَيْسَرَةٍ وَأَنْ تَصَدَّقُوا خَيْرٌ لَّكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ"

"And if there is a debtor, he has to be given time until his hand is opened. And if you give charity, it is far better for you, provided you have understanding"

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\* PHD Scholar, Qurtaba University of Science and Information Technology Peshawar.

The Qur'an teaches that do not annoy the poor and the debtor, but give them time till abundance and expansion. That is, only time is not enough, but it should be up to the ability to pay. The Prophet (peace and blessings of Allah be upon him) has also given a great deal of attention to this problem in his instruction and teaching and has encouraged the needy to give respite to the needy. Such as:

### **Reward of Charity:**

There is a hadith by Musnad Ahmad.

"Whoever gives respite to a poor debtor will receive the reward of charity every day with as much money as the debtor owes him." This calculation is to give respite before the completion of the term loan. When the term of the loan is completed and the person is not able to repay it, then in the event of giving a respite at that time, he will get the reward of giving twice the amount of charity every day"<sup>2</sup>

### **Acceptance of prayer:**

The Prophet (peace and blessings of Allah be upon him) also said:

"Whoever wants his prayer to be accepted and the trouble to be removed, let him ease his hardships"<sup>3</sup>

### **The Hospitality of the Throne of God:**

Abu Aliser (may Allah be pleased with him) testified that he heard the Messenger of Allah (peace and blessings of Allah be upon him) say:

"Indeed, a person who finds a place in the shadow of the Throne of Allah will be the one who has given respite to a needy until he finds a reason for the debtor to repay, or forgives him by saying, 'My wealth is charity to you for the sake of Allah, and also burns the document of debt'<sup>4</sup>

Therefore, there is no doubt that this is the moral teaching of Islam and it wants to see its followers at the same moral height that they do not make wealth their purpose real, but give so much importance to human values that they give up their right for it or temporarily give up their demand for it. It is the desire of Islam to give respite to the debtor.

### **Shari'ah status of respite**

Is this respite mandatory in Islamic law and the right of the elderly debtor? Or is it merely a code of conduct that is not justified in a purely legal point of view? In this regard, a study of fiqh sources shows that the majority of the jurists (Malikia, Shu'afa, Hanabala) consider this respite to be the personal right of the poor debtor. As soon as the debtor's financial condition deteriorates, he gets this time, on the basis of which the court cannot order his arrest or punishment. The borrower cannot recover his right immediately but is obliged to give more time to the debtor. In the view of these people, there is a mention of respite in the Qur'an. Allama Zahayli (may Allah have mercy on him) has quoted the same religion of the Imams (may Allah have mercy on them):

## ISLAMIC PRINCIPLES OF DEBT EXTENSION IN DISTRESS AND CONTEMPORARY FINANCIAL AGREEMENT: AN ACADEMIC AND COMPARATIVE REVIEW

"وَقَالَ زُفَرٌ وَالْمَالِكِيُّ وَالشَّافِعِيُّ وَالْحَنَابِلَةُ: إِذَا ثَبَتَ إِعْسَارُ الْمَدِينِ عِنْدَ الْحَاكِمِ، لَمْ يَكُنْ لِأَحَدٍ مُطَالَبَتُهُ وَمُلا زَمَتُهُ، بَلْ يُمَهَّلُ إِلَى أَنْ يُؤَسَّرَ لِأَنَّهُ إِذَا ثَبَتَتْ الْعُسْرَةُ اسْتَحَقَّ النَّظْرَةَ إِلَى الْمَيْسَرَةِ، كَمَا لَوْ كَانَ الدَّيْنُ مُؤَجَّلًا، لِقَوْلِهِ تَعَالَى: وَإِنْ كَانَ ذُو عُسْرَةٍ، فَنظِرَةٌ إِلَى مَيْسَرَةٍ"<sup>5</sup>

However, our observation is that the said moratorium is not a necessary requirement, the poor debtor cannot ask for further respite as a privilege. Granting respite is the discretionary power of the borrower. But if he is not willing to give more time, he cannot be forced to do so. The reason is that the reward is for performing a good work at his own discretion, if the debtor gets this respite from his poverty, then what is the reward for the debtor? Perhaps this is the reason why in the relevant hadiths, the interpretation of man-nazar-e-musra (which gives respite to the needy) has been adopted, which makes it clear that this respite is an optional act of the borrower.

