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SHARIA PERSPECTIVE ON THE LEGITIMACY OF DEBT: CORE PRINCIPLES AND CONSIDERATION

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**SHARIA PERSPECTIVE ON THE LEGITIMACY OF DEBT: CORE
PRINCIPLES AND CONSIDERATION**

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ABSTRACT

The paper examines the practical costs and principles of the Islamic Shariah system, emphasizing its deep roots in the Quran and Hadith. Debt, a concept as old as human civilization, is neither new nor unique among Muslims. The Quran in its wisdom does not explicitly justify the existence of debt but clearly leads to its validity through verses. These classifications fall into two categories: those that present costs in a positive way, and those that provide specific cost decisions. In the first category, the Qur'an defines debt as a praiseworthy act rendered to Allah, often described as "Qarzi hasana" or a good loan. This concept is related to the concept of charity and altruism if it's a wonderful thing. For example, in Surah Al-Baqarah (2:245), believers are invited to lend money to Allah in the best possible manner, promised abundant rewards and heavenly bounty. According to Imam Razi's interpretation, this debt includes both compulsory and voluntary charity, and reflects a spiritual dimension in which the act of charity is linked to the final return of Allah. Other important mentions are in Surah al-Maidah (5:12), which mentions a covenant with the Israelites, including establishing prayer, paying Zakat, believing in the Prophets and repaying a good loan to Allah. This means that it includes obligatory religious duties also comes with the great benefit of voluntary financial support. The scholar Tabari interprets this positive debt as financial support for jihad and other noble causes, which is further emphasized by the verse calling for the support of the Prophets. Surah Al-Hadeed (57:11, 57:18) reaffirms Allah's promise of divine abundance and honor for the borrowers.

Keyword's: Qard Hasan, Chiraty, Divine Reward, Documentation, Social Justice, Islamic Shariah, Legitimacy, Lending.

Evaluating debt legitimacy in the light of the Quranic teaching

Financial matters have been common in human beings since ancient time. The term loan is neither modern nor Islam is its inventor, which is why the Quran does not feel the need to explain the legitimacy of debt clearly, but in its wise way, it leads to its validity. There are two types of Quranic verses on the justification of debt.

One is the verses that mention debt as a good title. The other verses in which the rulings on related loans are given.

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In the first type of verses, debt is presented as a positive topic in the Quran and spending for the sake of Allah is described as good loan. In these texts, the Holy Quran promises to lend a loan to the Allah of the Universe and promises him a reward and forgiveness. We may know the following verses under this heading:

"مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُطْعِمَهُ لَهٗ أَضْعَافًا كَثِيرَةً ۗ وَاللَّهُ يَقْبِضُ وَيَبْسُطُ وَإِلَيْهِ تُرْجَعُونَ" ^١

“Who is it that lends to Allah in a good way, so that He may exalt it in His interest so much that he may become more and more? And It is Allah Who causes hardship, and He expands, and to Him you will all be returned”

According to the research of Imam Razi Rehmat-ul-Allah Alayh, this verse refers to both charity and obligatory in lending to Allah.²

From this glorious revelation, it is clear that the debt is in the above and the last part of the same verse is "And to Him you will all be returned" have a degree of warning, which indicates that the debt of the obligatory donation is also included in the above. Lending to Allah in a good way means that it should be given sincerely to please Allah, not to show off or to take revenge in the world, and if the loan is given for jihad or as a help to a poor person, then no interest should be demanded on it. The disbelievers used to take loans on interest for their war needs. The Muslims have been urged to donate instead of loans, and if they lend, they should not ask for more than the original, because although they will not get interest in the world, in the afterlife Allah will reward it more than the original.

"وَلَقَدْ أَخَذَ اللَّهُ مِيثَاقَ بَنِي إِسْرَائِيلَ وَبَعَثْنَا مِنْهُمُ اثْنَيْ عَشَرَ نَقِيبًا وَقَالَ اللَّهُ إِنِّي مَعَكُمْ لَئِنْ أَقَمْتُمُ الصَّلَاةَ وَآتَيْتُمُ الزَّكَاةَ وَآمَنْتُمْ بِرُسُلِي وَعَنْ لَا تُؤْمَهُمْ وَ أَقْرَضْتُمُ اللَّهَ قَرْضًا حَسَنًا لَأُكَفِّرَنَّ عَنْكُمْ سَيِّئَاتِكُمْ وَلَأُدْخِلَنَّكُمْ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ فَمَنْ كَفَرَ بَعْدَ ذَلِكَ مِنْكُمْ فَقَدْ ضَلَّ سَوَاءَ السَّبِيلِ" ^٣

“And verily Allah made a covenant with the Bani Israel, and We appointed twelve of them as overseers, and Allah said, 'I am with you.' If you establish prayer, pay zakat, believe in My Prophets, support them with honour, and give a good loan to Allah, then know that I will atone for your iniquities and you in these gardens. I will admit those for whom rivers flow. Then whoever of you disbelieves even after that, he will infact stray awal from the right path.”

This verse mentions a five-point heavenly agreement with the entire nation through the twelve chieftains of the Israelites, on whose behest Allah promised that divine help and support would remain with them. One of these clauses is to give a loan to Allah. Along with the obligatory zakat, the mention of good loan indicates that it refers to charity and charity other than zakat.