Allama Jassas (may Allah have mercy on him) also took the same meaning from these hadiths:

"من أَنْظَرَ مُعْسِرًا فَلَهُ بِكُلِّ يَوْمٍ صَدَقَةٌ ( يُوجِبُ أَنْ لَا يَكُونَ مُنْظَرًا بِنَفْسِ الْإِعْسَارِ دُونَ إِنْظَارِ الطَّالِبِ إِيَّاهُ لِأَنَّهُ لَوْ كَانَ مُنْظَرًا بَعِيرٍ إِنْظَارَهُ لَمَا صَاة الْقَوْلُ بِأَنَّ مَنْ أَنْظَرَ مُعْسِرًا فَلَهُ بِكُلِّ يَوْمٍ صَدَقَةٌ ؛ إِذْ غَيْرُ جَائِرٍ أَنْ يَسْتَحِقَّ الثَّوَابَ إِلَّا عَلَى فِعْلِهِ ، فَأَمَّا مَنْ قَدَّصَرَ مُنْظَرًا بَعِيرٍ فِعْلِهِ فَإِنَّهُ يَسْتَحِيلُ أَنْ يَسْتَحِقَّ الثَّوَابَ بِالْإِنْظَارِ"<sup>6</sup>

Also, the Qur'an is silent on the classification of this respite. It is only mentioned that if the debtor is in distress, he has to be given respite. But there is no mention of how important this problem is. Although the destiny of al-Musra (al-Baqarah: 280) is stated, it is clear that it is not always for reason, it is also for istahab. Therefore, it is not just the order of respite for the debtor, but the borrower can take other forms to get his right. For example:

### Imprisonment:

A person who does not repay the loan on time can be imprisoned for investigation, after which information about his ability to repay the loan is obtained. If he is indeed in trouble, he will be punished and released on the promise of early payment. There are examples of this imprisonment in the early history of Islam. Qazi Sharih Rehmat-ul-Allah Alayh, who was the Chief Justice for 60 consecutive years from the Era of Farooqi to the Umayyad period, used to imprison such a debtor and did not release the poor.

He used to say that there is no order to give respite to every debtor, this verse is in the context of interest loans, so only the debtor burdened with interest loans can be given respite.<sup>7</sup>

### Continuous monitoring:

Even after this imprisonment, the right of the debtor does not end. Upon release, the borrower can keep a close watch on the debtor and ask for whatever is left of his earnings, in addition to his modest nutritional and urgent needs. This constant demand is called "Mulazma" in fqih terminology, according to which the debtor continues to pursue the debtor until his right is received.

This Mulazima proof is found in both the Qur'an and hadith. The Qur'an mentions the financial dishonesty of the people of the Book and says:

"وَمِنْهُمْ مَنْ إِنْ تَأَمَّنْهُ بِدِينَارٍ لَا يُؤَدِّهِ إِلَيْكَ إِلَّا مَا دُمْتَ عَلَيْهِ فَآيْمًا<sup>^</sup>"

"And there are some of them who, if you keep the trust of a dinar with them, they will not give it back to you, except that you keep watch on them"

Keep your eyes on" in the sense that it is permissible to constantly question and monitor in order to get your right.

Also, hadiths prove the validity of this Mulazima. In the Prophet's covenant, one person had a debt of ten dinars on another, he could not repay it on time, then the debtor clung to him, the debtor repeatedly said that he had nothing to pay, but the debtor said:

"فَوَاللَّهِ لَا أَفَارِقُكَ حَتَّى تَقْضِيَ أَوْ تَأْتِيَ بِحَمِيلٍ يَحْمِلُ عَنْكَ"

"I will not touch you until you pay my money or give me a guarantee"

Finally, the debtor took the matter to the Holy Prophet (peace and blessings of Allah be upon him) and pleaded, "O Messenger of Allah!

"هَذَا لَا زَمَنِي وَاسْتَنْظَرْتُهُ شَهْرًا وَاحِدًا فَأَبَى حَتَّى أَقْضِيَهُ أَوْ آتِيَهُ بِحَمِيلٍ فَعُلْتُ: وَاللَّهِ مَا أَجِدُ حَمِيلًا وَلَا

عِنْدِي فَضَاءُ الْيَوْمِ"

"This person has gone after me even though I asked him for a month's time but he refused, just asking for payment or bail, I say that I have no guarantee, there is something to repay"

The Prophet (peace and blessings of Allah be upon him) also recommended a month's time to the man, but he apologized. On this, the Holy Prophet (peace and blessings of Allah be upon him) himself took the guarantee.<sup>9</sup>

In this hadeeth, the person did not give time even after asking for respite and also expressed his determination to be with him continuously and the Prophet (peace and blessings of Allah be upon him) did not object to it. This proved both things that respite is not the prerogative of the debtor and it is permissible for the borrower to monitor the debtor continuously.

The Prophet (peace and blessings of Allah be upon him) said:

"إِنَّ لِصَاحِبِ الْحَقِّ الْيَدَ وَاللِّسَانَ"

"Of course, it is permissible for the truthful to use hands and tongues"<sup>10</sup>

Fqih-e-Hanafi (may Allah have mercy on him) in this hadeeth has taken the meaning of asking for the tongue and the hand.<sup>11</sup>

### Forcing to earn:

The borrower is also entitled to review the debtor's efforts with respect to the repayment loan. Of course, the debtor is given time to collect the means of payment loan, so forcing him to earn is not against giving time. The debtor is obliged to strive for openness. If there is sati or negligence in this regard, then the borrower can force him to earn, because if

## ISLAMIC PRINCIPLES OF DEBT EXTENSION IN DISTRESS AND CONTEMPORARY FINANCIAL AGREEMENT: AN ACADEMIC AND COMPARATIVE REVIEW

a debtor is not earning a living despite his ability and is deliberately not acquiring the financial capacity, then in fact he is like a deliberate procrastinator. He will be removed from the list of poor and helpless debtors and placed in the row of careless debtors, about whom there is a hadith:

"لَى الْوَاحِدِ يُجَالُ عِرْضُهُ وَعُقُوبَتُهُ"

"The delay of the person who receives the means of payment makes his humiliation and punishment lawful"<sup>12</sup>

Also, the nature of Islam is that it not only gives concessions to a poor person because of his poverty, but also encourages him to take practical steps to eradicate his poverty. The Prophet (peace and blessings of Allah be upon him) comes to the mosque and sees Hazrat Abu Umama Ansari (may Allah be pleased with him) as a grieving set in the mosque and enquires about his debts.

"وَأَعُوذُ بِكَ مِنَ الْعَجْزِ وَالْكَسَلِ"

"O Allah! I seek your refuge from dryness and sati"<sup>13</sup>

This Dua indicates that one should not just sit in the mosque but take practical steps to get rid of debts. By striving hard with agility and wisdom instead of laziness and goodness, Allah makes it a means of getting rid of debt soon. Therefore, giving the debtor respite does not mean that he has been freed from any kind of effort in the meantime. In the meantime, the borrower may force him to find a causal economy.

### Contemporary Financial and Salary Allowances

In Islam, both harm and zarar are prohibited: Ibn 'Abbas (may Allah be pleased with him) reported that the Messenger of Allah (peace and blessings of Allah be upon him) said:

"لَا ضَرَرَ وَلَا ضِرَارَ"<sup>14</sup>

"That no one should be harmed in the beginning or in return"

This hadith is based on the principles of Islam, so the jurists have established many fiqh rulings on the basis of it. Allama Ibn Nazeem said: This is the interpretation of this hadith.