This is also our opinion, because in the same verse, the prophet's exhortation to help and address the people also support the meaning that the loan has been used in this place in the sense of spending in the field of jihad.

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مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَعِّفَهُ لَهُ وَلَهُ أَجْرٌ كَرِيمٌ^٤

“Who can lend to Allah? Good loan! As a result, May Allah multiply it for the giver? And such a person will receive a great reward”

إِنَّ الْمُصَدِّقِينَ وَالْمُصَدِّقَاتِ وَأَقْرَضُوا اللَّهَ قَرْضًا حَسَنًا يُضَعَّفُ لَهُمْ وَ لَهُمْ أَجْرٌ كَرِيمٌ^٥

“Surely those who give charity and women who give charity, and they have given a loan to Allah, a good loan. For them it (charity) will be increased manifold, and for them there is a respectable reward”

In these two verses, it is promised a reward and reward for the debt of good. Hazrat Thanwi (RA) says:

“It indicates that the amount of money given for the sake of Allah will be rewarded both in terms of quantity and quality.”⁶

فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ وَأَطِيعُوا وَأَطِيعُوا وَ أَنْتِفُوا خَيْرًا لِنَفْسِكُمْ وَمَنْ يُوقِ شَحْحَ نَفْسِهِ فَأُولَئِكَ هُمُ الْمُفْلِحُونَ ٥ إِنَّ تُقْرِضُوا اللَّهَ قَرْضًا حَسَنًا يُضَعِّفُهُ لَكُمْ وَيَغْفِرَ لَكُمْ وَاللَّهُ شَكُورٌ حَلِيمٌ^٧

“So, fear Allah as far as you can, and listen and obey, and spend (according to Allah's command), it is better for you. And those who are saved from the greed of their hearts are the ones who prosper. If you lend to Allah well, Allah will multiply it for you and forgive you your sins, and Allah is all-appreciative, most forbearing”

In this verse, it is forbidden to spend, and this is interpreted as lending to Allah.

Ibn Abbas (may Allah be pleased with him) added another way to the description of the loan, saying that kindness to relatives, financial support and hospitality from them is also the status of lending to Allah.⁸

Therefore, in the above verses, good deeds such as postpartum charity and obligatory, financing jihadi activities, and spending for the sake of Allah, mercy from relatives and financial support from them are mentioned in the title of Qarad Hasan. Both of these indicators serve as evidence in one degree for a legitimate loan. Then there are other types of verses in which the Qur'an strengthens the debt, mentions its relevance, orders the debt to be written, encourages witnesses on the matter to verify the loan, allows mortgage to ensure the repayment of the loan. For example, at the beginning of the longest verse of the Qur'an, it is said:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَيْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ ۚ وَلْيَكْتُب بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ^٩

“O you who believe! When you deal with a loan for a fixed period of time, write it down, and whoever of you knows how to write, write it with justice”

It is in this verse:

"وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ ۖ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّن تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكَّرَ إِحْدَاهُمَا الْأُخْرَىٰ" ١٠

"And make two men of yourselves witnesses. Yes, if two men are not present, then one man and two women should be among those you like, so that if one of these women forgets, the other will remind him"

The other verse says:

"وَإِنْ كُنْتُمْ عَلَىٰ سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَيْن مَقْبُوضَةٌ" ١١

"And if you are on a journey and you do not find a writer, the mortgages should be taken into possession (as a guarantee of payment)"

If the loan was not valid, it would not have been urged to write, strengthen it with testimony, and mortgage it in return.

Evaluating debt legitimacy in the light of Hadiths:

A detailed study of the collection of hadiths reveals a number of hadiths indicating the legitimacy of debt. These Hadiths share a common debt and justification.

The Prophet (peace and blessings of Allah be upon him) encouraged the Ummah to lend. For example, on one occasion he said:

"مَنْ مَنَحَ مَنِيحَةَ لَبَنٍ ، أَوْ وَرْقٍ ، أَوْ هَدَى زُفَافًا ، كَانَ لَهُ مِثْلُ عَتَقِ رَقَبَةٍ"

"Whoever lends milk goat or gold, silver as a loan or rows of trees from the garden will get the reward of freeing a slave"¹²

Just as freedom liberates slavery and man enjoys free activities, similarly the debt of currency and cash relieves financial difficulties and they can also be used in fulfilling the need in every way. That is why lending was likened to freeing slaves. Those saying are also very important in relation to legitimate loans, in which the reward of lending is said to be more than charity. Debt is a financial matter, yet its superiority over nafl worship also indicates its desirable. Hazrat Abdullah bin Masoud (May Allah be pleased with him) said to the Ummah:

"كُلُّ قَرْضٍ صَدَقَةٌ"

"Every loan is charity"¹³

In some hadiths, debt has been described as a reward more than charity, Imam al-Bayhaqi (may Allah have mercy on him) quoted hadith from Hazrat Anas (may Allah be pleased with him):

"قَرْضُ الشَّيْءِ خَيْرٌ مِنْ صَدَقَتِهِ"

"It is better to lend something than to give it charity"¹⁴

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In the first hadith, debt is said to be equal to charity, while in the second hadith, debt seems to have superiority over charity. Hazrat Baridah (may Allah be pleased with him) said: One day I heard the Holy Prophet (peace and blessings of Allah be upon him) say:

"مَنْ أَنْظَرَ مُعْسِرًا فَلَهُ بِكُلِّ يَوْمٍ مِثْلُهُ صَدَقَةٌ"

"For him who gives respite to a needy person, he has the reward of charity it every day"

Then at one point I heard him say:

"مَنْ أَنْظَرَ مُعْسِرًا فَلَهُ بِكُلِّ يَوْمٍ مِثْلَيْهِ صَدَقَةٌ"

"Whoever gives respite to a needy, he has the reward of giving twice as much charity every day"

Hazrat Bareda Aslami (RA) presented this conflict to the Holy Prophet (PBUH) and he attributed it to the difference in circumstances.

"لَهُ بِكُلِّ يَوْمٍ صَدَقَةٌ قَبْلَ أَنْ يَحِلَّ الدَّيْنُ فَإِذَا حَلَّ الدَّيْنُ فَانْكِرْهُ فَلَهُ بِكُلِّ يَوْمٍ مِثْلَيْهِ صَدَقَةٌ"

"Before the scheduled time of repayment of the loan, there is a reward equal to the amount of charity every day, and by giving a respite after the scheduled time, twice the amount of charity is paid daily"¹⁵

Then the question may be that in charity, the property is transferred permanently, while in the loan, it is good to use and benefit on a temporary and temporary basis, but despite this, the reward of the loan is said to be more than charity. The answer is that instead of making someone in the society suspended, the debt fulfils the duty of his handiwork in the time of his need and at the same time by putting the responsibility of payment on the debtor, it belongs to the society. It also makes a responsible member. On the contrary, there is a possibility in charity that the person taking charity will become accustomed to this process and as a result the society will lose a workable person and an organ will be added to it. Also, the self-respect of a person is also protected by debt, which can not only be hurt in the form of zakat and charity, but sometimes it also ends later. At the same time, a person takes loan only in need, while charity is also available unnecessarily. Therefore, many accounts such as helping a Muslim, keeping the illusion of his white dress, fulfilling the real need, are found in debt more than charity. This answer is supported by the narration of Sunan Ibn Majah in which the Holy Prophet (peace and blessings of Allah be upon him) said:

"رَأَيْتُ لَيْلَةَ أُسْرَى بِي عَلَى بَابِ الْجَنَّةِ مَكْتُوبًا الصَّدَقَةُ بِعَشْرِ أَمْثَالِهَا وَالْقَرْضُ بِثَمَانِيَةِ عَشْرٍ فَقُلْتُ يَا جَبْرَيْلُ مَا بَالُ الْقَرْضِ أَفْضَلُ مِنَ الصَّدَقَةِ . قَالَ لِأَنَّ السَّائِلَ يَسْأَلُ وَعِنْدَهُ وَالْمُسْتَقْرِضُ لَا يَسْتَقْرِضُ إِلَّا مِنْ حَاجَةٍ"

"In the night of Miraj, I saw this writing at the gate of Paradise: The reward of charity is ten times and the reward of debt is eighteen times. When I asked Gabriel (A.S) the reason for this, he said: "The one who

asks for charity also asks questions even when he has money, while the debtor asks questions only when he is in need"¹⁶

The superiority of debt over charity is a clear proof of its legitimacy.

The clearest proof of the loan is the personal action of the Holy Prophet (peace and blessings of Allah be upon him). Many hadiths prove that you have taken loans for personal and collective needs.

The Prophet (peace and blessings of Allah be upon him) borrowed forty sa'ahs from an Ansari companion.¹⁷

On the occasion of the Battle of Hunain, the Prophet (peace and blessings of Allah be upon him) borrowed a huge sum of 40,000 dirhams from 'Abd Allah bin Rabiah for the Islamic state.¹⁸

He also used to take loans from non-Muslims. Hazrat Aisha (may Allah be pleased with her) said: "In the last days of the life of the Holy Prophet (peace and blessings of Allah be upon him) (when he was the ruler of almost all of Arabia), the financial condition of the household was not good:

The Prophet (peace and blessings of Allah be upon him) had borrowed only 30 sa'ahs by mortgaging his precious Zara with a Jew in Madina.¹⁹

During the time of the Holy Prophets, the Companions (may Allah's peace and blessings be upon him) used to carry out loan matters as well, and the Holy Prophet (peace and blessings of Allah be upon him) did not pay attention to them. This is also proved by the hadiths of debt speech. Abu Hurairah (may Allah be pleased with him) reported that in the early days, when the body of a debtor Muslim was brought for funeral prayer, the Prophet (peace and blessings of Allah be upon him) would ask:

"هَلْ تَرَكَ لِذَيْبِهِ فَضْلاً"

"Has he left anything to repay the debt"

If the answer was in the affirmative, he would have offered the funeral prayer, otherwise he would have apologized himself and asked the Companions to recite it. Later, when Allah opened the door to victory, the Prophet (peace and blessings of Allah be upon him) declared:

"أَنَا أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ ، فَمَنْ تُوِيَ مِنَ الْمُؤْمِنِينَ فَتَرَكَ دَيْبًا فَعَلَىٰ قَضَائِهِ ، وَمَنْ تَرَكَ مَالًا فَلِوَرَثَتِهِ"

"I have more right over the believers than their lives. Therefore, whoever believes die and have a debt, it is my responsibility to pay it, and whoever leaves the wealth, it is for his heirs"²⁰

It was as if the Holy Prophet (peace and blessings of Allah be upon him) kept taking loans of the Companions (may Allah's peace and blessings be upon him) lawful, but he warned him by his conduct not to be negligent in repaying the debts. Therefore, the above four types of Hadith are sufficient to show the fact that debt is a valid contract and its validity is also proved by the Sunnah.