That a person should not cause harm to his (Muslim) brother in the form of excess in the beginning or reward or revenge in the middle) due to the existence of defects, all kinds of evils in the middle and all kinds of restrictions are included under it. Similarly, shifa is proven to avoid the harm of division for the participant and to avoid the bad neighbor for the neighbor, because the price of the house fluctuates due to the neighbor.<sup>15</sup>

### Selling before possession:

"عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ: مَنْ ابْتِئَاعَ طَعَامًا فَلَا تَبِعَهُ حَتَّى يَسْتَوْقِيَهُ. زَادَ إِسْمَاعِيلُ: مَنْ ابْتِئَاعَ طَعَامًا فَلَا تَبِعَهُ حَتَّى يَفِيضَهُ"<sup>16</sup>

"Ibn 'Umar (may Allah be pleased with him) reported that the Prophet (peace and blessings of Allah be upon him) said: "Whoever buys food, he

should not sell it before he receives it in full." Ismail has also added in this tradition that whoever buys food should not send it before taking possession"

This ruling is not limited to food, but other commodities are also included in it, so Sayyid Ibn Abbas says that I think everything is included in it.<sup>17</sup>

### Sale of non-existent things

"عن حكيم بن حزام قال: أتيت رسول الله صلى الله عليه و سلم فقلت يَا تَيْبِي الرَّجُلُ يَسْأَلُنِي مِنَ الْبَيْعِ مَا لَيْسَ عِنْدِي أَتَبَاعُ لَهُ مِنَ السُّوقِ ثُمَّ أُبِيعُهُ؟، قَالَ لَا تَبِعْ مَا لَيْسَ عِنْدَكَ"<sup>18</sup>

"Hakeem bin Hazzam said: I came to the Messenger of Allah (peace and blessings of Allah be upon him) and said: "A man comes to me and asks me to buy something that I do not have, so can I sell something that I can buy from the market later?" He said: "If you do not have what you do not have, do not sell it"

Both of these hadiths severely attack the prohibition of Future Sale, an important issue of contemporary times. Encyclopedia Britannica defines it in these words:

"Commercial contracts calling for the purchase of sale of specified quantities of commodities at specified future date"<sup>19</sup>

Future Sales are held in a specific market called Commodity Exchange. In short, the following conditions are necessary to perform this ritual:

١. Be a member of Commodity Exchange.
٢. If not a member, enter it through the members and brokers present in it.
٣. Ten percent or seven percent of the amount must be deposited as a sum.

After this, Jupiter buys money for a specific date of the future, for which the market board takes responsibility, but in the coming date, this seed is not such that Jupiter gets commodity, but during this time the seed is bought and sold many times. For example, a person expresses his intention to buy wheat in the month of July, for which the month of October is fixed for payment. Between July and October, wheat is bought and sold five to ten times with profit every day, for example, one is at 1,000 and the other is at 1100. At the end of the day, the Clearing House calculates all the day's wives and profits and gives it to the wife, and he takes his profit and leaves it completely, even though Jupiter does not receive the money nor does the bay's take possession of it. That's how it goes on. On the arrival of the due date of October, the last Jupiter collects all the profits and board expenses along with the cost of the sold and gives it to the board.

According to the hadith of Sayyid Na ibn 'Umar, it is not permissible to take possession of the vendor and Jupiter. The most important thing is that along with the price of the money, the profit of all the benefits from July to October, the cost of the board, transportation expenses and government taxes, etc., the price of the money starts talking from the sky, the entire burden of which falls on the poor people, while the rich trader goes away without any risk.

## ISLAMIC PRINCIPLES OF DEBT EXTENSION IN DISTRESS AND CONTEMPORARY FINANCIAL AGREEMENT: AN ACADEMIC AND COMPARATIVE REVIEW

There is also another type of future batch called Forward Sale or Simple Forward Sale. The Difference Between Future Sale and Forward Sale by Encyclopedia Britannica in these words. It is stated:

"And the term commodity is used to define the underlying asset, even though the contract is frequently divorced from the product. It therefore differs from a simple forward purchase or sale in the cash market, which involves actual delivery of the commodity at the agreed time in the future"<sup>20</sup>

It turns out that in the forward cell, vendor and Jupiter are actually intended to be beed and on a fixed date of future, it is handed over to jupiter, so it is permissible according to the principle of law.

### Meeting the caravan on the way:

"عن أبي هريرة رضى الله عنه قال: نهى النبي عن التلقى وأن يبيع حاضر لباد"<sup>٢١</sup>

"Abu Hurairah (may Allah be pleased with him) reported that the Prophet (peace and blessings of Allah be upon him) forbade people from going ahead and meeting the caravan and forbade the citizens to sell for the villagers"

Ibn Abidin, a well-known jurist of Hanafi fqih, has described two forms of talqi rakban.

The first case is that if there is a drought in the city, traders should go and buy grain from the farmers with the intention so that they can sell it to the citizens at a higher price. The other case is to buy the grain at a lower price from the uninformed farmers. In both these cases the damage and deception are the same so it is not permissible.<sup>22</sup>

Allama Ibn Qudaamah commented on this and said:

"روي أنهم كانوا يتلقون الأجلاب، فيشترون منهم الأمتعة قبل أن تحيط الأسواق، فرما غبنوهم غبنا بينا فيضربوهم، وربما أضروا بأهل البلد لأن الركبان إذا وصلوا باعوا أمتعتهم والذين يتلقونهم لا يبيعونها سريعا ويتريصون بها السعر"<sup>٢٣</sup>

"It has been said that they (traders) would go out in front of the convoy and buy goods before they reached the market. Sometimes they would give a clear deception to the caravan (i.e. buy goods at a lower rate) and sometimes they would harm the people of the city, because if the bringers themselves sold their goods, they would be quick (and sold at a lower price), but the traders of the city would not sell quickly but would wait for a good rate"

In summary, if the traders deceive the farmers in coming out in front of the caravan or buying goods from the farmers or take advantage of the compulsion of the citizens in the event of a famine or store the goods and affect the fluctuation of prices, then since there is an era of undue profiteering in these three cases, due to which the Prophet (peace and



blessings of Allah be upon him) has been very strict about it. Thus, it is narrated in the tradition of Sayyid Na Jabir:

"لا تبيع حاضر لبادِ دَعُوا النَّاسَ يَرْزُقِ اللهُ بَعْضُهُمْ مِنْ بَعْضٍ"<sup>٢٤</sup>

"The citizen should not sell for the villager. Leave the people so that Allah may make some a source of sustenance for others"

In another saying, such words are used:

"عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ بُحِينَا أَنْ تَبِيعَ حَاضِرٌ لِبَادٍ، وَإِنْ كَانَ أَخَاهُ أَوْ أَبَاهُ"<sup>٢٥</sup>

"Anas bin Malik says that we are forbidden to trade a citizen for a villager, even if he (the villager) is his brother or father"

On the contrary, if the trader does not cause any of the above three cases by this process, then there is no doubt in the validity of this batch.

### Hoarding:

Landlords and traders often stop selling the goods acquired or purchased from the land to satisfy their lust, waiting for the maximum profit by selling it when the price becomes increased. Its name is hoarding, and in Sharia terms it is called "ahtakar" and it is haram.