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Wisdom of Loan:

Of course, the rulings of shari'ah are texts, not wisdom and expediency. But no action of the Hakeem is devoid of wisdom, in view of which Islamic rulings are full of mediation and mysteries, knowing these wisdoms creates more satisfaction in compliance. In this context, the ruling on debt also has economic and spiritual benefits, some of the wisdoms are as follows:

Through debt, nefarious elements such as greed and wealth are eliminated from the society. God has placed the love of wealth in human nature. The Qur'an says that some things have been made beautiful and attractive for human beings.

"وَالْفَنَاطِيرِ الْمُقَنْطَرَةِ مِنَ الذَّهَبِ وَالْفِضَّةِ" ٢١

"There are also heaps of gold and silver"

In one place it says:

"وَتُحِبُّونَ الْمَالَ حُبًّا جَمًّا" ٢٢

"And you love wealth very much"

It is this natural love that prevents a person from protecting and wasting wealth. However, if this love goes beyond the limit, then social evils like robbery, theft, bribery, etc. start leaking from it.

Islam commands its followers to spend money so that the love of wealth does not turn into greed and greed, stay in moderation. One of these issues is debt. If the debtor hands over his desired wealth to the debtor for some time without any material profit or moral support, then the irregular substance of greed is eliminated from it.

The second major benefit of the loan is the proper spread of money. In the running of any financial system, there is a slight contemporary, the banking system also revolves around money. In Islamic economics, the principles of wealth and capitalism are absolutely intolerable, so that instead of spreading and dividing wealth, it is reduced to specific circles and specific classes and thus make ordinary life miserable. The Qur'an explains the purpose of hypocrisy.

"كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ" ٢٣

"That the wealth may not circulate only among those who are rich among you"

In order to keep the circulation free and restored, Islam on the one hand out laws interest, obligation, monopoly, and other concentration elements, on the other hand, it strongly encourages payment of zakat, spending in the way of Allah as well as debt. Due to debt, instead of spending more money of rich people in their personal and individual luxuries, it reaches the people of the society.

The expansion of the resource economy is also an important wisdom of legitimate debt. There are actually two Perpetrators of production.

(1) Labour (man)

(2) Earth (natural resources)

What man creates by using the earth i.e. natural resources through his labour is what is visible in this world. These are the two factors of all economic treasures, economic development and all economic ideas. So, the equation is as follows:

Production of wealth = Man + Earth

Then the wealth that man accumulates through his labour and natural resources does not use all of it, but he also ignores some of it, when he uses this backward wealth to produce more wealth, it becomes capital. The essence and fruit of the common production is actually this capital, due to which the key to economic development and material benefits is in the hands of man. But it is also a fact that this blessing of capital is not available to every person of the society, there are many poor people who have the desire to run the business successfully but they are deprived of capital. One way to include such a disadvantaged section in the developing circle is to provide capital through short-term and long-term loans. That is why the Qur'an says about capitalists.

وَالَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَّعْلُومٌ لِّلسَّائِلِ وَالْمَحْرُومِ²⁴

“And those who have a fixed right in their wealth for poor and the deprived”

Principle of debt in the light of Islam

Allah has decorated the earth and all its objects for the use of human beings. Man is fascinated by the characteristics of these creatures and sometimes by their attributes. The Shari'ah not only permits both types of benefit but also prescribes different rulings for the same purpose. One of them is debt. A person who can do this contract on the basis of need and for this, the religion of Islam has prescribed some principles, the summary of which is as follows:

True intention of repayment loan:

That is, it is permissible to be indebted only to a person who keeps in mind the return at the time of taking it and intends to return it from the first day itself. If there is no intention to repay at the time of taking a loan, then it is haram to take such a loan. In Fataawa Hindiya:

وَلَوْ اسْتَدَانَ دَيْنًا وَقَصَدَ أَنْ لَا يَفْضِيَهُ فَهُوَ أَكِلٌ السُّحْتِ²⁵

“If there is no intention to return while taking a loan, then this person is eating haram like a bribe eater”²⁵

The reason for this is that strict punishments have come in the Hadith for the borrower without a commitment to return. The Prophet (peace and blessings of Allah be upon him) said:

“إِنَّمَا رَجُلٌ اسْتَدَانَ دَيْنًا لَا يُرِيدُ أَنْ يُؤَدِّيَ إِلَى صَاحِبِهِ حَقَّهُ حَدَعَهُ حَتَّى أَخَذَ مَالَهُ ، فَمَاتَ ، وَلَمْ يَرُدَّ إِلَيْهِ دِينَهُ لَقِيَ اللَّهَ وَهُوَ سَارِقٌ”

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“Whoever takes a loan and does not intend to pay the right of the entitled, he takes the money fraudulently, but does not pay it, dies, then he will appear before Allah as a thief”²⁶

While taking a loan, intention is also very important because according to this, Allah help or punishment is decided. Imam Al-Bukhaari narrates in his Sahih:

"مَنْ أَخَذَ أَمْوَالَ النَّاسِ يُرِيدُ أَدَاءَهَا إِلَى اللَّهِ عَنَّهُ ، وَمَنْ أَخَذَ يُرِيدُ إِثْلَافُهَا أَنْتَلَفَهُ اللَّهُ"

“Whoever takes people's wealth with the intention of paying, Allah makes it pay from him, and whoever takes them with the intention of wasting them, Allah forbids him”²⁷

On the contrary, a loan taken with sincerity is a way of helping Allah Almighty. Abu Maimon al-Kurdi (may Allah be pleased with him) said: The Prophet (peace and blessings of Allah be upon him) said:

"مَا مِنْ عَبْدٍ كَانَتْ لَهُ نِيَّةٌ فِي آدَاءِ دَيْنِهِ إِلَّا كَانَ لَهُ مِنَ اللَّهِ عَوْنٌ"

“Whoever borrows something that he intends to repay, Allah has appointed a protector for him”²⁸

However, true intention to pay does not just mean heartfelt passion, it is also an essential part of it to run to implement this intention. Hazrat Aisha (may Allah be pleased with her) narrated a hadith in which the Prophet (peace and blessings of Allah be upon him) said:

"مَنْ حَمَلَ مِنْ أُمَّتِي دَيْنًا ثُمَّ جَهَدَ فِي قَضَائِهِ، فَمَاتَ وَمَا يَبْقُصُ ، فَأَنَا وَلِيهِ"

“Whoever takes a loan of mine, then tries his best to repay it, but dies before payment, then I myself will be responsible for his debt”²⁹

In contemporary times, the remaining intention to pay should be expressed in the practical way of saving money, searching for financial resources and spending. Collecting wealth for this purpose is not against Islamic asceticism. The Prophet (peace and blessings of Allah be upon him) never collected the wealth in life who lived in a state of mourning and travel, but he would have collected it in view of repaying the debt. Hazrat Abu Zar (RA) narrates his own incident that he was once going towards Uhud with the Holy Prophet (peace and blessings of Allah be upon him) in The Hurrah of Madinah. The Prophet (peace and blessings of Allah be upon him) addressed them and said: "O Abu Zar! I said, "Labbaik" present. The Prophet (peace and blessings of Allah be upon him) said:

"مَا يَسْرُنِي أَنْ عِنْدِي مِثْلَ أَحَدٍ هَذَا ذَهَبًا ، تَمْضِي عَلَيَّ ثَالِثَةً وَعِنْدِي مِنْهُ دِينَارٌ ، إِلَّا شَيْئًا أَرَصِدُهُ لِدَيْنٍ ، إِلَّا أَنْ أَقُولَ بِهِ فِي عِبَادِ اللَّهِ هَكَذَا وَهَكَذَا عَنْ يَمِينِهِ وَعَنْ شِمَالِهِ وَمَنْ حَلَفَ"

“If mount Uhud becomes gold for me, Then I will spend it in three days on the right and left in the servants of Allah, do not keep anything, yes, I must keep money to repay the debt”³⁰

The possibility of repaying the loan in the future:

That is, the second condition of the loan is that there is a possibility of repayment in the future for the debtor. If the loan is being taken for a need, and there is an intention to repay it at the time of taking it, but there are no means to repay, then taking such a loan is abominable under normal circumstances, unless it reaches the point of extreme need. Imam Ahmad (may Allah have mercy on him) narrated from Hazrat Anas (may Allah be pleased with him) that the Prophet (peace and blessings of Allah be upon him) said:

"لَأَنْ يَلْبَسَ أَحَدُكُمْ ثَوْبًا مِنْ رِقَاءِ شَيْءٍ ، خَيْرٌ لَهُ مِنْ أَنْ يَأْخُذَ بِأَمَانَتِهِ ، أَوْ فِي أَمَانَتِهِ - مَا لَيْسَ عِنْدَهُ"

"It is better for one of you to wear clothes with various rags than to carry with his trust that which is not in his power"³¹

Although the context of this statement is a matter of buying and selling, it is also clear that debt is included in the meaning of words. Ibn Qudaamah (may Allah have mercy on him) said:

"يَعْنِي مَا لَا يَقْدِرُ عَلَى وِفَائِهِ"

"That is, do not be able to pay it in the future"³²

It is also the fundamental right of the borrower to assess the possibility of repayment, the financial status of the debtor, his moral condition, the clear reality of social responsibility, must be seen before lending and it is not permissible for the debtor to act fraudulently in it.

Ibn Qudaamah (may Allah have mercy on him) said:

"وَمَنْ أَرَادَ أَنْ يَسْتَقْرِضَ ، فَلْيُعْلِمْ مَنْ يَسْأَلُهُ الْقَرْضَ بِحَالِهِ ، وَلَا يَغُرَّهُ مِنْ نَفْسِهِ ، إِلَّا أَنْ يَكُونَ الشَّيْءُ الْيَسِيرُ الَّذِي لَا يَتَعَدَّرُ رُدُّ مِثْلِهِ"

"Whoever intends to take a loan should make his position clear to the borrower and not be deceived. However, a slight decrease due to which the return of small items is permissible"³³

There is a real need to borrow:

The jurists (may Allah's peace and blessings be upon him) have made the validity of borrowing conditional on necessity, the source of which is the famous hadith in which lending is considered to be superior to charity.