Although Islam gives individuals the freedom of trade and natural competition, it strongly denies that people should increase their wealth by indulging in selfishness and greed, even if wealth can be accumulated through food grains and other necessities of the nation. That is why the Prophet (peace and blessings of Allah be upon him) strictly prohibited hoarding. The Prophet (peace and blessings of Allah be upon him) said:

"عن عمر بن الخطاب رضي الله عنه، قَالَ سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ مَنْ احْتَكَرَ عَلَى الْمُسْلِمِينَ طَعَامًا صَرَبَهُ اللَّهُ بِالْجَذَامِ وَالْإِفْلَاسِ"<sup>٢٦</sup>

"It is narrated from 'Umar (may Allah be pleased with him) that I heard from the Holy Prophet (peace and blessings of Allah be upon him) who used to say:Whoever do food items hoarding on Muslims, Then Allah will make him suffer from leprosy and poverty"

There are two ways of making more profit: one is to sell your sales goods as soon as possible and buy new goods with the same amount and then sell it again, and this cycle continues for a year and many times, this situation is also very beneficial from the Shariah point of view and also very useful for the country's economy, the other is hoarding, which is also vicious, and has a devastating effect on the country's economy. That is why the Holy Prophet (peace and blessings of Allah be upon him) condemned hoarding.

"عن معمر بن عبد الله بن نضلة قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَحْتَكِرُ إِلَّا خَاطِيءٌ"<sup>٢٧</sup>

"It was narrated from Mu'amr ibn 'Abd Allah ibn Nadla (may Allah be pleased with him) that the Holy Prophet (peace and blessings of Allah be upon him) said: "He does not hoarding except he who is sinful"

### Scope of storage:

By the way, everything can be stored, but in hadiths, the application of ahtakar has generally been applied for food items, and whatever items comes in the use of food and drink

## **ISLAMIC PRINCIPLES OF DEBT EXTENSION IN DISTRESS AND CONTEMPORARY FINANCIAL AGREEMENT: AN ACADEMIC AND COMPARATIVE REVIEW**

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(i.e. all food items), these rulings apply in order, first wheat, then rice, sugar, salt and spices pulses, etc.

Hoarding is actually the storage of commodities to take undue advantage of the economic turmoil and economic misery of the people, after all, when the prices of food items start skyrocketing, and the people are forced to starve at the hands of poverty, then instead of pitying their fragile condition, he exploits them more and more under their compulsion, that is why the possibility is very big. it is cruelty.

Hoarding affects the country's economy in such a way that many items stops going to the market, the inevitable result of which is that the price of items starts to increase, which affects the poor people, while landlords and traders benefit a lot due to their protected items.

### **Speculation**

According to the Oxford Dictionary, speculation literally means:

"The act of forming an opinion without knowing all the facts about what has happened, or can happen"<sup>28</sup>

According to economic terms, its definition is:

"An attempt to profit from market price changes that result in abandoning current earnings for the expected increase in capital"<sup>29</sup>

Explaining the meaning of speculation, Maulana Abdul Rehman Kelani writes:

"Speculators, who are usually big traders, do this business sitting in their offices, it is estimated about one items that after such a period, the price of this item will be so much, for example, nowadays the price of gram is Rs 4,000 per 50kg, one person estimates that after six months the price of gram is likely to be five thousand rupees and the other person thinks that the price will go up to Five thousand rupees. One becomes a woman, the other becomes a juipter. It is decided that after six months from now, I sell 1,000 sacks of gram at the rate of Five thousand rupees, others become Jupiter and cook the deal and also give some leverage, although the vendor does not have the money, after six months they deal with the money by calculating the profit and loss, no one gives money, does not take it, this type of trade is called spatulation"<sup>30</sup>

According to the trade principle, a person cannot sell something until he becomes the owner of it, it is not only a rational requirement of valid trade, but also a religious ruling according to Islamic law and it is based on the saying of the Prophet (peace and blessings of Allah be upon him):

"لا تبيع ما ليس عندك"<sup>31</sup>

"Don't sell what you don't have"

Then it is not only a condition to acquire ownership, but the Prophet (peace and blessings of Allah be upon him) has also instructed you not to sell anything until it is in your possession, and the Prophet (peace and blessings of Allah be upon him) set another broad rule regarding this: It is not permissible for anyone to make a profit by selling something for

which he has not taken responsibility, and the risks associated with it have not been transferred to him. Yes, since the buyer does not take possession of the purchased item in real or physical terms, the risks associated with that item will not be transferred to him, so he is not allowed to sell the item to a third person without real or physical possession. For example, it may be that he is seized by one of his lawyers, or he may take possession of documents related to the object that give him full control over the item purchased.