"فَقُلْتُ يَا جِبْرِيْلُ مَا بَالُ الْقَرْضِ أَفْضَلُ مِنَ الصَّدَقَةِ قَالَ لِأَنَّ السَّائِلَ يَسْأَلُ وَعِنْدَهُ وَالْمُسْتَقْرِضُ لَا يَسْتَقْرِضُ إِلَّا مِنْ حَاجَةٍ"

"I asked, "O Gabriel (A.S)! Why is debt better than charity? He submitted: "Because he asks for a loan even when he is a client, whereas the debtor asks for a loan only out of need"³⁴

There is another narration of the same meaning in Musnad Tayalsi, whose words are as follows:

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"لَأَنَّ صَاحِبَ الْفَرْضِ لَا يَأْتِيكَ إِلَّا وَهُوَ مُخْتَاجٌ ، وَإِنَّ الصَّدَقَةَ رُبَّمَا وَقَعَتْ فِي يَدِ الْعَنِيِّ "

“Because the borrower comes to you only at the time of need, while charity is sometimes placed in the hands of the rich”³⁵

But the fact that a person should take a loan due to some need is also evident from the overall mood of the hadiths. In fact, it is also known from the hadiths that this need should also be reasonable and valid, because it will be questioned on the Day of Resurrection. In this regard, the words of the hadeeth narrated by 'Abd al-Rahman ibn Abi Bakr (may Allah be pleased with him) are as follows:

"يَدْعُو اللَّهُ بِصَاحِبِ الدَّيْنِ يَوْمَ الْقِيَامَةِ ، حَتَّى يُوقَفَ بَيْنَ يَدَيْهِ ، فَيُقَالُ : يَا ابْنَ آدَمَ فِيمَ أَخَذْتَ هَذَا الدَّيْنَ ، وَفِيمَ ضَيَّعْتَ حُقُوقَ النَّاسِ ؟ فَيَقُولُ : يَا رَبِّ إِنَّكَ تَعْلَمُ أَنَّي أَخَذْتُهُ فَلَمْ أَكُلْ ، وَلَمْ أَشْرَبْ ، وَلَمْ أَلْبَسْ ، وَلَمْ أَضْبِعْ ، وَلَكِنْ أَتَى عَلَيَّ يَدِيَّ إِمَّا حَرَقٌ ، وَإِمَّا سَرَقٌ ، وَإِمَّا وَضِيعَةٌ . فَيَقُولُ اللَّهُ عَزَّ وَجَلَّ : صَدَقَ عَبْدِي ، أَنَا أَحَقُّ مَنْ قَضَى عَنْكَ الْيَوْمَ . فَيَدْعُو اللَّهُ بِشَيْءٍ ، فَيَضَعُهُ فِي كِفَّةِ مِيزَانِهِ ، فَتَرْجِعُ حَسَنَاتُهُ عَلَى سَيِّئَاتِهِ فَيَدْخُلُ الْجَنَّةَ بِفَضْلِ رَحْمَتِهِ "

“Allah will call the debtor on the Day of Resurrection until he is made to stand before them, and it will be asked: "O Ibn Adam! Why did you take this loan? And why have you destroyed the rights of the people? He will reply, "O my Lord, surely you know that I have not blown it up or wasted it in eating, drinking, and wearing it." But I was in trouble with fire or theft or business losses. Allah will say: My servant has spoken the truth, today I am more entitled to pay his debt. After this, Allah will ask for something, then place it in one side of his table, then his good deeds will be greater than his greatness. So, he will enter Paradise by their mercy”³⁶

It is clear from this hadith that it is not impeachable to take a loan if it is necessary, if it is reasonable, but if the matter is the opposite, then it will be the day of resurrection. In fact, other hadiths add to it that the borrower for illegitimate purposes loses the help of Allah in the world itself. Hazrat Abdullah bin Jaffar (May Allah be pleased with him) quoted the Words of the Prophet (peace and blessings of Allah be upon him):

"إِنَّ اللَّهَ مَعَ الدَّائِنِ، حَتَّى يَقْضِيَ دَيْنَهُ، مَا لَمْ يَكُنْ فِيهَا يَكْرَهُهُ اللَّهُ"

“If the loan is not for an undesirable purpose in the sight of Allah, then Allah is with the debtor till the loan paid”³⁷

It is on the basis of these texts that the jurists (may Allah's peace and blessings be upon them) consider debt to be conditional on need. In Fataawa Hindiya:

"لَا بَأْسَ بِأَنْ يَسْتَدِينَ الرَّجُلُ إِذَا كَانَتْ لَهُ حَاجَةٌ لَا بُدَّ مِنْهَا وَهُوَ يُرِيدُ قَضَاءَهَا"

“There is no harm in taking a loan, provided it is taken in need and intended to be repaid”³⁸

Need is a special term of principle of jurisprudence, which is used by the Jurists for a certain degree of compulsion, the description of which is as follows: In fact, a person has two conditions in terms of anxiety and compulsion. One that the Shari'ah refers to as "necessity." This is the situation in which a person reaches such a stage about the use of something that if he does not use it, he can die. That is, the basic objectives of the Shari'ah: the last and inevitable stage of protecting religion, life, property, intellect and race is called necessity, such as a person is so hungry that his death is certain in the absence of food. The second condition is called need. In this situation, the first condition does not occur, but there is a lot of hard work and pain, if this situation is not remedied, then gradually the person reaches the first condition. Without fulfilling the need, the objectives of the Shari'ah are not compromised, but a person cannot easily fulfil his family, financial and personal duties. It can be understood that a person is hungry, and is anxious and restless due to hunger, but does not reach death in the absence of food, but cannot fulfil his religious and legal obligations in this situation, and if this condition is not remedied, then weakness can also take the form of increasing death. This definition and definition of need is derived from the Book of Allah. While sending his sons to Egypt, Hazrat Yaqoob (peace be upon him) advised them not to enter the city through one door and together. The Qur'an comments on this strategy as follows:

"مَا كَانَ يُعْنِي عَنْهُمْ مِنَ اللَّهِ مِنْ شَيْءٍ إِلَّا حَاجَةٌ فِي نَفْسٍ يَعْشَوْنَ قَضَاهَا"^{٣٩}

"So, this action was not going to save them from the grace of Allah, but There was a desire in Yaqoob's heart which he fulfilled"

The Quran defines protection from evil eyes as a necessity and it is clear that sighting is a cause of harm and hardship, but it does not cause immediate life, no organ is destroyed, nor is it necessary for a person to commit any prohibition. Describing the benefits of cattle in Surah Al-Momin, the Qur'an says:

"وَلَكُمْ فِيهَا مَنَافِعُ وَلِتَبَلَّغُوا عَلَيْهَا حَاجَةً فِي صُدُورِكُمْ"^{٤٠}

"And there are many benefits in them for you, and their purpose is that you may reach whatever is needed in your hearts"

In this verse, need refers to carrying heavy goods to another city. Of course, load-laden cattle are also human needs, and it has also been a human need to carry goods to the destination through them, without which labour and harm in trade increased, but their absence could never create a reflex. In the jurisprudential sense of necessity, it is a state of compulsion in which the purpose of the work or abandonment is fivefold objective. The protection of religion, life, wealth, intellect, lineage should not be stopped, but without it there must be labour. Such as living house, winter clothes, light bulbs for books for knowledgeable hobbyists, etc. Need is that which has power but with hard work.

Being subject to the need for credit also means that a loan can be taken only if this additional amount is required in individual or collective needs, domestic or commercial matters, religious or worldly duties, without which it is difficult to get rid of these responsibilities, lack of which causes misery in life. It is not permissible to take a loan merely to fulfil desires or to pay for unnecessary things or to get luxuries. In the general trend of buying borrowed things nowadays, it is important to see whether what is being bought on

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credit is really needed. If there is indeed something that is considered necessary for a middle-class life, such as household items that are in the house of a middle-class family, then of course there is room to buy on credit or instalments, provided there is an intention and hope to repay the debt, but making yourself indebted only for the purchase of luxuries is not allowed.

However, in this regard, the flexibility of Islamic jurisprudence must be kept in mind, the change in orders due to changes in names and habits, time and space is an accepted feature of Islamic jurisprudence. Therefore, the things that came in the category of luxury some time ago, but now their need has increased and they have become a part of daily life, they will be counted in the realm of necessities, such as: mobile phones, fridges, and other electronics items that today's fastest life is labour without them. Also, the quality of luxury is also closely related to the circumstances of every person, a busy businessman may need a mobile phone with modern facilities to carry out social and commercial activities, but for a household woman, it is one of the expensive mobile items, which is not permissible for her to buy on credit. Therefore, the need and need should be compared in the moment, not in the light of ancient habits and literature.