But in today's time, betting-based buying and selling is often done without acquiring ownership. Short Sale (selling without ownership) and Blank Sale (selling without ownership and without making any prior arrangement to acquire goods on time) are dominant in the stock market and this is one of the reasons why these issues do not fall under the category of real trade.

The second aspect of the trade is that the real buyer really wants to take possession of the purchased item, either for his own use, or to sell it to someone further, but the speculators usually do not buy with the intention of taking possession of the item, they are all interested in price fluctuations and after making a few deals, their job is only to pay or receive the difference, due to which the whole system is instead. Commercial business becomes a "gamble".<sup>32</sup>

Abdul Rahman Kelani writes, describing the ruling on spatulation:

"Spatulation is prohibited in many ways: (1) The sale of what is not available is invalid. (2) The sale of property which has not been seized is also illegal. (3) He was not satisfied by measuring it. (4) The transaction of goods and commerce has not taken place at all, when none of the exchanges are present, so it is prohibited under the "بيع النسوة بالنسيئة".<sup>33</sup>

### **Shipping (smuggling):**

Every person has the right to buy whatever he wants from wherever he wants and sell his goods wherever he wants, there is no restriction in it, so it is permissible to sell goods and buying goods from a foreign country.

But different countries ban exports to other countries in view of their country's economic reconciliation that their arrival can harm the country's products and their drainage, so if a proper Islamic government bans anything that is permissible for the benefit of ordinary Muslims and for economic reconciliation, then there is scope for such a ban, and It is also mandatory for people to follow it, so it is not right to violate it and do the business of smuggling.

"The example of this is "Talqi Jalb", which has been declared abominable, "Talqi Jalab" means that before the commercial caravan coming from outside comes to the cities, a person should go and buy grain from them and come to the city and sell it for more than that, the Prophet (peace and blessings of Allah be upon him) forbade it.<sup>34</sup> Because it increases poverty and hurts the residents of this city, the same evil

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arises from smuggling that due to the arrival of foreign products, the industry of this country and its economic balance deteriorates and is affected. Also, in violation of the government's orders, since many order have to disobeyed, for example, often lying, bribing, endangering life or property or honor, whose protection has been taken care of in sharia and sometimes has to suffer physical pain and imprisonment, so the law of the government should be obeyed and such business should be avoided. should do. However, it is permissible to buy and sell smuggled goods, it is right to use them, and income is halal"<sup>35</sup>

In response to a question about the Sharia order of smuggling, Maulana Gohar Rahman writes.

"Although the government of Pakistan is not Islamic, whatever the government may be, when it has made a rule in the public interest, it becomes necessary for citizens to abide by it, provided it is not against the rulings of Sharia. Although the trader of one province can sell his goods in another province and the trader of one country can sell his goods in another country, but since it is not obligatory to sell his goods abroad, but it is only permissible, so for the sake of national and public interest and to prevent artificial inflation, the government can ban inter-provincial and international smuggling and it becomes necessary to ban it on citizens. The interest of the business people is in allowing smuggling, but the interest of the common consumer is in its prohibition and the rule of Sharia is that the interest of the people takes precedence over the interest of properties. Apart from this, the inter-provincial and international business of smuggling that is taking place nowadays, it cannot run without bribery transactions and lies and deception, there are hardly one or two percent of the people who can continue this business without committing major sins, so the smuggling business should leave the business and trade according to the rules and regulations of the country, provided they are not against the rules and regulations of Islam"<sup>36</sup>