References

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- ¹Al Quran, Surah Baqrah: Verse 245.
 - ² Al Razi, Muhammad Ibn Omar ibn al-Husain, *Altafsir ul Kabir wa Mafatihul Ghaib* (Beirut: Dar al-Kutub al-Ilmiyya, 2000), Vol 2, P 142.
 - ³ Al Quran, Surah Al Maidah: Verse 12.
 - ⁴ Al Quran, Surah Al Hadid: Verse 11.
 - ⁵ Al Quran, Surah Al Hadid: Verse 18.
 - ⁶ Shafi, Mufti Muhammad, *Marif-ul-Quran* (Karachi: Idarat-ul-Maarif, August 2001) Vol 8, P 295.
 - ⁷ Al Quran, Surah Al Taghabun: Verse 16-17.
 - ⁸ Al-Khazen, Ali ibn Muhammad ibn Ibrahim, *Lubab ul Tawil fi Mani ul Tanzil al marof bi Tafsir al-Khazen* (Berut: Dar ul Kutub ul Ilmya,1996) Vol 4, P 360.
 - ⁹ Al Quran, Surah Al Baqarah: Verse 282.
 - ¹⁰ Al Quran, Surah Al Baqarah: Verse 282.
 - ¹¹ Al Quran, Surah Al Baqarah: Verse 283.
 - ¹² Tirmidhi, Muhammad ibn Issa, *Jami al-Tirmidhi*, (Berut: Dar ul Kutub ul Arabiya,1426 AH) Kitab al-Birr wal-Silah Bab Ma Ja fil Minhath Hadith No: 1957.
 - ¹³ Heshami, Norudin Ali ibn Abi Bakr, *Majma al-Zawaid wl Manbaul fawaid*, Kitab al-Baiu, Bab ma ja fil Qarz, Vol 2, P 120, No. 2221.
 - ¹⁴ Al-Bayhaqi, Ahmad ibn al-Husain, *al-Sunan al-Kubra* (Multan: Idara Talifat Ashrafiyah,1992) Kiab al Baiu, Bab ma ja fil Iqarz, Vol 5, P 353.
 - ¹⁵ Ahmed bin Hanbal Al-Shaibani, *Musnad Ahmad bin Hanbal* (Riyadh: Bait ul Afkar,2005 AD), Hadith of Buraidah Al-Islami Number: 22970.
 - ¹⁶ Ibn Maja, Muhammad ibn Yazid al-Qazvini, *Sunan ibn Majah*, (Riyadh: Dar-ul-salam Inashru wa twzie,2008) Kitab al-Sadaqat, Bab al-Qarz, Hadith No: 2431.
 - ¹⁷ Heshmi, *Majma al-Zawaid*, Kitab al-Baiu, Bab Hasan al-Qazai wa Qarz ul-Khmer waghirhi, Vol 4, P 178, Hadith No. 2290.
 - ¹⁸ Nasai, Ahmad ibn Shoaib, *Sunan Al-Nasai*, Kitab al-Baue, Bab al-Istiqaraz, Hadith No: 2201.
 - ¹⁹ Bukhari, Muhammad ibn Ismail, *Sahih al-Bukhari* (Beirut: Dar ul Marift 1431 AH) Kitab al-Jihad wl-Sir, Bab ma ja fi Dari Nabyi sulal Iah alihil wslam wal Qamis fil Harbi, Haddith No: 2912.
 - ²⁰Bukhari, Muhammad ibn Ismail, *Sahih al-Bukhari*, Kitab al-Kafala, Bab al-Din, Hadith No: 2298.
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- ²¹ Al Quran, Surah Al Imran: Verse 14.
²² Al Quran, Surah Al Fajar: Verse 20.
²³ Al Quran, Surah Al Hashar: Verse 7.
²⁴ Al Quran, Surah Al Mareej: Verse 24-25.
²⁵ Sheikh Nizam udin, Al Ftwa ul Hindiya (Quetta: Makaba Rashidia,1999) Kitab ul Krahiyti, Al bab ul sabe wal eshraon fil Qarz, Vol 5, P 366.
²⁶ Hesami, Majma ul Zwaid wa Manba ul Fawied, Kiab ul baiu, Bab fi man an la yaqzi dinahu, Vol 4, P 167, No: 6654.
²⁷ Bukhari, Sahih al-Bukhari, Kitab al-Istiqrz, Bab man Akz amualinas, Hadith No: 2387.
²⁸ Al-Bayhaqi, Ahmed ibn Husayn, Al-Sunan ul-Kubra, Kitab al-Baiu, Bab ma ja fi Jawaz al-Istiqarz, Vol 5, P 354.
²⁹ Ahmed ibn Hanbal, Musnad Ahmad, Hadith Sayyida Aisha, P 1818, Hadith: 24959.
³⁰ Bukhari, Sahih al-Bukhari, Kitab al-Riqaq, Bab Qwli Nabiy sulal laho alihil waslam Ma yasirni, Hadith No: 6444.
³¹ Ahmed ibn Hanbal, Musnad Ahmad, Musnad Anas ibn Malik, P 932, Hadith No:13594.
³² Ibn Qadamah, Abdullah bin Ahmed bin Muhammad al-Maqdisi, Al-Mughni fi Fiqh Imam Ahmed bin Hanbal al-Shaibani, (Riyadh: Dar Alam al-Kutab Liltaba wanshri wa tawozi,1990) Kitab al-Salam, Bab al-Qarz, Vol 2, P 430.
³³ Ibn Qadamah, Abdullah bin Ahmed bin Muhammad bin Qadamah, Almughni fi fiqh Imam Ahmed bin Hanbal al-Shaibani, Kitab al-Salam, Bab al-Qarz, Vol 6, P 230.
³⁴ Ibn Majah, Sunan Ibn Majah, Kitab ul Sadaqat, Bab ul Qarz, Hadith No: 2431.
³⁵ Al-Tayalsi, Suliman bin Dawood bin Al-Jaroud Musnad Abi Dawood (Beirut: Hajar Liltaba wanshri, 1429 AH 1999 AD), Hadiths of Abu Umamah Al-Bahili, Hadith Number: 1237.
³⁶ Ahmed ibn Hanbal, Musnad Ahmed ibn Hanbal, Musnad Twabi ul Ashrati, Hadith Abdal Rahman ibn Abi Bukra, P 156, Hadith no 1708.
³⁷ Nissaburi, Muhammad ibn Abd Allah Hakim, Al-Mustadrak Ali al-Sahihin, (Qahira: Dar al-Haramain Liltaba wanshri, 1997), Kitab al-Baiu, Vol 2, P 29, Hadith no 2260.
³⁸ Sheikh Nizam uddin, Fatwa Hindia, Kitab ul Krahiyati, Albab ul Sabi wal Ishron fil Qarz wl Dain, Vol 5, P 366.
³⁹ Al Quran, Surah Yousaf: Verse 28.
⁴⁰ Al Quran, Surah Al Mominon: Verse 80.