Similarly, Mufti Rashid Ahmad Ludhianvi writes:

"Smuggling violates the law of the government, is a loss to the country and a threat to the country's honor, so it is illegal to buy and sell such goods and cooperate in it, but its profits are not haram"<sup>37</sup>

Although jurists have forbidden the trade of smuggling, they have also emphasized that the government should refrain from imposing unnecessary and cruel taxes on importing basic necessities so that people are not forced to smuggle, but they can import goods legally, as in Fataawa Haqqania:

"The government collects some amount from traders in the name of tax, customs duty, etc. on the goods that are imported from abroad,

sometimes these taxes are increased to an unbearable extent, if this tax is taken in a proper and legitimate manner and deposited in the national treasury and used in the national interest, then it is not appropriate to bring goods in secret way because The government is authorized to impose necessary taxes on imported goods at the time, however, if the government harasses the traders by increasing these taxes unbearably and the money collected in the name of tax is spent in personal desires and needs instead of the national treasury, then in such a situation, the person bringing the goods should take appropriate measures to avoid the tax, then there is no problem, however, fraud, treachery and fraud. However, it is important to avoid gambling"<sup>38</sup>

There is also an important problem that sometimes the government seizes the smuggled goods and auctions them, so the Shariah ruling about it is that the Shariah government has the right to impose whatever appropriate physical punishment it wants on those who violate the lawful law, but it is not permissible to seize and auction their goods, because this wealth belongs to them. There is property and unless they allow it to be sold, it is not permissible for the government or anyone else to buy it, and it is not permissible to buy and use it.

"Since from the Sharia's point of view, this goods do not come out of the country of the original owner, because it is not appropriate for the government to confiscate the property of the subjects, so it is obligatory for the government to seize the property of the original owner due to not being excluded from the country, so it is not permissible to buy and sell the confiscated goods and it is not permissible for the government to ban the goods transferred within the country"<sup>39</sup>

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<sup>1</sup> AL-Quran, Surah Baqrah: Verse 280

<sup>2</sup> Ahmad ibn Hanbal al-Shaibani, Musnad Ahmad ibn Hanbal, (Riyad: Biat ul Afkar Adawliya, 2005), Hadith Buraidah al-Islami Number: 22970

<sup>3</sup> Ahmad bin Hanbal al-Shaybani, Musnad Ahmad bin Hanbal, Hadith Musnad Abdullah bin Umar bin Al-Khattab, al-Raqim: 4749

<sup>4</sup> Noor al-Din 'Ali ibn Abi Bakr Al-Hashimi, Majma al-Zuwayd wa Manba ul Fwaid, (Birut, Dir ul kotob Alimiya 2001) Kitab al-Biu, Bab Fiman Faraj an-Masr, Vol 2, p. 171, al-Raqim: 2270

<sup>5</sup> Wahbat ul Zuhaili, Alfiqhu islami wa Adilatuhu, (Damishq, Dar-ul-fikar Iltabati-wa-nshri wa tawzie 1985) alqism sals: alwqod waltsrufat almadinyat ul malya, alfasl samn asra, Vol 6, p. 462.

<sup>6</sup> Ahmad Ibn Ali al-Razi al-Jassas Ahkam al-Quran, (Lahore: Sohil acidmey 1991) Bab al-Bai, Vol 1, p. 478.

<sup>7</sup> Muhammad ibn Jarir Al-Tabari, Jami al-Bayan fi Taweel al-Quran, (Beirut: Dar-ul-kotob Allilmiya, 2005) Vol 3, p 110.

<sup>8</sup>AL-Quran, Surah Al Imran: Verse 75

# ISLAMIC PRINCIPLES OF DEBT EXTENSION IN DISTRESS AND CONTEMPORARY FINANCIAL AGREEMENT: AN ACADEMIC AND COMPARATIVE REVIEW

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